

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

IN RE:)
CROWNE CUTS) Docket No. CO29-0208
License No. 012-0001757)

STIPULATION AND CONSENT ORDER

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. The Respondent, Crowne Cuts (the “Salon”), located within Hawk Inn & Mountain Resort (the “Resort”) in Plymouth, Vermont, is licensed in the State of Vermont as a Cosmetology Shop under license number 012-0001757. This license was originally issued on or about January 12, 1998 and is currently set to expire on November 30, 2009.
3. At all times relevant, the Salon employed Michelle M. Michael. On or about March 11, 2008 in a telephone interview with State Investigator Pamela Barney-Hango, Ms. Michael admitted to performing “manicures, pedicures, and updo[s]” for the Salon.
4. The Secretary of State’s records indicate Ms. Michael’s license to practice cosmetology lapsed on or about November 30, 1997. Ms. Michael worked at the Salon from on or about December 30, 2005 to in or around June 2007.
5. Moreover, the Secretary of State’s records indicate Linda Seader is the Salon’s Designated Licensee. However, on or about January 31, 2008 in a telephone interview with Investigator Barney-Hango, Ms. Seader stated that she was unaware she was the Salon’s Designated Licensee. Furthermore, Ms. Seader stated that during Ms. Michael’s employment, Ms. Seader did not run the Salon; worked on a part-time basis; and never worked with Ms. Michael because Ms. Seader worked evenings while Ms. Michael worked during the day.
6. On or about March 6, 2008 in a telephone interview with Investigator Barney-Hango, Gwenn West, the Resort’s Vice President of Finance, admitted that she filled out the Salon’s license application and never asked Ms. Seader if Ms. Seader would act as Designated Licensee.

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7. Ms. West claims that she thought Ms. Seader had consented to acting as the Designated Licensee as Ms. Seader signed previous applications in prior years.
8. Crowne Cuts claims they did not act intentionally in listing Ms. Seader as the Designated Licensee without Ms. Seader's knowledge. Crowne Cuts further claims they thought Michelle Michael was properly licensed to work at Crowne Cuts.

Charges

9. 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);
 - b. RBBC Rule 9.2(a) (The shop shall have a designated licensee on the premises who is responsible for overall safety, cleanliness, and sanitation of the shop. Shop owners and designated licensees are responsible at all times for the overall cleanliness and sanitation of the shop);
 - c. RBBC Rule 9.2(b) (Shop owners and designated licensees are responsible for ensuring that any person practicing a profession governed by these rules in their shop has a valid license issued by the Board, and has in their possession at all times while working a current Vermont photo license or current Vermont state issued photo identification);
 - d. 3 V.S.A. § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license);
 - e. 3 V.S.A. § 129a(b)(2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice); and
 - f. 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).

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Understandings

8. This Stipulation is neither an admission of liability by the Respondent nor a concession by the State of Vermont that its charges are not well founded.
9. To avoid delay, uncertainty, inconvenience, and the expense of protracted litigation of the charges above the Parties have reached a full and final Stipulation pursuant to these Understandings and the Order below.
10. Respondent understands that the Barber and Cosmetology Board must review and accept the terms of this Stipulation and Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
11. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced its rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the Parties.
13. Respondent is not under the influence of any drugs or alcohol at the time of signing this Stipulation and Consent Order.
14. Respondent voluntarily entered into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
15. Respondent voluntarily waives its right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
16. Respondent does not contest that the State could prove the facts as alleged above by a preponderance of the evidence if this matter went to a merits hearing and therefore agrees that the Order set forth below may be entered by the Board.

ORDER

Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

- A. The Board of Barbers and Cosmetologists hereby issues an administrative penalty in the amount of \$1,500 to be paid within thirty (30) days of the date this Order is issued.
- B. Respondent shall bear all costs of complying with this Consent Order.
- C. Notwithstanding any provision above, Respondent must continue to meet all Barber and Cosmetology Board requirements for maintaining a license and license renewal.

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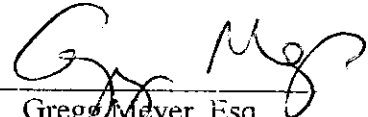
D. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

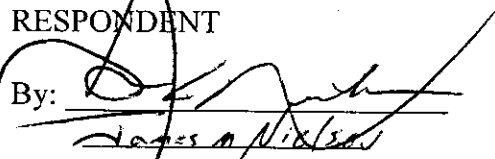
AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 9/18/08

By: 
Gregg Meyer, Esq.
State Prosecuting Attorney

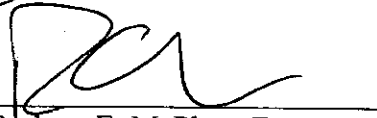
Dated: 09/15/2008

Crowne Cuts
RESPONDENT
By: 
James A. Nielsen

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

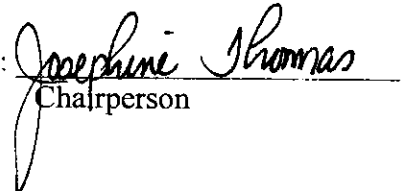
Dated: 9/17/08

By: 
Rodney E. McPhee, Esq.
Kenlan, Schwiebert, Facey & Goss, P.C.

APPROVED AND SO ORDERED:

VERMONT BOARD OF BARBERS AND
COSMETOLOGISTS

Dated: 10/20/2008

By: 
Josephine Thomas
Chairperson

Date of Entry: 10/21/08

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