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

IN RE:)
REFLECTING BEAUTY) Docket No.: 2011-173
License No. 012.0001447

IN RE:) Docket No.: 2011-174
URSULA J. LANDRY)
License No. 009.00001535)

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and the Respondents, Reflecting Beauty and Ursula Landry, who stipulate and agree as follows:

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.

Stipulated Facts

2. Reflecting Beauty (the "Respondent Shop") is a licensed cosmetology shop in the State of Vermont holding license number 012.0001447. This license was originally issued on or about March 21, 1994 and is currently set to expire November 30, 2013.
3. Ursula Landry ("Respondent") is a licensed cosmetologist in the State of Vermont holding license number 009.00001535. This license was originally issued on or about November 16, 1983 and is currently set to expire November 30, 2013.
4. At all times relevant, Respondent was the designated licensee for Respondent Shop.
5. On or about February 16, 2011, an unknown complainant called the Office of Professional Regulation and advised that someone was living in the wax room of Respondent Shop.
6. On or about March 25, 2011, Inspector Sally Davidson inspected Respondent Shop. The Inspector found and noted the following:

STATE OF VERMONT



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- a. The shop needed to be cleaned, the bathroom needed cleaning, and the trash can was overflowing with debris.
 - b. The station that was closed for the night was untidy and not cleaned.
 - c. None of the cabinets are covered and capes are left lying around in piles.
 - d. It is obvious that the hot wax sticks are reused.
 - e. There was no sterilizer in the perm rod cases.
 - f. It is obvious someone is living in the waxing room. Clothes are hung on the back of the door. Mail was left on a nightstand and personal products are in a cabinet. A bed was made up and shoes and extra bedding were also in the room.
7. On or about August 19, 2011, Inspector Davidson re-inspected Respondent Shop. Respondent Shop again failed the inspection. Inspector Davidson noted that a barber pole on the back of the Respondent Shop's sign needed to be covered; she also found and noted the following:
- a. The hair dryers need cleaning, one has bleach dyed on it;
 - b. Blood spill kit was incomplete;
 - c. Spray disinfectant and sterilizers were not present;
 - d. There was a lot of hair in the clippers and brushes in the drawers;
 - e. Scissors were left out on booth counter;
 - f. Sinks and shampoo bowls need to be sterilized after each use;
 - g. Backboards need sterilization after each use;
 - h. Cleaned linens and equipment stored on an open shelf;
 - i. Customer restroom needs cleaning; and
 - j. Apparatus for waxing and facials needs sterilization after each use.
8. On or about August 25, 2011, in an interview with State Investigator Laura Pezzulo, Respondent stated in part the following:

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- a. The person reported to be living in the wax room was a friend who sought and was offered a temporary place to stay, but overstayed. The friend moved her belongings the day after the March inspection and no longer stays in Respondent Shop.
- b. Respondent did not provide waxing services in the wax room during the period her friend occupied the room.

Violations

- 9. The acts, omissions and/or circumstances described above, constitute unprofessional conduct in violation of:
 - a. 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);
 - b. 3 V.S.A. § 129a(b)(1) and (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: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice);
 - c. 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);
 - d. RBBC Rule 9.2(a) General Requirements for Shops (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);
 - e. RBBC Rule 12.2(a) Disinfection and Storage of Implements (Wet disinfection units: Portions of articles which come into contact with customers are to be disinfected by completely submerging them in a disinfectant solution. A wet disinfection unit must have a cover to prevent contamination of the solution);
 - f. RBBC Rule 12.3(a)(3) Sanitation and Safety Requirements (There must be a fully functional bathroom, in the same building with no open storage of chemicals, with a working toilet and sink available for customers. Fixtures must be in good condition. The bathroom must be lighted and sufficiently

STATE OF VERMONT



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ventilated. If there is a window, it must have a screen. There must be liquid soap and clean individual towels for the clients' use. Laundering of towels is allowed, space permitting. The bathroom must not be used as a work area);

- g. RBBC Rule 12.3(b)(2) Equipment sanitation ((2) Massage tables, manicuring tables, sinks/shampoo bowls, facial and waxing tables, apparatus for waxing and facials, tanning beds, ear piercing equipment, and any other objects which touch the client shall be sanitized or sterilized after each use);
- h. RBBC Rule 12.3(c)(8) Articles, tools and products (All sharp tools and implements, and heat producing appliances shall be safely stored); and
- i. RBBC Rule 12.3(d)(2) Chemical storage and emergency information (Shops and facilities shall have a blood spill clean-up kit in all work areas).

Understandings

- 10. Respondents understand that the Board of Barbers and Cosmetologists must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
- 11. Respondents specifically waive any claims that any disclosures made to the full Board during its review of this agreement have prejudiced their rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
- 12. Respondents have read and reviewed this entire document and agree that it contains the entire agreement between the parties.
- 13. Respondents are not under the influence of any drugs or alcohol at the time they sign this Stipulation and Consent Order.
- 14. Respondents voluntarily enter into this agreement after the opportunity to consult with legal counsel and are not being coerced by anyone into signing this Stipulation and Consent Order.
- 15. Respondents voluntarily waive their right to a contested hearing before the Board of Barbers and Cosmetologists and waive any right to appeal from this Stipulation and Consent Order.
- 16. Respondents agree that the Order set forth below may be entered by the Board.

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ORDER

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


- A. The Board of Barbers and Cosmetologists ORDERS Respondent's license be **REPRIMANDED**.
- B. The Board of Barbers and Cosmetologists ORDERS Respondent Shop's license be **REPRIMANDED** and Respondent Shop must **PASS TWO (2) RANDOM INSPECTIONS** within and twelve (12) month period.
- C. Respondent Shop shall be responsible for any fees associated with the ordered two random inspections. Failure to pass follow-up inspections will result in an additional fine and may result in additional discipline.
- D. Notwithstanding any provision above, the Respondents must continue to meet all Board of Barbers and Cosmetologists requirements for maintaining a license, license renewal and license reinstatement.
- E. 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).
- F. This Stipulation and Consent Order will remain part of Respondents' 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: 10-10-2012

By:


Gabriel M. Gilman
State Prosecuting Attorney

REFLECTING BEAUTY/
URSULA LANDRY
RESPONDENTS

Dated: 10-10-2012

By:


Ursula Landry

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APPROVED AND SO ORDERED:

VERMONT BOARD OF
BARBERS AND
COSMETOLOGISTS

Dated: Oct. 15, 2012

By: Madonna Camma
Chairperson

Date of Entry: 10/15/12

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