STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:	)	
	)	**CASE NO. 08-069**
Venus Nails	)	
License No. 011336	)	
and	)	**STATEMENT OFCHARGES,**
Phong H. Luong, owner	)	**SETTLEMENT AGREEMENT AND**
License No. 01617	)	**FINAL ORDER**
	)	
RESPONDENT	)	
	)	

COMES NOW the Iowa Board of Cosmetology Arts and Sciences (Board) and Venus Nails, through its owner Phong H. Luong (Respondent), and hereby enter into this Combined Statement of Charges, Settlement Agreement, and Final Order (Agreement and Order) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

NOTICE OF HEARING

1. A hearing on this matter will not be held as the Board and Respondent have entered into the following combined notice of hearing, settlement agreement and final order.

2. Respondent was issued license number 011336 to operate a salon in the State of Iowa on June 5, 2006 and a nail technology license number 01617 on September 28, 2005. Both licenses are current. Board records indicate that Respondent salon is located at 1810 S.W. White Birch Cir. #120, Ankeny, Iowa 50023.

3. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 157, and 272C.

SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

4. Respondent is charged with violation of a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by failing to post the salon license in the reception area at eye level in violation of 645 IAC 61.5(2) and by failing to post a copy of the most current sanitation rules and most recent inspection report in the reception area at eye level in violation of 645 IAC 63.2.

COUNT II

5. Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 Iowa Administrative Code 65.2(13) by failing to properly clean and disinfect the whirlpool foot spas in violation of 645 Iowa Administrative Code 63.25(2) - (4).

COUNT III

6. Respondent is charged with engaging in unsanitary practices in violation of Iowa Code section 157.6 and 645 IAC rules 63.13(2), 63.14, 63.17(3) and (4), 63.18(3) and 65.2(13).

COUNT IV

7. Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 Iowa Administrative Code 65.2(13) by having a pet on the premises in violation of 645 IAC 63.21.

COUNT V

8. Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by having a product containing liquid methyl methacrylate monomer or methylene chloride on its premises in violation of 645 IAC 63.18(1).

FACTUAL CIRCUMSTANCES

9. During an investigation of Respondent salon on February 27, 2009, the investigator found the sanitation rules and inspection report in the back room. The licenses were posted in the reception area at a level that was not visible to the public. The investigator had to remove the licenses from the wall to view the information.

10. During the investigation, the investigator found debris in the foot spa jets and debris in the spa basin.

11. During the investigation, the investigator found used nail buffers and emery boards that could not be sanitized between uses on clients were not being disposed of properly, used sanding bits and bands were not being properly placed in a receptacle for cleaning and were not disinfected between uses on clients, and biohazard bags and containers were not available for use.

12. During the investigation, a dog was kenneled in the back room and other dog supplies such as food, water bowls and pet toys were found.

13. During the investigation, two samples of liquid were obtained. The samples were tested for the presence of Methyl methacrylate (MMA) at the University of Iowa Hygienic Laboratory. Test results revealed one sample of liquid taken from Respondent salon contained MMA.

SETTLEMENT AGREEMENT AND FINAL ORDER

14. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

15. By entering into this Agreement and Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Agreement and Order and voluntarily

waives any objections to the terms of the Agreement and Order, including the right to appeal.

16. This combined Agreement and Order, is voluntarily submitted by Respondent to the Board for consideration.

17. Respondent acknowledges that he/she has a right to be represented by counsel in this matter.

18. Respondent agrees that counsel for the State may present this Agreement and Order to the Board.

19. This Agreement and Order is subject to approval of the Board. If the Board fails to approve this Agreement and Order it shall be of no force or effect to either party.

20. This Agreement and Order shall be part of the Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violation.

21. In the event Respondent violates or fails to comply with any of the terms of this Settlement Agreement and Final Order, the Board may initiate appropriate action to revoke or suspend Respondent's license or to impose other licensee discipline in accordance with Iowa Code section 272C.3(2)(a).

22. This Agreement, and Order is a public record available for inspection and copying upon execution of the Agreement and Order in accordance with the requirements of Iowa Code chapter 22 and 272C.

23. The Board's approval of this Agreement and Order shall constitute a FINAL ORDER of the Board.

IT IS THEREFORE ORDERED

24. Respondent agrees to pay to the Board a civil monetary penalty of $1000.00 total. The funds shall be payable to the Board. Respondents shall remit full payment of the civil monetary penalty within 60 days of the date this Agreement is executed.

25. Respondent agrees to complete four (4) hours of continuing education applicable to cosmetology salon sanitation or laws and rules that include Iowa Code Chapter 157 and Iowa Administrative Code Chapters 59 through 65 within six (6) months from the date this Agreement is executed. Continuing education obtained may not be used for future license renewal. Respondent owner must obtain Board approval before enrolling in any course taken for the purpose of satisfying this obligation.

26. Respondent agrees to comply with all laws and rules regarding cosmetology salons.

This statement of charges, settlement agreement and final order is approved by the board on July 13, 2009.