



Jonathan Mintz
Commissioner

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nyc.gov/consumers

April 13, 2010

VIA ELECTRONIC MAIL

[Redacted]

Re: Modeling Agency

Dear Mr. [Redacted]

I am writing in response to your email to the New York City Department of Consumer Affairs (“Department”) asking whether your client may operate her modeling agency in the basement of a hair and nail salon, whether she may operate her modeling agency in a vacant apartment above an existing business, the time limit to notify the Department of a change in location, and whether she is required to submit an assumed name certificate. For your future reference, the Department’s website, www.nyc.gov/consumer contains all laws applicable to employment agencies in New York City.

I. Employment Agency Premises

You asked where your client may operate an employment agency. Pursuant to New York State General Business Law (“GBL”) Section 187(8), an employment agency shall not “engage in any business on the premises of the employment agency other than the business of operating an employment agency....” GBL Section 174(4) states that “[n]o license shall be granted to a person to conduct the business of an employment agency in rooms used for living purposes...” Finally, Section 5-245 of the Rules of the City of New York (“RCNY”) permits an employment agency to share premises with an unrelated entity. Under RCNY Section 5-245, an unrelated entity means no exchange of proceeds, sharing of profits, and no common officers, directors, partners, shareholders, principals, managers, executives, administrators, salespersons, or job placement counselors.

Pursuant to the GBL Section 187(8) and RNCY Section 5-245, your client may operate an employment agency if the basement premises has a separate entrance from the hair and nail salon and neither the hair and nail salon nor your client exchange proceeds or profits or have common officers, directors, partners, shareholders, principals, managers, executives, administrators, salespersons, or job placement counselors. GBL Section 187(8) prohibits an employment agency from engaging in any other business on the premises; without a separate entrance from the hair and nail salon, two different businesses share space in violation of GBL Section 187(8).

Pursuant to GBL Section 174(4) an employment agency cannot be permitted to operate in rooms used for living purposes. Unless the apartment is permitted to be used for commercial purposes by the New York City Department of Buildings, your client may not operate an employment agency in an apartment. Furthermore, please consult with the New York City Department of Buildings as to whether a residential apartment building may be used for commercial purposes.



II. Change in Location

You asked the time period by when your client must notify the Department of a change in location. Pursuant to RCNY Section 5-253 a licensee must notify the Department in writing of a change of address within ten days of the change. Your client must notify the Department within ten days of changing her location.

III. Assumed Name Certificate

You asked whether your client's modeling agency requires her to obtain an assumed name certificate. Your client must submit an assumed name certificate if she incorporates her modeling agency with the New York Department of State and operates under an assumed name. For more information, contact the New York Department of State's Division of Corporations at (518) 473-2492.

Sincerely,

A solid black rectangular box used to redact the signature of the sender.