

STATE OF VERMONT
BOARD OF BARBERS AND COSMETOLOGISTS

IN RE:)	
The Razor Master)	Docket No: BB 01-0201
Lic. No. 058-0000096)	
and)	
Thomas Mahoney)	
Lic. No. 005-0001372)	

STIPULATION AND CONSENT ORDER

The Respondent, Thomas Mahoney, and the State of Vermont, by its Attorney General, William H. Sorrell, stipulate to the statements of Board Authority, Facts and Understandings set forth below and agree to the entry of the following Consent Order by the Vermont State Board of Barbers and Cosmetologists as a final order in this matter.

Board Authority

- 1) The Vermont Board of Barbers and Cosmetologists has jurisdiction to investigate and adjudicate allegations of unprofessional conduct by cosmetologists and to approve consent orders entered by the parties pursuant to 3 V.S.A. §129; 26 V.S.A. §276; and the Board of Barbers and Cosmetologists Rules (hereinafter "Rules").
- 2) Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. §129a(a)(3).
- 3) Practicing cosmetology or barbering in shops not registered by the Board is unprofessional conduct upon which the Board may take disciplinary action. 26 V.S.A. §282(b).
- 4) Being a person who owns or controls a shop and who permits the practice of cosmetology or barbering services when the shop is not registered by the Board

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is unprofessional conduct upon which the Board may take disciplinary action. 26
V.S.A. §272(b).

- 5) Practicing or offering to practice beyond the scope permitted by law is unprofessional conduct upon which the Board may take disciplinary action. 26
V.S.A. §288(1).

Facts

- 6) Respondent, Thomas Mahoney, is licensed as a barber by the State of Vermont holding license number 005-0001372.
- 7) Respondent Mahoney was originally licensed on May 1, 1981 and his license is set to expire on September 30, 2002.
- 8) Respondent, The Razor Master (hereinafter "shop"), is licensed as a barber shop and holds license number 058-0000096. Respondent shop was originally licensed on October 16, 1995.
- 9) Respondent failed to renew the shop license on September 30, 1996.
- 10) Respondent's shop has been operating without a current license since September 30, 1996.
- 11) Respondent Mahoney is the owner of the Respondent shop and therefore is responsible for maintaining a current shop license.
- 12) On or about January 23, 2001, an inspector from the Board of Barbers and Cosmetologists inspected the Respondent shop and the inspector observed that there was not a current shop license conspicuously posted in a visible location for the public and that the same was not posted at the shop entrance.

Charges

Count I- Practice without Current License(s)

- A. The acts and circumstances described above constitute unprofessional conduct pursuant to:
- (1) Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession. 3 V.S.A. §129a(a)(3);
 - (2) The practice of cosmetology or barbering shall only be permitted in shops registered by the Board. 26 V.S.A. §282(b);
 - (3) No person who owns or controls a shop shall permit the practice of cosmetology or barbering services unless the shop is registered by the Board. 26 V.S.A. §272(b); and
 - (4) Practicing or offering to practice beyond the scope permitted by law. 26 V.S.A. §288(1).

Count II- Failure to Properly Post License(s)

- B. The acts and circumstances described above constitute unprofessional conduct pursuant to:
- (1) Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession. 3 V.S.A. §129a(a)(3);
 - (2) All licenses and registrations must be conspicuously displayed for the customer in the licensee's principal office or place of business. 26 V.S.A. §284(c); and
 - (3) The shop license and all personnel licenses shall be displayed together at eye level at the front entrance of the shop. Rule 3.12(B)(4).

Understandings

- A. The Respondent understands that the Board of Barbers and Cosmetologists must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.
- B. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- C. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
- D. The Respondent agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
- E. The Respondent agrees to settle the charge against him on the terms set forth in this order and is voluntarily waiving his right to a contested hearing before the Board of Barbers and Cosmetologists.
- F. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Barbers and Cosmetologists.

Consent Order

G. Based on the above stipulations, it is **ADJUDGED** as follows:

- (1) The "Facts" listed above are true; and

(2) The Respondent has engaged in unprofessional conduct in that the Respondent has:

- (a) Failed to comply with provisions of federal or state statutes or rules governing the practice of the profession. 3 V.S.A. §129a(a)(3);
- (b) Practiced the practice of barbering in a shop not registered by the Board in violation of 26 V.S.A. §282(b);
- (c) Owned and/or controlled a shop that practiced barbering services and was not registered by the Board in violation of 26 V.S.A. §272(b);
- (d) Practiced beyond the scope permitted by law. 26 V.S.A. §288(1);
- (e) Failed to have all licenses and registrations conspicuously displayed for the customer in the licensee's principal office or place of business in violation of 26 V.S.A. §284(c); and
- (f) Failed to maintain the shop license and all personnel licenses displayed together at eye level at the front entrance of the shop in violation of Rule 3.12(B)(4).

H. Based on the above stipulation and on the above Findings and Conclusions of this Board, it is **ORDERED** as follows:

I. The Board hereby **REPRIMANDS** Respondent's shop license **and CONDITIONS Respondent's license**. The **CONDITIONS** on Respondent's license would be as follows:

(1) Respondent shall successfully complete the following within six (6) months of the entry of this order:

- (a) Respondent shall retake the State Laws and Rules portion of the State

Board of Barbers and Cosmetologists Examination.

- J. Notwithstanding any provision above, Respondent must meet all Board of Barbers and Cosmetologists requirements for license renewal and license reinstatement.
- K. 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).
- L. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

BY: THOMAS MAHONEY
RESPONDENT

Date: 6/17/01


Thomas Mahoney

AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: 6/25/01


George C. Haegle IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

BOARD OF BARBERS AND
COSMETOLOGISTS

Date: _____

Chairperson

Dated entered: _____

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