

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
REBECCA E. SESSIONS TO PRACTICE	.	AND ORDER TO
AS A COSMETOLOGIST/BARBER	.	SHOW CAUSE HEARING
IN THE STATE OF UTAH	.	Case No DOPL-OSC-2010-72

---

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO  
Rebecca E. Sessions ("Respondent"), , Pleasant Grove  
UT 84062:

The Division of Occupational and Professional Licensing ("the Division") hereby files this Notice of Agency Action and Order to Show Cause Hearing. Said action is based upon 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 shall 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). Pursuant to Utah Code Ann §§ 63G-4-204(1) and 63G-4-102(9), and for good cause appearing, **you are required to file a written response with the Division within twenty (20) days of the mailing date of this notice.** The response you file may be helpful in clarifying, refining or narrowing the facts and violations alleged in the Verified Motion for Order to Show Cause Your written response should be mailed to the following address Division of Occupational and Professional Licensing, Attn Disciplinary Files, 160 East 300 South, PO Box 146741, Salt Lake City UT 84114-6741

You may represent yourself or be represented by legal counsel, at your own expense, at all times while this action is pending. Your legal counsel shall file with the Division an Entry of Appearance of Counsel and until that Entry of Appearance is filed, the presiding officer will deal directly with you.

Based upon the allegations in the Division's Verified Motion for Order to Show Cause that you have violated an Order of the Division and have thereby engaged in unprofessional conduct, and good cause appearing, you are hereby ordered to appear at the date, time and place set forth below to show cause why your license to practice as a cosmetologist/barber in the State of Utah should not be suspended, revoked, or subjected to further disciplinary action.

You are entitled by law to an evidentiary hearing regarding this Order to Show Cause as to why your license to practice as a cosmetologist/barber in the State of Utah should not be suspended, revoked or subjected to further disciplinary action Unless otherwise specified by the Director of the Division, the Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Board will serve as fact finder in the evidentiary hearing

**Notice is hereby given that said hearing will be held on the following date and time in Conference Room 474, of the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah.**

**Monday, December 6, 2010 at 1 00 P.M**

During the evidentiary hearing, you will have the opportunity to present evidence, argue, respond, conduct cross-examination and submit rebuttal evidence to the fact finder. After the hearing, unless otherwise specified by the Director of the Division, the fact finder will issue findings of fact, conclusions of law and a recommended order to the Director of the Division of Occupational and Professional Licensing for his review and action

The presiding officer for purposes of conducting hearings 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 have any questions as to the procedures relative to the hearing, Judge Eklund can be contacted at P O Box 146701, Salt Lake City, UT 84114-6701. His telephone number is (801) 530-6648

Upon your timely filing of a written response to this Notice of Agency Action and Order to Show Cause as set forth above, Judge Eklund will conduct a prehearing conference with you or your attorney and counsel for the Division at the request of either party At that prehearing conference Judge Eklund will determine the extent to which this action is contested and will make such orders as deemed appropriate.

Counsel for the Division is Laurie L Noda, Assistant Attorney General, at (801) 366-0310 or P O Box 140872, Salt Lake City, UT 84114-0872.

You or your attorney may attempt to negotiate a settlement of this case without proceeding to a hearing by contacting Ms Noda.

Should you fail to timely file a written response as set forth above, or fail to attend or participate in any scheduled hearing in this case, including any prehearing conference(s), you may be held in default without further notice to you. If you are held in default, the maximum administrative sanction consistent with the terms of this Order to Show Cause may be imposed against you. The maximum administrative sanction in this case is revocation of licensure.

Please conduct yourself accordingly

Dated this 26<sup>th</sup> day of October, 2010

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  
REBECCA SESSIONS TO PRACTICE  
AS A COSMETOLOGIST/BARBER  
IN THE STATE OF UTAH

**VERIFIED MOTION FOR  
ORDER TO SHOW CAUSE**

Case No DOPL-OSC- 2010- 72

---

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 Rebecca Sessions (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 a Memorandum of Understanding dated March 16, 2010 (MOU). This motion is based on the factual allegations and legal argument set forth below.

**FACTUAL ALLEGATIONS**

1 Pursuant to the referenced Order, the Division placed the Respondent's license to

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 MOU is attached as Exhibit A and is incorporated herein by reference.

2 The MOU provided that if the Respondent violated the terms and conditions of the 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 MOU and/or her probation by failing to submit employer reports in violation of Section 5(k) of the MOU.

#### **LEGAL ARGUMENT**

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

1  
DATED this <sup>th</sup> 26 day of October, 2010

Laure L Noda  
Laure L Noda  
Assistant Attorney General  
Division of Occupational and Professional  
Licensing

