

1 On the morning of the hearing, the Board received a letter
2 from Steuber requesting a continuance of 180 days. This motion
3 was denied by the Board for the reason that no good cause was
4 shown by Steuber for his request.

5 Prior to the hearing, the Board considered Steuber's Motion
6 to Dismiss based on laches and due process. The motion was denied
7 based on the argument presented in the state's response to the
8 motion.

9 The Board heard testimony from David Young, Ph.D., Oregon
10 Office of Educational Policy and Planning, whose testimony was
11 taken as an expert witness. The Board received into evidence
12 Exhibits Y-1 through Y-14, S-1 through S-7, M-1 through M-7, Y-15
13 and Y-16. The Board heard the argument of counsel for the state.
14 At the close of the hearing, the Board deliberated in Executive
15 Session, and later announced in open public session that Steuber's
16 request to renew his license in Oregon should be denied.

17 FINDINGS OF FACT

18 1. Steuber received his chiropractic education at Los
19 Angeles Chiropractic College, graduating in June 1951.

20 2. Sequoia University was a corporation operating in both
21 California and Oklahoma in the mid-1950s. Two forms of diplomas
22 were issued by it to health care practitioners purporting to grant
23 Doctor of Naturopathy degrees.

24 3. Sequoia University was never recognized by the
25 California State Department of Higher Education as a post-
26 secondary degree granting institution.

1 4. Sequoia University did not provide an education in
2 naturopathic medicine such that it could satisfy the requirements
3 of a professional education for licensure in Oregon at the time
4 Steuber applied for licensure.

5 5. Steuber did not take courses from Sequoia University
6 which would have satisfied the minimum requirements to practice
7 naturopathic medicine within the State of Oregon at the time
8 Steuber applied for licensure.

9 6. The Board declines to find whether or not Steuber
10 actually attended any other undergraduate or graduate program,
11 including those which he claimed to have attended and graduated
12 from while also attending "Sequoia University".

13 **CONCLUSIONS OF LAW**

14 1. By a preponderance of the evidence, Steuber is not
15 qualified to be a licensed naturopathic physician in Oregon for
16 the reason that he did not complete a professional education
17 program which provided all courses and subjects required at the
18 time Steuber applied for licensure in Oregon, and, in the
19 alternative,

20 2. Steuber failed to provide satisfactory evidence of his
21 professional education in naturopathy such that he would have been
22 eligible for licensure in Oregon at his original license date or
23 upon each renewal, including the current renewal, and

24 3. Steuber's license to practice naturopathic medicine
25 should not be renewed.

26 ///

ORDER

The renewal of the license to practice naturopathic medicine of Bernard W. Steuber is denied. Steuber is not eligible for continued licensure by the Oregon Board of Naturopathic Examiners.

DATED this 25 day of June, 1992.

OREGON BOARD OF NATUROPATHIC EXAMINERS

By: Signature on file
Barbara Diamond
Presiding Officer

NOTICE: You are entitled to judicial review of this Final Order in Contested Case pursuant to the provisions of ORS 183.480. Judicial review may be obtained by filing a petition in the Oregon Court of Appeals. The petition must be filed within 60 days from the date of service of this Final Order in Contested Case.

CERTIFICATE OF MAILING

The above Final Order in Contested Case was mailed by first class mail to Bernard W. Steuber at: 3650 East Imperial Highway, Lynwood, California 90262, on the 26th day of June, 1992.

Signature on file

PJS:ros/JGG03475

1 IN THE COURT OF APPEALS

2 OF THE STATE OF OREGON

3 In the Matter of)
4 BERNARD W. STEUBER, N.D.)
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NATUROPATHIC BOARD OF EXAMINERS
CA No. _____

PETITION FOR JUDICIAL REVIEW

Petitioner seeks judicial review of the final order of Board of Naturopathic Examiners, In the Matter of BERNARD W. STEUBER, N.D., dated June 25, 1992.

