

STATE OF NEW YORK
DEPARTMENT OF STATE
OFFICE OF ADMINISTRATIVE HEARINGS

-----X

In the Matter of the Complaint of

**DEPARTMENT OF STATE
DIVISION OF LICENSING SERVICES,**

Complainant,

DECISION

-against-

RAMROOP BASDAYE,

Respondent.

-----X

The above noted matter came on for hearing before the undersigned, Roger Schneier, on April 16, 1997 at the office of the Department of State located at 270 Broadway, New York, New York.

The respondent, of Diamond's Beauty Salon, 1081 Flatbush Avenue, Brooklyn, New York 11226, did not appear.

The complainant was represented by Assistant Litigation Counsel Scott L. NeJame, Esq.

COMPLAINT

The complaint alleges that the respondent allowed an unlicensed beauty operator to perform services in his appearance enhancement shop, and did not have a surety bond or liability insurance on the premises in violation of 19 NYCRR 160.9.

FINDINGS OF FACT

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered on March 27, 1997 (State's Ex. 1).

2) The respondent is, and at all times hereinafter mentioned was, duly licensed to operate an appearance enhancement business d/b/a Diamonds Beauty Salon, 1081 Flatbush Avenue, Brooklyn, New York 11226 (State's Ex. 2).

3) On March 21, 1996 License Investigator Steven Morris conducted an inspection of the respondent's shop and determined that there was no evidence of a surety bond or liability insurance on the premises (State's Ex. 3).

4) On November 1, 1996 License Investigator Sang Lee conducted an inspection of the respondent's shop and determined that there was no evidence of a surety bond or liability insurance on the premises. He also observed a male operator cutting the hair of a customer without a license being displayed.

OPINION AND CONCLUSIONS OF LAW

I- 19 NYCRR 160.9, enacted pursuant to General Business Law §404, provides that the owner of an appearance enhancement business must maintain either a surety bond or accidental and professional liability insurance or general liability insurance in prescribed amounts, and that evidence of such bond or insurance must be maintained on the premises. The respondent violated that regulation and has offered no explanation for that violation.

II- As the party which initiated the hearing, the burden is on the complainant to prove, by substantial evidence, the truth of the charges contained in the complaint. State Administrative Procedure Act (SAPA), §306(1). Substantial evidence is that which a reasonable mind could accept as supporting a conclusion or ultimate fact. *Gray v Adduci*, 73 N.Y.2d 741, 536 N.Y.S.2d 40 (1988). "The question...is whether a conclusion or ultimate fact may be extracted reasonably--probatively and logically." *City of Utica Board of Water Supply v New York State Health Department*, 96 A.D.2d 710, 465 N.Y.S.2d 365, 366 (1983)(citations omitted).

The complaint alleges that the respondent allowed an unlicensed person to provide services in his shop. The evidence, however, only establishes that an unnamed person was providing services without a license being displayed. Accordingly, that charge must be, and is, dismissed.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT Ramroop Basdaye has violated 19 NYCRR 160.9, and accordingly, pursuant to General Business Law §410, his license to operate an appearance enhancement business is suspended, effective immediately, until such time as he shall produce proof satisfactory to the Division of Licensing Services that the business is in full compliance with the requirements of 19 NYCRR 160.9 and he shall have paid a fine of \$300.00 to the Department of State.

He is directed to send the fine and proof of compliance, or the license certificates, to Thomas F. McGrath, Revenue Unit, Department of State, 84 Holland Avenue, Albany, New York 12208.

Roger Schneier
Administrative Law Judge

Dated: May 5, 1997