

1 motion was denied by the Board for the reason that no good cause
2 was shown by Minasian for his request.

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

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

16 **FINDINGS OF FACT**

17 1. Minasian received his chiropractic degree in 1956 from
18 Los Angeles College of Chiropractic.

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

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

26 ///

1 4. Sequoia University was not authorized to grant any post-
2 secondary degrees in 1968.

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

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

11 7. The Board declines to find whether or not Minasian
12 actually attended any other undergraduate or graduate program,
13 including those which he claimed to have attended and graduated
14 from prior to attending "Sequoia University".

15 **CONCLUSIONS OF LAW**

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

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

26 ///

1 3. Minasian's license to practice naturopathic medicine
2 should not be renewed.

3 ORDER

4 The renewal of the license to practice naturopathic medicine
5 of John L. Minasian is denied. Minasian is not eligible for
6 continued licensure by the Oregon Board of Naturopathic Examiners.

7 DATED this 25 day of June, 1992.

8
9 EXAMINERS

10 Signature on file

11 Barbara Diamond
12 Presiding Officer

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

18 CERTIFICATE OF MAILING

19 The above Final Order in Contested Case was mailed by first
20 class mail to John L. Minasian at: P.O. Box 6928, Burbank, CA
21 91510, on the 26th day of June, 1992.

22 Signature on file

23
24
25
26 PJS:ros/JGG03784

RECEIVED

SEP 07 1993

IN THE COURT OF APPEALS OF THE STATE OF OREGON

APPELLATE DISTRICT
SALEM, OREGON

JOHN L. MINASIAN, N.D.
Plaintiff-Appellant

v.

BOARD OF NATUROPATHIC
EXAMINERS

Appellate Court
No. CA A76337

Handwritten notes:
NO RESP FILED
PS - 9-15-93
+ called to
[Signature]

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 BERNARD W. STEUBER, N.D., Appellate Court No. CA A76352.

2. That this Honorable Court should at this time be most definitely aware of the current medical status of Co-Appellant, BERNARD W. STEUBER, N.D. and the arduous task of coordinating with him to prepare said opening brief.

3. 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.

4. 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 Co-Appellant's

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.

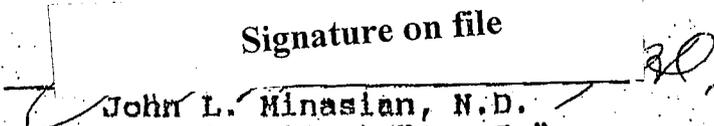
11. That this Court is to take note of the fact that Appellant notified the A.G.'s Office of Appellant and Co-Appellant's medical condition and this last time a RICHARD WASSERMAN was spoken to and the final position taken by the A.G.'s office on this request for a further continuance was that the A.G.'s 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

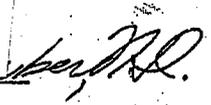
I hereby certify that I served a copy of the foregoing
Motion To Set Aside And Vacate Order Of August 20, 1991 on:

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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE
BOARD OF NATUROPATHIC EXAMINERS
STATE OF OREGON

In the Matter of the License of)
BERNARD W. STEUBER, N.D., and)
JOHN L. MINASIAN, N.D.,)
Licensees.)

RESPONSE TO
MOTION TO DISMISS

1.

The respondent naturopathic physicians have moved to dismiss the instant actions on the basis that a delay of sixteen plus years in instituting this action has caused them to be prejudiced in their ability to defend the allegations. The defense is based on two grounds: (1) Laches; and (2) due process of law.

2.

Neither the statute of limitations nor the Doctrine of Laches applies to action brought by the state, especially those regarding the prosecution of license revocation proceedings. See In Re J. Kelley Farris, 229 Or 209, 217 (1961).

3.

The Supreme Court expounded on this principle in a later case:

Public policy, to prevent loss to the state through the negligence of public officers, forbids the application of the doctrine of estoppel to the state, growing out of the conduct and representations of its officers. On the same ground that the government is excused from the consequence of laches, it should not be affected by the negligence or even willfulness of any one of its officers.

259 Or at 329, citing People v. Brown, 67 Ill 435, quoted in Rhode v. State Industrial Acc. Comm., 108 Or 426, 438-439.

PAGE 1 - RESPONSE TO MOTION TO DISMISS (DRS. STAUBER and MINASIAN)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

4.

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

5.

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

PAGE 2 - RESPONSE TO MOTION TO DISMISS (DRS. STAUBER and MINASIAN)

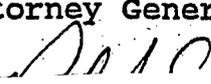
1 early date rather than the later date. U.S. v. Lovasco, 431, US
2 783, 76 L Ed2d 143, 103 S Ct 2005 (1977). The balancing test was
3 applied because property had been seized and the defendant had
4 been deprived of the use of the property. In cases where property
5 is not seized, or where no indictments 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 Attorney General

24 
Signature on file

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

PJS:ros/JGG0319E

PAGE 3 - RESPONSE TO MOTION TO DISMISS (DRS. STAUBER and MINASIAN)