The parties to this review are:

BERNARD W. STEUBER, N.D.	BOARD, NATUROPATHIC EXAMINERS
3650 E. Imperial Highway	1400 S.W. 5th Ave.
Lynwood, CA 90262	Portland, OR 97201

- A. Attached to this petition is a copy of the final order for which judicial review is sought.
- B. Petitioner was a party to the administrative proceeding which resulted in the order for which review is sought.
- C. Petitioner is not willing to stipulate that the agency record may be shortened.

DATED this 21 day of August, 1992.

Signature on file

Bernard W. Steuber, N.D.
In Propria Persona

3650 E. Imperial Hwy.
Lynwood, CA 90262
(310) 639-6741



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Called C. Swartz Naturopathic Board

IN THE COURT OF APPEALS

APPELLATE DIVISION OF THE STATE OF OREGON
SALEM, OR 97310

BERNARD W. STEUBER, N.D.
Plaintiff-Appellant

Appellate Court
No. CA A76352

v.

BOARD OF NATUROPATHIC
EXAMINERS

*per ND Resp
+ called ct. doc
9-14-93
Amended 9-17*

**MOTION TO SET ASIDE AND VACATE
ORDER OF AUGUST 20, 1993**

COMES the Appellant who would move this Honorable Court with Appellant's Motion To Set Aside And Vacate Order Of August 20, 1993 with good cause showing and states the following to-wit:

1. That as this Honorable Court is aware, this Appeal is co-joined with the Appeal of JOHN L. MINASIAN, N.D., Appellate Court No. CA A76337.
2. That the Honorable Court should be most definitely aware of the current medical status of Appellant.
3. That Appellant has done all in his powers to regain health and move this case forward.
4. That Appellant was aware with Appellant's last Motion For Extension Of Time that this Court graciously gave both Appellant's until July 15th, 1993 to have our Opening Brief's ready for submission and that no further extensions will be granted.
5. That with this being noted, I would direct you to see attached Exhibit "A" which directly shows that the matter of continuing extensions in this matter because of my medical

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condition and other associated reasons was taken directly up with the Supreme Court For the State of Oregon.

6. That as this matter was taken up to the Supreme Court Appellant did notify this Honorable Court of this, thus see attached Exhibit "B".

7. That Appellant and Co-Appellant JOHN L. MINASIAN, N.D. have not dragged their feet in this matter, but have been trying diligently to secure all material pertinent to this appeal plus this Appellant is following direct physician's orders for recovery from both liver & kidney failure.

8. That Appellant cannot believe that this Honorable Court with its order of August 20th, 1993 would knowingly show complete disregard and utter lack of compassion for Appellant's medical status and standing physicians' orders.

9. That the order for dismissal for want of prosecution done by this Honorable Court is unfair and improper due to the total circumstances surrounding this appeal. Also, that this Court has been kept abreast of this entire situation from the beginning.

10. That this Honorable Court should vacate its order of August 20, 1993 and allow Appellant the necessary time needed for medical recovery (as seen by reviewing previous submitted copies of physicians' orders) and preparation of Appellant's Opening Brief.

11. That as this Court is aware, Appellant is in "Pro Se" status and needs the additional latitude in accomplishing this onus. Also, that Appellant definitely seeks legal redress for the inequity delivered to Appellant (and Co-Appellant) at the initial

continued time to accomplish this. This Court must understand that it is quite difficult to accomplish a draft of said opening brief when trying to coordinate my schedule with that of Co-Appellant, BERNARD W. STEUBER, N.D. and his schedule for medical treatment (which consists of dialysis multiple times per week) and physician visits. Also, that Co-Appellant's physicians have put sever restrictions on what Co-Appellant can and cannot do, as certain actions exacerbate his current medical condition.

