

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M. Wells Building
160 East 300 South
P O Box 146741
Salt Lake City UT 84114-6741
Telephone (801) 530-6628

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE LICENSE OF	·	NOTICE OF AGENCY ACTION
VERA I. BAIRD	·	AND ORDER TO
TO PRACTICE AS A	:	SHOW CAUSE HEARING
COSMETOLOGIST/BARBER	:	
IN THE STATE OF UTAH	·	Case No. DOPL-OSC-2-2009-354

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO
Vera I Baird ("Respondent"), Roy UT 84067:

The Division of Occupational and Professional Licensing ("the Division") hereby files this notice of agency action. Said action is based on the Division's verified motion for order to show cause, a copy of which is attached hereto and incorporated herein by reference.

The adjudicative proceeding designated herein is to be conducted on a formal basis. It is maintained under the jurisdiction and authority of the Division as set forth in §58-1-401(2). **Within twenty (20) days of the mailing date of this notice, you are required to file a written response with this Division.** The response you file may be helpful to clarify, refine or narrow the facts and violations alleged in the verified motion for order to show cause.

Your written response, and any future pleadings or filings, which are a part of the official file in this proceeding, should be mailed or hand delivered to the following:

Signed originals to:
Division of Occupational
and Professional Licensing
Attn. Disciplinary Files
(by mail): PO Box 146741
Salt Lake City UT 84114-6741
(by hand delivery):
160 East 300 South, 4th floor
Salt Lake City, Utah

A copy to:
Laurie Noda
Assistant Attorney General
Heber M Wells Building
(by mail): PO Box 140872
Salt Lake City UT 84114-0872
(by hand delivery):
160 East 300 South, 5th floor
Salt Lake City, Utah

You may represent yourself or, at your own expense, be represented by legal counsel at all times while this action is pending. **Your legal counsel shall file an entry of appearance with the Division after being retained to represent you in this proceeding.** Until that entry of appearance is filed, the Division, its counsel, and the presiding officer will communicate directly with you.

The presiding officer for the purpose of conducting this proceeding will be J. Steven Eklund, Administrative Law Judge, Department of Commerce, who will preside over any evidentiary issues and matters of law or procedure. If you or your attorney may have questions as to the procedures relative to the case, Judge Eklund can be contacted in writing at P O Box 146701, Salt Lake City, UT 84114-6701; by telephone at (801) 530-6648, or by electronic mail at seklund@utah.gov

Pursuant to a determination previously made by the Division which generally governs proceedings of this nature, the Division is providing the relevant and nonprivileged contents of its investigative file to you, concurrent with the issuance of this notice.

The Division is also providing its witness and exhibit list to you, concurrent with the issuance of this notice. The witness list identifies each individual the Division expects to present as a witness and includes a brief summary of their testimony at the hearing. The exhibit list identifies each anticipated document which the Division expects to present at the hearing. The Division is also providing a copy of any document to you that has not been otherwise made available to you through the investigative file.

Concurrent with your filing of a written response, you should provide to the Division a copy of any documents you have which relate to this case. Further, you should provide your witness and exhibit list to the Division. The witness list should identify each individual you expect to present as a witness and include a brief summary of their anticipated testimony. The exhibit list should identify each document you expect to present at the hearing.

If you fail to file a response within the 20 days allowed or fail to attend or participate in any scheduled hearing, Judge Eklund may enter a default against you without any further notice to you.

After the issuance of a default order, Judge Eklund may cancel any prehearing conference or hearing scheduled in the Division's verified petition, conduct any further proceedings necessary to complete the adjudicative proceeding without your participation and determine all issues in the proceeding.

If you are held in default, the maximum administrative sanction consistent with the verified petition may be imposed against you. That sanction in this case is revocation of license.

Counsel for the Division in this proceeding is Laurie Noda, Assistant Attorney General, State of Utah. Ms Noda may be contacted in writing at P.O. Box 140872, Salt Lake City, UT 84114-0872 or by telephone at (801) 366-0310. You may, subject to the deadlines established herein, attempt to negotiate a settlement of this proceeding by contacting counsel for the Division.

Any stipulation in lieu of a response should be jointly signed by yourself and the Division and filed within the time that a response would otherwise be due. Alternatively, any stipulation to resolve this case in lieu of the hearing shall be jointly signed by the parties and filed no later than one (1) week prior to the scheduled hearing.

Unless this case is resolved by a stipulation between the parties in lieu of the filing of a response, a prehearing teleconference will be conducted as follows:

Monday, November 14, 2011 at 9:00 a.m. by teleconference

During the conference, Judge Eklund will address and resolve any further discovery issues. A schedule for the filing of any prehearing motions shall also be established.

Subject to the Department of Commerce Administrative Procedures Act Rules which govern this proceeding, the evidentiary hearing shall be conducted within 180 calendar days from the date of issuance of the notice of agency action.

