

DEPARTMENT OF STATE
OFFICE OF THE SECRETARY OF STATE

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In the Matter of

RICCO OSVALDO, OSVALDO HAIR SALON,

Appellant,

against

DEPARTMENT OF STATE,
DIVISION OF LICENSING SERVICES,

Respondent.

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DECISION AND ORDER

4 DOS APP 01

(639 DOS 00)

Ricco Osvaldo [hereinafter "Appellant"] appeals to the Secretary of State from a decision of the Office of Administrative Hearings that issues a fine to Appellant's appearance enhancement business.

Appellant submitted a Memorandum of Appeal objecting to the determination below.

Respondent relies on the hearing transcript.

ISSUE

This appeal considers whether the Office of Administrative Hearings committed error in determining that Appellant's appearance enhancement business should be fined pursuant to General Business Law § 410.

FINDINGS OF FACT

Appellant is a duly licensed owner and operator of an appearance enhancement business. On February 18, 2000 and March 8, 2000, Carolyn Williams conducted an inspection at Appellant's business. As a result of Ms. Williams' inspection, she found Appellant failed to maintain the required material safety data sheet for chemicals used on the premises, as well as the invoices for disinfectants used in the shop. Subsequently, Respondent filed a complaint against Appellant.

Appellant was offered the opportunity to settle the matter upon payment of \$450.00, which was later reduced to a proffered \$100.00 fine. Appellant refused the offer.

OPINION

The Administrative Law Judge's findings were accurate. Where an appearance enhancement business owner fails to comply with the rules or regulations adopted therein, that owner is in violation of GBL § 410 (1)(e) and is subject to a fine. Appellant has violated 19 NYCRR §160.14 (c) for his failure to file invoices of disinfectants used in the shop. Appellant has additionally violated 19 NYCRR §160.25 (d), which requires the owner of an appearance enhancement business to maintain a material safety data sheet including all chemicals used on the premises. No arguments to the contrary were submitted. Therefore, Appellant is subject to a fine. GBL § 410 (1)(e).

DETERMINATION

The determination of the Administrative Law Judge is affirmed. Appellant is directed to pay a fine of \$250.00 to the Department of State on or before April 2, 2001. Failure to pay such fine will result in suspension of Appellant's appearance enhancement business license. Appellant shall comply with the order from below.

So ordered on:

Alexander F. Treadwell
Secretary of State