

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

IN THE MATTER OF THE LICENSE OF	:	
REBECCA E. SESSIONS TO PRACTICE	:	DEFAULT ORDER
AS A COSMETOLOGIST/BARBER	:	Case No. DOPL-OSC-2010-72
IN THE STATE OF UTAH	:	

BY THE DIVISION:

The attached Notice of Entry of Default, Findings of Fact, Conclusions of Law and Recommended Order is hereby adopted by the Director of the Division of Occupational and Professional Licensing of the State of Utah. Respondent's license to practice as a cosmetologist/barber is thus revoked, effective the date of this Order.

IT IS FURTHER ORDERED that the revoked license, both wall and wallet sizes, as well as any embossed certificate, thus be surrendered to the Division of Occupational and Professional Licensing.

Dated this 20 day of December 2010.



Mark B. Steinagel
Director
Division of Occupational and
Professional Licensing

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Pursuant to Subsection 63G-4-209(3), Respondent may seek to set aside the above-stated default order by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure.

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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 ENTRY OF DEFAULT
REBECCA E. SESSIONS TO PRACTICE : FINDINGS OF FACT
AS A CONMETOLOGIST/BARBER : CONCLUSIONS OF LAW
IN THE STATE OF UTAH : AND RECOMMENDED ORDER
: Case No. DOPL-OSC-2009-103

APPEARANCES:

Laurie L. Noda for the Division of Occupational
and Professional Licensing

No appearance by or on behalf of Respondent

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to the issuance of an October 26, 2010 notice of agency action. The notice recites Respondent was required to file a response within twenty (20) days of the mailing date of the notice. The notice also recites a December 6, 2010 hearing would be conducted before the Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Board.

The October 26, 2010 notice was sent to Respondent's last known address of Pleasant Grove, Utah 84062 by both certified and first class mail. The certified mailing was thus received on October 28, 2010. Respondent did not submit a

response in this proceeding. Further, Respondent did not appear for the December 6, 2010 hearing.

§63G-4-209(1)(b) provides an order of default may enter if a respondent in a formal adjudicative proceeding fails to attend a properly scheduled hearing after receiving proper notice. §63G-4-209(1)(c) also provides an order of default may be entered if a party does not file a required response. Given Respondent's failure to have appeared for the December 6, 2010 hearing and her failure to have filed any response, the Division requested the Court to enter Respondent's default.

Eight (8) Board members were present for the evidentiary hearing to have been conducted. Mark B Steinagel, Director of the Division of Occupational and Professional Licensing, was also present. However, based on Respondent's nonappearance for that hearing, the default proceeding in this case was conducted by the Court.

The Court concluded the Division provided due notice to Respondent of this proceeding. Based on her failure to have appeared for the December 6, 2010 hearing and her lack of any response filed to the November 8, 2010 notice of agency action, the Court also concluded a proper basis exists to enter Respondent's default. Her default was thus entered.

After the entry of a default order, §63G-4-209(4)(a) provides the presiding officer shall conduct further proceedings as

necessary to complete the adjudicative proceeding without the participation of the party in default. §63G-4-209(4)(a) also provides a determination shall be made of all issues in the proceeding, including those affecting the defaulting party.

Based on the proffer made by the Division, the Court thus adopts the allegations set forth in Paragraphs 1 through 3 of the October 26, 2010 Verified Motion for Order to Show Cause as its Findings of Fact. The Court also adopts the First Paragraph of that motion as its Findings of Fact and Conclusions of Law.

The Court finds and readily concludes Respondent has failed to comply with all terms of the March 15, 2010 Order governing her license. Specifically, Respondent failed to submit employer reports required by that Order.

Respondent has engaged in unprofessional conduct violative of §58-1-501(2)(a). Thus, a proper factual and legal basis exists to enter a disciplinary sanction as to Respondent's license. Absent any matters offered in defense or mitigation, the Court concludes the following action is warranted:

RECOMMENDED ORDER

WHEREFORE, IT IS ORDERED Respondent's license to practice as a cosmetologist/barber in this state shall be revoked, effective the date this Recommended Order may be adopted.

I hereby certify the foregoing **NOTICE OF ENTRY OF DEFAULT, FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER** were submitted to Mark B. Steinagel, Director of the Division of Occupational and Professional Licensing, on the 20th day of day of December 2010 for his review and action.



J. Steven Eklund
Administrative Law Judge
Department of Commerce