

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

IN RE:)
CASIMER SUDOL) Docket No: CO15-0202
Lic. No. 009-0001013)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent Casimer Sudol, 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. §276 and §288; and the Rules of the Board of Barbers and Cosmetologists ("RBBC").
- 2) Harassing, intimidating, or abusing a client or customer is unprofessional conduct upon which the Board may take disciplinary action. 26 V.S.A. §288(4).
- 3) In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred. 3 V.S.A. §129a(a)(12).
- 4) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes performance of unsafe or unacceptable patient or client care or failure to conform to the essential standards of acceptable and prevailing practice. 3 V.S.A. §129a(b)(2).

Facts

- 5) Respondent, Casimer Sudol, is licensed as a cosmetologist by the State of Vermont holding license number 009-0001013. Respondent was originally licensed on January 25, 1966 and Respondent's license is currently set to expire on November 30, 2005.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

- 6) At all times relevant to these charges, the Respondent has been working as a cosmetology instructor at the Vermont School of Cosmetology ("College").
- 7) On or about March 11, 2002, State Investigator Dean Marthers interviewed students A.S, E.D., K.B., J.P., N.P., B.L. and A.D.
- 8) Student A.S. informed Investigator Marthers that on several occasions, the Respondent would leave the floor to answer personal phone calls. This would leave the students unattended and without an instructor.
- 9) Student A.S. stated that although the Respondent is supposed to check a student's work before the client leaves, often clients would leave without being checked because they were tired of waiting for the Respondent to get off the phone. A.S. stated that one client waited 45 minutes for the Respondent to get off the phone.
- 10) Student N.P. advised that many times during N.P.'s classes the Respondent would leave the area and answer phone calls. N.P. stated that the Respondent would often leave for hours.
- 11) Student J.P. stated that one occasion the Respondent took eight personal calls while the students were attempting to show him their practical work.
- 12) Student E.D. stated that E.D. was left alone in hair cutting class for three hours after Respondent told E.D. to do a haircut and that Respondent would be back in a "little while".
- 13) Student A.D. stated that there were times when the Respondent would leave a class of 17 students for hours at a time.
- 14) Student A.D. stated that many times the Respondent was nowhere to be found and perms were left in too long and became over-processed, causing irreversible damage. This happened because the Respondent needs to check a perm.
- 15) Student N.P. stated that the Respondent is abusive and unprofessional in the way he speaks to students. Students J.P., K.B., A.S., E.D., B.L. and A.D. all expressed this general sentiment about the Respondent during their interviews with Investigator Marthers.
- 16) Student N.P. advised that the Respondent will pull tools out of students hands when he is frustrated, making the students feel like they have done something wrong. Student K.B. stated that this happened to K.B.
- 17) Student E.D. stated that E.D. has seen Respondent "harass" students so badly that they leave in tears.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

18) Student A.S. advised that the Respondent would often make rude remarks to students in front of clients they were working on. Student E.D. stated that this happened to E.D. and four of E.D.'s classmates on one occasion.

19) Student A.S. stated that Respondent would lie to students by telling the student that the client complained about the student's services. Student K.B. has stated this has happened to K.B.

20) Student A.D. stated that the Respondent has made inappropriate sexual comments making A.D. feel uncomfortable. Student J.P. stated that there were sexual innuendos made towards students and inappropriate touching.

21) Student A.D. stated that many times A.D. has become nauseous and has vomited as a result of Respondent's inappropriate sexual behavior and comments. A.D., J.S. and some other classmates refuse to be in a room alone with the Respondent because of the insecurity they feel around the Respondent.

22) Student B.L. stated that B.L. has been touched by the Respondent in ways that made B.L. feel uncomfortable. B.L. spoke to the Respondent about this and told the Respondent that B.L. felt uncomfortable in the way Respondent was touching B.L., but B.L. stated that the Respondent did not stop.

23) On or about April 29, 2003, Stephanie Ostiguy, the College's Personnel Officer, advised State Investigator Gloria Danforth that the Respondent frequently touches his genitalia outside of his trousers and puts his hand down the back of his pants as to "free a wedgie." Ms. Ostiguy informed of a situation two weeks earlier, in mid April, 2003, where Respondent grabbed onto his penis and pulled on it for a few seconds while she was alone with the Respondent in the salon writing a document for him.

24) Ms. Ostiguy advised of another situation where the Respondent placed his face in the curve of her neck in the presence of a student and the student's parent.