You are entitled by law to an evidentiary hearing to determine whether your license to practice as a cosmetologist/barber in the State of Utah should be revoked, suspended or subjected to other disciplinary action. Unless otherwise specified by the Director of the Division, the Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board will serve as fact finder in the hearing. The hearing will be conducted as follows:

Monday, December 5, 2011 at 9:00 a.m. in Conference Room 474
4th floor
160 East 300 South
Salt Lake City, Utah

During the evidentiary hearing, you will have the opportunity to present an opening statement, submit evidence, conduct cross-examination, submit rebuttal evidence and offer a closing statement to the fact finder. After the close of the hearing, the Board will take the matter under advisement and then submit its Findings of Fact, Conclusions of Law and a Recommended Order to the Division for its review and action

Dated this 3rd day of October, 2011.

W. Ray Walker
W. Ray Walker
Regulatory & Compliance
Officer



LAURIE L NODA (USB No 4753)
ASSISTANT ATTORNEY GENERAL
MARK L SHURTLEFF (USB No 4666)
ATTORNEY GENERAL
DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M Wells Building
160 East 300 South
Box 146741
Salt Lake City, Utah 84114-6741
Telephone (801) 366-0310

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL
LICENSING OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE
PROBATIONARY LICENSE OF
VERA I BAIRD TO PRACTICE
AS A COSMETOLOGIST/BARBER
IN THE STATE OF UTAH

**VERIFIED MOTION FOR
ORDER TO SHOW CAUSE**

Case No DOPL- OSC-2-2009-354

The State of Utah, Department of Commerce, Division of Occupational and Professional Licensing (Division), through Laurie L Noda, Assistant Attorney General, moves for an order requiring Vera I Baird (Respondent), to appear at a time and date certain and to show cause, if any, as to why the Respondent's probationary license to practice as a cosmetologist/barber in the State of Utah should not be revoked because of the Respondent's failure to comply with the terms and conditions of an Order dated March 3, 2011 (Order) and a Memorandum of Understanding dated November 16, 2009 (MOU) This motion is based on the factual allegations and legal argument set forth below

FACTUAL ALLEGATIONS

1 Pursuant to the referenced March 3, 2011 Order and MOU, the Division placed the Respondent's license practice as a cosmetologist/barber in the State of Utah on probation and required the Respondent to comply with the terms and conditions of that probation. A copy of the March 3, 2011 Order and MOU are attached as Exhibit A and are incorporated herein by reference.

2 The March 3, 2011 Order and MOU provided that if the Respondent violated the terms and conditions of the Order and MOU in any respect, the Division may, after giving the Respondent notice and the opportunity to be heard, revoke the Respondent's probation and take action against the Respondent, including imposing sanctions, in the manner provided by law.

3 The Respondent has violated the terms and conditions of the March 3, 2011 Order and MOU and/or her probation by failing to appear at a Board meeting in violation of the March 3, 2011 Order and Section 5(a) of the MOU, failing to submit employer reports in violation of the March 3, 2011 Order and Section 5(k) of the MOU, failing sign up for drug testing in violation of the March 3, 2011 Order and Section 5(i) of the MOU, failing to attend counseling sessions in violation of the March 3, 2011 Order and failing to attend the required number of Alcoholics Anonymous or Narcotics Anonymous meetings. (one per week), in violation of the March 3, 2011 Order

LEGAL ARGUMENT

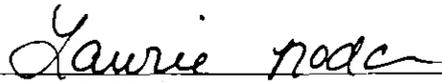
Because the Respondent has violated the terms and conditions of her probation, she is in violation of the March 3, 2011 Order and MOU. Provision 9 of the MOU

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specifically states, "If Respondent violates any term or condition of this Memorandum of Understanding and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law. Such sanction *may include revocation* or suspension of Respondent's license, or other appropriate sanction" (emphasis added). The law further provides that the Division may revoke, suspend, restrict, place on probation, or otherwise act upon the license of an individual who has engaged in such "unprofessional conduct." Utah Code Ann. § 58-1-401(2)(a).

The Division has shown good cause for this motion. If the Respondent fails to show why her probation and license to practice as a cosmetologist/barber in the State of Utah should not be revoked, the Division requests that a subsequent order be issued revoking Respondent's license.

DATED this 29th day of September, 2011



Laurie L. Noda
Assistant Attorney General
Division of Occupational and Professional
Licensing

VERIFICATION

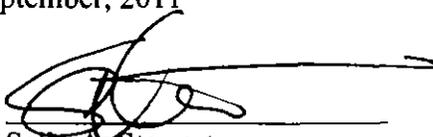
STATE OF UTAH)
 ss
COUNTY OF SALT LAKE)

Sally A Stewart, first being duly sworn, states as follows

1 I am a Bureau Manager for the Utah Division of Occupational and Professional Licensing and have been assigned to review this case

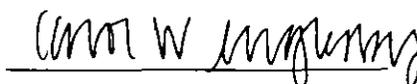
2 I have read the foregoing Motion and attest that all of the factual allegations contained in the Motion are true to the best of my knowledge, information and belief

DATED this 26th day of September, 2011



Sally A Stewart
Bureau Manager

Subscribed and sworn to before me this 26 day of September, 2011



Carol W. Inglesby

