

STATE OF NEW YORK
DEPARTMENT OF STATE

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In the Matter of the Complaint of

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

Complainant,

DECISION

-against-

**WALLACE GRANT d/b/a/ MISS TEDDYS
UNISEX HAIR STYLING,**

Respondent.

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Pursuant to the designation duly made by the Hon. Gail S. Shaffer, Secretary of State, the above noted matter came on for hearing before the undersigned, Roger Schneier, on June 14, 1994 at the office of the Department of State located at 162 Washington Avenue, Albany, New York.

The respondent, of 2 Millpond Parkway, Monroe, New York 10950, did not appear.

The complainant was represented by Compliance Officer William Schmitz.

COMPLAINT

The complaint alleges that the respondent operated a beauty parlor without having a current valid shop license posted on the premises.

FINDINGS OF FACT

1) Notice of hearing together with a copy of the complaint was served on the respondent by delivery to a person of suitable age and discretion at the respondent's actual place of business followed by a mailing by first class mail to the respondent at his actual place of business (Comp. Ex. 1 and 2).

2) The respondent is duly licensed to operate a beauty parlor d/b/a Miss Teddys Unisex Hair Styling at 2 Millpond Parkway, Monroe, New York (Comp. Ex. 3). I take official notice of the records of the

Department of State that the license has been in effect since April 19, 1993, the respondent's prior shop license having expired on July 15, 1992.

3) On April 15, 1993 License Inspector Carolyn L. Williams conducted an inspection of the respondent's beauty parlor. She observed two licensed hairdresser/cosmetologists combing and curling the hair of customers, and noted that there was no current valid shop license posted.

OPINION AND CONCLUSIONS OF LAW

The respondent is charged with operating a beauty parlor without having a current valid shop license posted on the premises. Article 27 of the General Business Law (GBL) contains two provisions which relate to such a charge. Pursuant to §407[3] a license to operate a beauty parlor must be conspicuously posted on the licensed premises. Pursuant to GBL §402 it is unlawful to operate an unlicensed beauty parlor.

The respondent cannot be found to have violated GBL §407[3] because he did not have a shop license to post, his previously issued license having expired nine months earlier. The evidence does, however, support a finding of a violation of GBL §402, inasmuch two persons were observed engaging in the practice of hairdressing and cosmetology, as defined by GBL §401[5], in the respondent's unlicensed beauty parlor.¹

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT Wallace Grant has violated General Business Law §402[2], and accordingly, pursuant to General Business Law §409[8], he shall pay a fine of \$250.00 to the Department of State on or before July 29, 1994, and should he fail to pay the fine his license to operate a beauty parlor shall be suspended for a period of one month, commencing on August 1, 1994 and terminating on August 31, 1994, both dates inclusive.

¹ It must be noted that the complaint, a copy of the notice of violation which was served at the time of the inspection, was less than artfully drafted. It would appear that the inspector was not aware at the time of the inspection that the respondent did not have a current shop license. That could have been corrected by not following the usual practice in this type of case of using the notice of violation as the complaint, and by using a specially drafted complaint instead. I find, however, that the notice of violation was sufficiently clear, in the context of the inspection and the renewal by the respondent of the shop license only four days later, to give the respondent sufficient notice of the charges against him.

These are my findings of fact together with my opinion and conclusions of law. I recommend the approval of this determination.

Roger Schneier
Administrative Law Judge

Concur and So Ordered on:

GAIL S. SHAFFER
Secretary of State
By:

James N. Baldwin
Executive Deputy Secretary of State