

STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES EXAMINERS

IN THE MATTER OF:)	
)	NO: 04-008
CLASSIC NAILS & TANNING)	
License No. 002-009949,)	CONSENT ORDER AND
)	AGREEMENT
RESPONDENT)	

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Classic Nails (Respondent), through its owner Binh Q. Phung, enter into this Consent Order and Agreement (Agreement) pursuant to Iowa Code sections 17A.10(1) and 272C.3(4) (2003) and 645 Iowa Administrative Code rule 12.1.

1. Respondent was assigned license number 002-009949 to operate a nail technology salon in the state of Iowa. Binh Q. Phung was the owner of record for Respondent salon at the time of the filing of the Statement of Charges. Since the time of the issuance of the Statement of Charges, ownership of Respondent salon was transferred and a new salon license issued.

2. The Board has jurisdiction over the licensee disciplinary action pending against Respondent.

3. After an inspection of Respondent salon revealed the use of cosmetic products containing methyl methacrylate, the Board instituted formal disciplinary proceedings by filing a Statement of Charges on May 5, 2004.

4. Respondent has a right to a hearing on the charges, but waives its right to hearing and all attendant rights by freely and voluntarily entering into this Agreement. The Agreement is the final agency order in the contested case.

5. Respondent agrees that the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.

6. This Agreement shall be part of the permanent record of the Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of future violations.

7. Any failure by the Respondent to comply with the terms and conditions of this Agreement shall subject the Respondent to further licensee disciplinary action which could be initiated by the Board through the filing of a statement of charges with a hearing to be held on the merits.

8. This Agreement is subject to approval by the Board. If the Board fails to approve this Agreement, it shall be of no force or effect on either party, and it shall not be

admissible for any purpose in further proceedings in this matter. If the Board approves this Agreement, it shall fully dispose of all issues in this case.

9. This Agreement is a public record pursuant to Iowa Code sections 272C.3(4) and 272C.6(4) (2003).

10. This Agreement shall not be binding as to any new complaints received by the Board.

IT IS THEREFORE ORDERED:

A. CIVIL MONETARY PENALTY

Respondent shall pay to the Board a civil monetary penalty of \$500. Respondent shall remit full payment of the civil monetary penalty to the Board within 15 days of the execution date of this Agreement. The execution date of this Agreement shall be the date the Agreement is signed by the Board chairperson.

B. FUTURE OPERATIONS

Binh Q. Phung shall request Board approval prior to owning and/or operating a salon in the state of Iowa. This Agreement and compliance with it may be considered by the Board in determining whether to issue a salon license and the conditions, if any, required to be satisfied prior to or subsequent to the issuance of a salon license.

WHEREFORE, the terms of this Consent Order and Agreement are agreed to and accepted by the Iowa Board of Cosmetology Arts and Sciences and Applicant.

This Consent Order and Agreement is approved by the Board on July 21, 2004.