

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

IN THE MATTER OF:)	
)	CASE NO. 08-078
Solo Nails)	
License No. 102988)	
and)	NOTICE OF HEARING
Duy Quang Vuong, Owner)	AND STATEMENT OF CHARGES
License No. 01697)	
)	
RESPONDENTS)	
)	

The Iowa Board of Cosmetology Arts and Sciences files this Notice of Hearing pursuant to Iowa Code §§ 17A.12(2), 17A.18(3) (2009), and 645 Iowa Administrative Code (IAC) § 11.6. Respondent Solo Nails was issued Iowa salon license no. 102988 on August 10, 2009. Respondent operates a salon located at 555 JFK Rd., Suite 290, Dubuque, IA 52002. Respondent's salon license is current and will next expire on December 31, 2010. Respondent Vuong was issued nail technology license no. 01697 on February 23, 2006 and the license will next expire on March 31, 2010.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 5, 2010 before the Board of Cosmetology Arts and Sciences. The hearing shall begin at 10:30 AM and shall be located in the Lucas State Office Building, Fifth Floor Conference Room 517/518, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC § 11.12 to file an Answer. The Answer

should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Cosmetology Arts and Sciences, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC § 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC § 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State of Iowa) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Scott Galenbeck, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 157, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 157, and 272C and 645 IAC chapter 65.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code § 17A.12(3) and 645 IAC § 11.21.

C. CHARGES

COUNT I

Respondent is charged under 645 IAC § 65.2(13) with failing to properly clean and disinfect whirlpool footspas and with failing to document the cleanings in violation of 645 IAC §§ 63.25(2-5).

COUNT II

Respondent is charged with employing individuals to practice cosmetology arts and

sciences without a license in violation of Iowa code § 157.13(1) and 645 IAC §§ 65.2(28) and 65.2(36).

COUNT III

Respondent is charged with engaging in unsanitary practices in violation of Iowa Code § 157.6 and 645 IAC §§ 63.12(1), 63.13(2), 63.14, 63.18(3) and 65.2(13).

COUNT IV

Respondent is charged with violation of a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by possessing a razor-edged device, in violation of 645 IAC 63.18(2).

COUNT V

Respondent is charged under 645 IAC § 65.2(13) by having a product containing liquid methyl methacrylate (MMA) on its premises in violation of 645 IAC § 63.18(1).

D. FACTUAL CIRCUMSTANCES

1. During the investigation on October 16, 2009, the foot spa cleaning log was not up-to-date and did not indicate more than one entry per day, nor the employee who cleaned the foot spa.

2. Two individuals left the salon upon the entry of the investigation. One individual was observed providing services that require a nail technology license. The manager denied the individual was working on a customer; however, later another employee confirmed the individual who left the salon did not have an Iowa nail technology license, but held a Florida license.

3. During the investigation, it was observed that four whirlpool spa screens and jets contained black debris. An employee was observed cleaning a spa basin with Scrubbing Bubbles, which is not an EPA-registered disinfectant.

4. Numerous corn blades were found in a plastic bag in the backroom.

5. Two samples of nail liquid were taken and one sample tested positive for methyl methacrylate acid.

6. Used non-sanitizable emery boards and nail buffers were not disposed of immediately after use on a client and were stored with clean supplies. Used metal bits were not disposed of properly after use. Respondent's disinfectant solution contained debris.

7. Respondent was previously disciplined in case number 06-242 for failure to properly clean and disinfect whirlpool foot spas, having heel shavers on the premises, and allowing the use of products containing MMA in the salon.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC Chapter 12. If you are interested in pursuing settlement of this matter, please contact Scott Galenbeck, Assistant Attorney General, at 515-281-6658.

F. PROBABLE CAUSE FINDING

On the 11th day of January, 2010, the Iowa Board of Cosmetology Arts & Sciences found probable cause to file this Notice of Hearing and Statement of Charges.

This notice of hearing and statement of charges is approved by the board on March 4, 2010.