

**STATE OF VERMONT
BOARD OF BARBERS AND COSMETOLOGISTS**

In re:	Michelle Michael	}	
License No.	009-0002602	}	Docket No. CO 01-0707
		}	

Appearances:

Petitioner, State of Vermont: Gregg Meyer
Respondent: did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board of Barbers and Cosmetologists held a hearing on the above matter on September 17, 2007 at the Office of Professional Regulation hearing room at the National Life Bldg., North, FL2 in Montpelier, Vermont. The Respondent did not attend and was not represented by counsel.

Findings of Fact

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, Chapter 6 of Title 26 of the Vermont Statutes Annotated, the Administrative Rules of the Board of Barbers and Cosmetologists, and the Rules of the Office of Professional Regulation.
2. The Respondent was sent notice of the Charges against her by certified mail on August 7, 2008 to her last known address.
3. Postal service stamps on the envelope indicate first notice of the certified mail was returned as "not deliverable as addressed." The return date was August 12, 2008.
4. Notice of the default hearing scheduled for this date was mailed to that same address by certified mail on October 9, 2008.
5. The Respondent has not answered the charges against her.
6. Upon hearing the State's presentation and taking notice of its own file, the Board finds the Respondent to be in default. The allegations contained in the State's specification of charges dated June 30, 2008 (copy attached) are therefore treated as the facts on which the Board's order is based. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

The Respondent has received adequate notice of the charges against her as indicated by the Board's file and the State's presentation. Because the Respondent has failed to answer the

charges, the State's factual allegations are treated as if proved. O.P.R. Rule 3.4. Accordingly, the Board finds, in the default hearing held pursuant to 3 V.S.A. §809(d), that the Respondent has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

Order

In accordance with the above findings of fact and conclusions of law, the license of the Respondent is hereby reprimanded and a civil penalty of \$500 is imposed, effective as of the date of the hearing. Ms. Michael must pay this civil penalty in full before the Board will entertain any application for licensure.

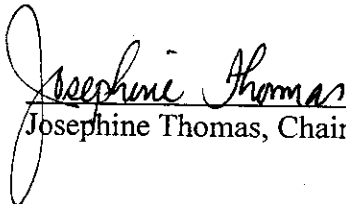
Appeal Rights

This is a final administrative determination by the Vermont Board of Barbers and Cosmetologists.

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a. To request a stay of the Board's decision, please refer to the attached stay instructions.

By:


Josephine Thomas, Chair

Date: October 20, 2008

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/21/08

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF BARBERS AND COSMETOLOGISTS**

IN RE:)
MICHELLE M. MICHAEL) **Docket No. CO01-0707**
License No. 009-0002602)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Michelle M. Michael:

Board Authority

1. The Vermont Board of Barbers and Cosmetologists has jurisdiction to investigate and adjudicate allegations of unprofessional conduct pursuant to 3 V.S.A. §§ 129 and 129a; 26 V.S.A. Chapter 6; the Rules of the Board of Barbers and Cosmetologists ("RBBC"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Michelle M. Michael (the "Respondent") of Ludlow, Vermont was licensed in the State of Vermont as a Cosmetologist under license number 009-0002602. The license was originally issued on or about May 21, 1996 and lapsed on November 30, 1997.
3. At all times relevant, the Respondent was employed at Crowne Cuts (the "Salon") located within Hawk Inn & Mountain Resort (the "Resort"), in Plymouth, Vermont.
4. On or about January 31, 2008 in a telephone interview with State Investigator Pamela Barney-Hango, Resort General Manager Kelly Van Guilder stated that the Respondent was initially hired as a waitress at the Resort in or around August 2005. Ms. Van Guilder stated that the Respondent then "transitioned" into the Salon on or about December 30, 2005. Ms. Van Guilder stated that, while working in the Salon, the Respondent learned how to massage and performed hair salon duties.
5. Ms. Van Guilder advised the Respondent stated that the Respondent held a valid cosmetology license. Ms. Van Guilder stated that once she told the Respondent that the Respondent was suspended until she could produce proof of holding a valid cosmetology license, the Respondent gave notice of terminating her employment at the Salon, in or around June 2007.
6. On or about March 11, 2008 in a telephone interview with Investigator Barney-Hango, the Respondent admitted to performing "manicures, pedicures, and updo[s]" for the Salon.

STATE OF VERMONT



Prosecuting Attorney
Office of
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9 Baldwin Street
Montpelier, VT
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Charges

7. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
- a. 26 V.S.A. § 272(a) (No person shall practice or attempt to practice barbering or cosmetology or use in connection with the person's name any letters, words, title or insignia indicating or implying that the person is a barber or cosmetologist unless the person is licensed in accordance with this chapter); and
 - b. 3 V.S.A. § 129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

Relief Requested

WHEREFORE, the license of Respondent should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 30th day of June, 2008.

STATE OF VERMONT
SECRETARY OF STATE

By: 

Robert H. Backus
State Prosecuting Attorney

co.michael.soc

STATE OF VERMONT



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