

STATE OF MAINE

KENNEBEC, ss.

STATE OF MAINE and
MAINE BOARD OF
DENTAL EXAMINERS,

Plaintiffs

v.

RALPH DHUY,

Defendant

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-04-225

DHM-KEN-2116/06

**ORDER ON PLAINTIFF'S
MOTIONS FOR CONTEMPT**

This matter is before the court on plaintiff's first and second motions for contempt pursuant to M.R. Civ. P. 66(d) filed December 5, 2005.

After two days of testimonial hearings conducted on November 3 and 4, 2004, on plaintiffs' complaint of October 5, 2004, this court issued an order for preliminary injunction on November 4, 2004. The court found that the defendant had engaged in the unlicensed practice of denturism in violation of Title 32 M.R.S.A. § 1062-A and 10 M.R.S.A. § 8003-C. In that injunction, the court ordered that the defendant be prohibited from engaging in the unlicensed practice of denturism, displaying or referencing his DDM diploma where anyone can see it, and acquiescing to his being called "doctor" or using the title "Dr".

On November 5, 2004, the court issued its scheduling order providing a discovery deadline of July 5, 2005.

On June 9, 2005, plaintiff filed a motion for contempt asserting that the defendant's denturist license was due to expire on December 31, 2004, and that previously, on November 19, 2004, the denturist subcommittee of the Maine Board of Dental Examiners recommended to the full board that any application by the defendant

for relicensure be denied. The full Board adopted the recommendation on November 19, 2004, as a preliminary denial. Pursuant to that vote, a notice of preliminary denial was sent to the defendant who acknowledged its receipt on November 22, 2004. Inasmuch as the defendant did not request an appeal of the preliminary denial, on January 26, 2005, the Board sent and the defendant acknowledged receipt of a final notice of preliminary denial of license renewal. Hearing on plaintiff's motion for contempt and for permanent injunction was held August 18 and 26, 2005, at which defendant appeared pro se and testified.

Plaintiff has clearly established by essentially un rebutted testimony and exhibits that the defendant has willfully and deliberately violated the requirement of licensure. He has continued to advertise his services as a denturist. He has maintained open office hours. He has performed denturist services on behalf of individual patients. Accordingly, plaintiff has established beyond any doubt that the defendant has violated the laws of the State of Maine of denturism, has conducted himself in contempt of the order of this court and, furthermore, has done so intentionally, willfully and knowingly. His culpability as established by his state of mind is best described when he argues that he does not recognize the authority of the Maine Board of Dental Examiners and its treatment of denturists, he asserts that the Board is controlled by dentists and the American Dental Association. The only allowance he makes is that he avows to the court that if he is told to stop practicing denturism by this court, he will do so.¹

Hearing on plaintiff's second motion for contempt was held on February 6, 2006, at which the defendant appeared pro se. He chose not to present evidence but to argue

¹ The record must reflect that on August 12, 2005, the defendant's license to practice as a denturist was permanently revoked by the Maine Board of Dental Examiners. The defendant has affected an appeal or petition for judicial review of that decision in the Augusta District Court. This matter has been assigned to this court acting by designation as a District Court Judge. Hearing has not been held and the matter remains pending. See AUG-AD-05-261.

his case. Testimony was provided by the Executive Secretary of the Maine Board of Dental Examiners and an investigator in the Attorney General's Office. It is clear that the defendant has refused to comply with the provisions of its order of November 4, 2004, by engaging in the unlicensed practice of denturism. The court finds clearly and convincingly that:

A. On June 24, 2005, the Maine Board of Dental Examiners held an adjudicatory hearing in accordance with the Maine Administrative Procedures Act concerning defendant Ralph Dhuy's license to practice denturism.

B. Prior to that date, the Maine Board of Dental Examiners had denied defendant Ralph Dhuy's application to renew his license; however, defendant Ralph Dhuy had maintained that the Board acted illegally and, therefore, that he was still legally licensed.

C. On August 12, 2005, the Maine Board of Dental Examiners ratified a written decision and order that resulted from its hearing on June 24, 2005. That decision and order, among other things, revoked defendant Dhuy's license to practice denturism.

D. On August 17, 2005, the Maine Board of Dental Examiners sent defendant Ralph Dhuy a copy of the decision and order revoking his license via certified mail.

E. On August 19, 2005, defendant Ralph Dhuy signed for and received a copy of the Maine Board of Dental Examiners' decision and order revoking his license.

F. Defendant Ralph Dhuy has never applied for nor requested a stay of the decision and order revoking his license.

G. Defendant Ralph Dhuy continued to advertise himself in a local weekly newspaper as a "denturist" and able to repair and fabricate new dentures from November 2005 through January 2006.