25) On or about April 23, 2003, Susan Pendrok, an instructor at the College, advised Investigator Danforth that she frequently observes the Respondent putting his hand down the inside back of the Respondent's pants, as well as making sexually suggestive movements with his lower waist while standing close to her.

26) On or about May 14, 2003, Student S.C.W. advised Investigator Danforth that S.C.W. has witnessed during classes these same sexually suggestive lower waist movements described by Ms. Pendrok. S.C.W. stated over the period of a four hour class, the Respondent would make these movements approximately 10 times.

27) On or about May 13, 2003, student B.G. informed Investigator Danforth that on one occasion when B.G. was alone with the Respondent in a back room where manikins are stored, the Respondent placed his hand on B.G.'s shoulder and rubbed B.G.'s shoulder for an estimated time of 10 seconds.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

28) On or about May 14, 2003, Student H.S. advised Investigator Danforth that on one occasion while she was bending over to plug an appliance into a wall socket, the Respondent placed his body close to H.S.'s such that his pelvis was in front of H.S.'s face. H.S.'s story was corroborated by Ms. Pendrok.

29) Student H.S. advised of another occasion which occurred in or about February, 2003 when H.S. and Respondent were alone in hair cutting class. Respondent was physically close to H.S. while she was cutting hair; so close that H.S. could feel Respondent's breath on H.S.'s neck.

30) Although the Respondent does not admit to the truth of the above facts, he does not contest that the State would be able to present credible evidence to prove these facts by a preponderance of the evidence at a hearing.

31) By way of history, Respondent was disciplined for similar instances of sexual harassment by the Board of Cosmetology pursuant to Findings of Fact, Conclusions of Law, And Order Revised and Reissued entered on May 22, 1995. (see "Attachment A").

Charges

A. By committing the above act(s) and/or omission(s) alleged above, the Respondent has committed unprofessional conduct in that the Respondent has violated:

- (i) 26 V.S.A. §288(4) (Harassing, intimidating, or abusing a client or customer);
- (ii) 3 V.S.A. §129a(a)(12) (In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred);
- (iii) 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. Failure to practice competently includes performance of unsafe or unacceptable patient or client care or failure to conform to the essential standards of acceptable and prevailing practice).

Understandings

A. Respondent understands 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.

B. Respondent specifically waives any claims that any disclosures made to the full

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

C. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

D. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.

E. Respondent voluntarily enters 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.

F. Respondent voluntarily waives his right to charges and a contested hearing before the Board of Barbers and Cosmetologists.

G. Respondent agrees that the State has sufficient evidence for the Board to find that Respondent has engaged in unprofessional conduct and that the Order set forth below may be entered by the Board.

ORDER

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

The Board hereby **REVOKES** Respondent's cosmetology license.

I. 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).

J. 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: 1/7/04

By: 

Edward G. Adrian
State Prosecuting Attorney

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Dated: Jan 5, 2004

CASIMER SUDOL
RESPONDENT

By: 

Casimer Sudol

APPROVED AND SO ORDERED:

VERMONT BOARD OF BARBERS AND
COSMETOLOGISTS

Dated: 1/12/04

By: Maureen Roy
Chairperson

Date of Entry: 1/14/04

co.sudol.stip

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

STATE OF VERMONT
BOARD OF COSMETOLOGY

IN RE:

CASIMER SUDOL, JR.
LICENSE ##9-1013 & 8-45

)
)
) Case File No. CO09-0192

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER
Revised and Reissued

INTRODUCTION

Following the Board's order in this case on 27 September 1994, both the respondent and the Attorney General appealed. The case was assigned to an appellate officer, who considered memoranda and oral arguments of both parties, then issued an Opinion and Order remanding the case to the Board, with instructions to revise certain conclusions of law that the appellate officer found to be erroneous.

The Board's counsel convened a prehearing conference to determine whether the parties wanted an opportunity to present oral argument or briefs to the Board before a revised order was prepared. Only the Attorney General participated in the prehearing conference; neither party made a request to present anything further. Following the conference, the Board met in deliberative session and revised its earlier order.

FINDINGS OF FACT

1. Casimer Sudol, Jr., holds licenses as a cosmetology operator and a cosmetology instructor. He has been so licensed since the early 1970s.

2. In 1973, Sudol began work at the Vermont College of Cosmetology (VCC), a professional training school that prepares its students to qualify for cosmetology licenses. Starting as an instructor, he soon became the director of the school and a principal shareholder in the corporation. He has continued as director to the present. In 1993, shortly after being notified of the charges in this case, he sold his shares to Guy Neveau, the other principal shareholder.

