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

IN THE MATTER OF:	)	
	)	CASE NO. 06-038
Regal Nails	)	
License No. 002-009829	)	
and	)	COMBINED STATEMENT OF
Diem Thi Pham, owner	)	CHARGES, INFORMAL
License No. 840-01027	)	SETTLEMENT AGREEMENT,
	)	AND CONSENT ORDER
RESPONDENT	)	

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Regal Nails, through its owner Diem Thi Pham (Respondents), 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. Diem Thi Pham presently possesses salon license number 002-009829 to operate a nail technology salon in the State of Iowa and a nail technology license number 840-01027. Board records indicate that Respondent salon is located at 3101 Floyd Blvd., Sioux City, Iowa 51108.

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. Respondents are 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 an

unsanitary practices in violation of 645 IAC 63.14, 63.16(1), 63.17(1), 63.18(3) and 63.25(2), (4) and (5).

CIRCUMSTANCES

4. During an investigation, and inspection of Respondent salon on May 24, 2006, used nail buffers and chamois buffers that could not be sanitized were observed, all cosmetic products were not in labeled containers and there was no red hazardous container available. The cleaning and disinfecting of the whirlpool foot spas was not being done properly after each use and on a biweekly basis. Furthermore, no records of cleaning were kept.

COUNT II

5. Respondents are charged with employing individuals to practice cosmetology arts and sciences without an Iowa license in violation of Iowa Code section 157.13(1) and 645 IAC rules 63.4, 65.2(28) and 65.2(36).

CIRCUMSTANCES

6. During an inspection of Respondent's salon on May 24, 2006, three persons engaged in activities requiring an Iowa license left the salon. Rule 645 IAC 65.2(36) makes it a presumption that persons providing services that leave the salon during an inspection are unlicensed. The owner is responsible for allowing unlicensed persons to practice.

SETTLEMENT AGREEMENT

7. Respondents agree not to contest the above stated charge before the Board.

8. Respondents have a right to receive notice of the charge and to request a hearing before the Board on the merits of the charge, but waive their 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. Respondents agree 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 Respondents 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 Respondents to comply with the terms and conditions of this Agreement shall subject Respondents 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. Respondents agree to pay to the Board a civil monetary penalty of $1000 total. The funds shall be payable to the State of Iowa. Respondents 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. Respondents agree 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.