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

IN THE MATTER OF:	)	
	)	CASE NO. 06-043
Duy Q. Dau, doing business as	)	
Pretty Nails	)	COMBINED STATEMENT OF
License No. 002-009839	)	CHARGES, INFORMAL
	)	SETTLEMENT AGREEMENT,
RESPONDENT	)	AND CONSENT ORDER

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Pretty Nails, through its owner Duy Q. Dau (Respondent), enter into this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order (Agreement) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

1. Duy Q. Dau presently possesses salon license number 002-009839 to operate a nail technology salon in the State of Iowa. Board records indicate that Respondent salon is located at 516 N. Adams St., Ste. 131, Carroll, Iowa 51401.

2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 157, and 272C. Licenses issued by the Board are subject to the laws of the State of Iowa and the administrative rules promulgated by the Board.

STATEMENT OF CHARGES

COUNT I

3. Respondent is charged under Iowa Code section 147.55(3), 157.6 and 272C.3(2) and 645 Iowa Administrative Code (IAC) rule 65.2(13) by engaging in unsanitary practices in violation of 645 IAC 63.2, 63.16(1), 63.14, 63.17(1), 63.18(3) and 63.25(2)-(5).

CIRCUMSTANCES

4. During an investigation, and inspection of Respondent salon on May 30, 2006, it was observed that no salon sanitation rules were posted. Containers containing liquids, creams, powders and cosmetics were not all kept in closed, labeled containers. Used nail buffers and a chamois buffer that could not be sanitized were observed. There was no red hazardous container available. The cleaning and disinfecting of the whirlpool foot spas was not being done properly after each use, at the end of each day and on a biweekly basis. Furthermore, no records of cleaning were kept.

COUNT II

5. Respondent is charged with employing individuals to practice cosmetology arts and sciences without an Iowa license (or current license) in violation of Iowa Code section 157.13(1) and 645 IAC rules 63.4 and 65.2(28).

CIRCUMSTANCES

6. During an inspection of Respondent's salon on May 30, 2006, two persons were engaging in activities requiring an Iowa license. One did not have an Iowa license and another license was expired. The owner is responsible for allowing a person to practice without an Iowa license to practice.

SETTLEMENT AGREEMENT

7. Respondent agrees not to contest the above stated charge before the Board.

8. Respondent has a right to receive notice of the charge and to request a hearing before the Board on the merits of the charge, but waives its right to notice and a hearing and all attendant rights, including the right to appeal or seek judicial review of

the Board's actions, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in this case.

9. 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.

10. This Agreement shall be part of the permanent record of 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.

11. Any failure by Respondent to comply with the terms and conditions of this Agreement shall subject 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.

12. This Agreement is subject to approval by the Board:

(a) If the Board does not 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.

(b) If the Board approves this Agreement, it shall fully dispose of all issues in this case.

13. This Agreement is a public record pursuant to Iowa Code sections 272C.3(4) and 272C.6(4)(2005).

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

CONSENT ORDER

IT IS THEREFORE ORDERED:

15. Respondent agrees to pay to the Board a civil monetary penalty of $900 total. The funds shall be payable to the State of Iowa. Respondent shall remit full payment of the civil monetary penalty to the Board within 30 days of the date this Agreement is executed by the Board.

16. Respondent agrees to comply with all laws and rules regarding nail salons and in particular all sanitary rules. They will not employ unlicensed persons for the tasks requiring a license.

This combined statement of charges, informal settlement agreement, and consent order is approved by the board on November 1, 2006.