3. Most of the students at VCC were recent high school graduates; few were older than 23. These students often lacked self confidence and were not assertive. Most also received financial aid to meet the cost of schooling.

4. For most of his years at VCC, Sudol instructed the basic classes in haircutting. He discontinued instructing basic

haircutting in 1993, at the time he received the charges, assigning that responsibility to another instructor. He resumed the instruction of basic haircutting several months later.

5. Sudol teaches haircutting, in part, by standing behind the student, reaching under the student's arms, and holding the student's wrists or hands. Sudol used this technique frequently and with most students. He did not, however, instruct male students using this technique, nor older female students who indicated that it was unwelcome.

6. Other instructors rarely, if ever, instructed using this technique. Instead, they stood beside the student while demonstrating, or the student stepped back to allow the instructor access to the mannequin or customer.

7. When instructing from behind a student, Sudol often repositioned the student by putting his hands on her hips or waist. If he wanted the student to bend at the knee, he would push his knee against the back of the student's knee, with his arms ready to catch her in case she fell. On occasion, he rested his head on the student's shoulder.

8. Sudol made up nicknames for students, which he used in class instead of the names on the student name tag. Women's nicknames often referred to physical attributes, such as "Legs," or "Beautiful Brown Eyes." Others included "Pumpkin" and "Hayseed." Men's nicknames did not refer to physical attributes.

9. Frequently Sudol's conversations with students turned to sexual topics. He sometimes told a student to get rid of her boyfriend, and talked to married students about their sex life.

10. Sudol raised his voice with students, and often spoke harshly. On more than one occasion, he called students "beautiful but dumb" when the student asked a question. Students often ended up in tears as a result of Sudol's intimidating treatment.

11. Students were required to wear uniforms to class. One time a student came to Sudol to ask permission to attend class in substitute clothing. Sudol asked, "Are you wearing a bra?" in a loud voice, which could be heard by other students and customers alike. The student, who was wearing a bra as required by school rules, was embarrassed.

12. Students were reluctant to complain about Sudol's conduct, because, as director of the school, he would learn of the complaint and be the one to act on it. They feared being kicked out of school, and losing the tuition they had paid.

CONCLUSIONS OF LAW

A. The Board may discipline a licensee who engages in "gross immorality [or] grossly unprofessional conduct." 26 VSA § 660(b). This language requires the Board to apply "broad and necessarily general standards... measured by common understanding and practices" within the profession. Brody v. Barasch, 155 Vt. 103, 111 (1990).

B. Sudol's practice of reaching around students in order to instruct them in haircutting is a deviation from ordinary, standard conduct of cosmetologists.

C. Sudol's behavior in turning conversations with students into sexual dialogues was unprofessional. On occasion, this behavior was grossly unprofessional.

D. Sudol's use of nicknames was at times unprofessional, but none of the examples shown by the evidence could be termed grossly unprofessional.

E.. Sudol's behavior in calling students "beautiful but dumb" was disrespectful, demeaning and humiliating. This conduct, engaged in by an instructor, is detrimental to the emotional development of these students and was grossly unprofessional.

F. Sudol's conduct in asking one student if she was wearing a bra was demeaning and humiliating. Engaged in by an instructor, this behavior was grossly unprofessional.

G. Taken together, Sudol's conduct as detailed in the findings is grossly unprofessional, and warrants disciplinary action.

ORDER

Casimer S. Sudol, Jr.'s license as a cosmetology instructor is SUSPENDED for six months, and further suspended until he enrolls in a course in the secondary teaching process, taught at an accredited college. The suspension of license shall begin and date from 27 October 1994.

Sudol's license as a cosmetology operator is not restricted or encumbered.

Prior to reinstatement of his instructor license, Sudol shall appear before the Board and show (1) present possession of entry level qualifications, (2) specific rehabilitation, (3) good moral character and fitness, and (4) that reinstatement will not be detrimental to the integrity of the profession or subversive of the public interest. Any reinstated license may be subject to further conditions.

APPEAL RIGHTS

Any party aggrieved by this decision may appeal by sending a notice in writing to the Director of Professional Regulation within 30 days of the date of this order.

BOARD OF COSMETOLOGY

Dated at Lyndonville, Vermont, this 9th day of May, 1995.

Sharon Archambeau
Sharon Archambeau

Dated at Reading, Vermont, this 11th day of May, 1995.

Karen M. Fielder
Karen M. Fielder

Dated at Hardwick, Vermont, this 16 day of May, 1995.

Emma Pudvah
Emma Pudvah

Date of entry: May 22, 1995