H. Defendant Ralph Dhuy, despite his knowledge of the revocation of his denturist license, has continued to practice denturism, and admitted to such continued practice to Attorney General Investigator Seth Blodgett, who went to his denture business on November 7, 2005.

I. Defendant Ralph Dhuy has not presented any credible evidence that he is unable to refrain from the acts prohibited by the court's order dated November 4, 2004.

Now, therefore, it is hereby ADJUDGED that defendant Ralph Dhuy is in contempt of this court by reason of his failure to comply with the provisions of this court's order dated November 4, 2004, as more particularly set forth above. It is further ORDERED that effective immediately:

1. Defendant Ralph Dhuy is permanently enjoined from the practice of denturism until such time as he is licensed by the Maine Board of Dental Examiners. Since defendant Dhuy is no longer licensed, he shall immediately cease the practice of denturism.

2. Defendant Ralph Dhuy is permanently enjoined from advertising himself as a denturist in any form of medium, or from advertising that he performs any form of denturist service(s) in any form of media or medium, until such time as he is licensed by the Maine Board of Dental Examiners. Since defendant Ralph Dhuy is no longer licensed, he shall immediately cease advertising himself and/or his services.

3. Defendant Ralph Dhuy is permanently enjoined from displaying or referencing his DDM diploma where anyone can see it.

4. Defendant Ralph Dhuy is permanently enjoined from acquiescing to his being called "doctor" or using the title "Dr"; and

5. Pursuant to M.R. Civ. P. 66(d)(3)(B), effective February 24, 2006, unless defendant Ralph Dhuy complies with all the provision of this order, as set forth above,

he shall pay to the Treasurer, State of Maine, One Hundred Dollars (\$100) for each day that he fails to refrain from any of the prohibited actions.

The clerk may incorporate this order in the docket by reference pursuant to M.R. Civ. P. 79(a).

Dated: February 16, 2006



Donald H. Marden
Justice, Superior Court

STATE OF MAINE - PLAINTIFF

Attorney for: STATE OF MAINE
DENNIS SMITH - RETAINED 10/05/2004
ATTORNEY GENERAL OFFICE OF AG
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SUPERIOR COURT

KENNEBEC, ss.

Docket No AUGSC-CV-2004-00225

DOCKET RECORD

MAINE BOARD OF DENTAL EXAMINERS - PLAINTIFF

#143 STATE HOUSE STATION
AUGUSTA ME 04333

Attorney for: MAINE BOARD OF DENTAL EXAMINERS
DENNIS SMITH - RETAINED 10/05/2004
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AUGUSTA ME 04333-0006

vs

RALPH DHUY - DEFENDANT
P.O. BOX 277,
EAST MILLINOCKET ME 04430

Filing Document: COMPLAINT

Minor Case Type: GENERAL INJUNCTIVE RELIEF

Filing Date: 10/05/2004

Docket Events:

10/05/2004 FILING DOCUMENT - COMPLAINT FILED ON 10/05/2004

10/06/2004 Party(s): STATE OF MAINE
ATTORNEY - RETAINED ENTERED ON 10/05/2004
Plaintiff's Attorney: DENNIS SMITH

10/06/2004 Party(s): MAINE BOARD OF DENTAL EXAMINERS
ATTORNEY - RETAINED ENTERED ON 10/05/2004
Plaintiff's Attorney: DENNIS SMITH

10/06/2004 CERTIFY/NOTIFICATION - CASE FILE NOTICE SENT ON 10/06/2004
Plaintiff's Attorney: DENNIS SMITH
MAILED TO ATTY. OF RECORD

10/06/2004 Party(s): STATE OF MAINE, MAINE BOARD OF DENTAL EXAMINERS
MOTION - MOTION PRELIMINARY INJUNCTION FILED ON 10/05/2004
Plaintiff's Attorney: DENNIS SMITH
WITH MEMORANDUM OF LAW, DRAFT ORDER.

10/13/2004 Party(s): STATE OF MAINE, MAINE BOARD OF DENTAL EXAMINERS
MOTION - MOTION EXPEDITED HEARING FILED ON 10/05/2004

10/13/2004 Party(s): STATE OF MAINE, MAINE BOARD OF DENTAL EXAMINERS
MOTION - MOTION EXPEDITED HEARING GRANTED ON 10/08/2004
S KIRK STUDSTRUP, JUSTICE
REQUEST GRANTED. CLERK TO SET FOR HEARING AS SOON AS HEARING TIME IS AVAILABLE.