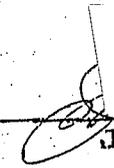
11. That this Court is to take note of the fact that Appellant notified the A.G.'s Office of Appellant and Co-Appellant's medical condition and this last time a RICHARD WASSERMAN was spoken to and the final position taken by the A.G.'s office on this request for a further continuance was that the A.G.'s Office will take no position.

WHEREFORE APPELLANT PRAYS:

That in the interests of justice and equity that this Honorable Court vacate its order of August 20th, 1993 and allow Appellant the necessary time needed for preparation of the Opening Brief plus the needed recovery time for Co-Appellant.

Respectfully submitted this 3 day of September, 1993.

Signature on file


John L. Minasian, N.D.
Appellant "Pro Se"
P.O. Box 6928
Burbank, CA 91510
(818) 846-6867

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing
Motion To Set Aside And Vacate Order Of August 20, 1991 on:

Attorney General
Justice Building
Salem, OR 97310

by certified mail, with U.S. Postal Service by placing in a sealed
envelope addressed to the address above.

DATED this 3 day of September, 1993.

Signature on file


BERNARD W. STEUBER, N.D.

4.

1
2 Furthermore, the Doctrine of Unclean Hands requires that a
3 person who raises the defense of laches must not have contributed
4 to any unlawful or unequitable conduct which caused the plaintiff
5 to sit on its rights. Rise v. Steckel, 59 Or App 675, 681 (1982).
6 The respondents' conduct, first in defrauding the Board regarding
7 their original application and supporting documents and then
8 subsequently in supplying additional fraudulent documents in the
9 Board's investigation, clearly contributed to any delay of which
10 he now complains.

11 5.

12 Finally, with respect to their due process of law argument,
13 respondents bring forth a forfeiture case using a balancing test
14 similar to that which is used in criminal cases. U.S. v. \$8,850,
15 461 US 555, 565, 103 S Ct 2005, 76 L Ed2d 143 [citing the four-
16 prong Barker test.] Even assuming that such a test would be
17 applied in an Administrative Procedures Act case (and respondents
18 cite no authority for that proposition), the balancing test
19 includes "reason for the delay" as one of the tests. This test,
20 by the way, is the same that is used in order to determine whether
21 a criminal defendant's right to a speedy trial has been denied.
22 In cases of pre-indictment or "pre-administrative action: delay,
23 such as is alleged in this case, no such test is applied. If the
24 Federal Government does not become aware of a violation or needs
25 to investigate a violation for some length of time, the defendant
26 is not entitled to any due process right to be indicted at the

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1 early date rather than the later date. U.S. v. Lovasco, 431, US
2 783, 76 L Ed2d 143, 103 S Ct 2005 (1977). The balancing test was
3 applied because property had been seized and the defendant had
4 been deprived of the use of the property. In cases where property
5 is not seized, or where no indictments have been made, the test
6 involves a showing of a deliberate attempt to gain an unfair
7 tactical advantage over the defendant or a deliberate reckless
8 disregard of its probable prejudicial impact upon the defendant's
9 ability to defend against the charges. U.S. v. Lovasco, 431 US
10 783, 76 L Ed2d 143, 103 S Ct 2005 (1977). In Lovasco, the Supreme
11 Court found that the loss of testimony of witnesses who died
12 during the delay was not sufficient to violate due process without
13 a further showing that the delay was to gain deliberate tactical
14 advantages.

15 CONCLUSION

16 For all the above reasons, Drs. Minasian and Steuber should
17 be held accountable for any delay caused by their own fraudulent
18 conduct. Any delay that has taken place should not be attributed
19 to the Board, but to respondents themselves. The Board should
20 deny the Motion to Dismiss in its entirety.

21 Respectfully submitted,

22 CHARLES S. CROOKHAM

23 Signature on file

24
25 Paul J. Sundermier, #82407
Assistant Attorney General
Of Attorneys for the
26 Board of Naturopathic Examiners

PJS:ros/JGG0319E

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