STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:	)	
	)	**CASE NO. CO 13-036**
Cali Nail	)	
License No. 102093	)	
and	)	
Jym Tran	)	**STATEMENT OF CHARGES,**
License No. 01820	)	**SETTLEMENT AGREEMENT AND**
	)	**FINAL ORDER**
	)	
RESPONDENTS.	)	

COMES NOW the Iowa Board of Cosmetology Arts and Sciences (Board) and Cali Nails, through its owner Jim Tran (Respondents), and hereby enter into this combined Statement of Charges, Settlement Agreement, and Final Order (Agreement & Order) pursuant to Iowa Code sections 17A.10, 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

STATEMENT OF CHARGES

1. Respondents were issued license number 102093 to operate a salon in the State of Iowa on January 1, 2013. Respondents' salon license will expire on December 31, 2014. Respondent Tran was issued nail technologist license number 01820 on April 1, 2013. Respondent Tran's individual license is current and will next expire on March 31, 2015.

2. Board records indicate that Respondents' salon is located at 121 5th Avenue, S.W., Suite D, Le Mars, Iowa, 51031.

3. The Board has jurisdiction over the parties and the matter pursuant to Iowa

Code chapters 17A, 157, and 272C.

COUNT I - EMPLOYMENT OF UNLICENSED INDIVIDUALS

4. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(26), with employing an unlicensed individual to provide services, in violation of 645 IAC § 65.2(28.)

COUNT II - FAILURE TO PROVIDE BIOHAZARD DISPOSAL

5. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to provide for biohazard disposal in violation of 645 IAC § 63.11(3).

COUNT III - FAILURE TO POST RULES AND REPORT

6. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to properly post a copy of the most recent sanitation rules in the reception area at eye level in violation of 645 IAC § 63.2.

COUNT IV - UNSANITARY PRACTICES

7. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with engaging in unsanitary practices, in violation of Iowa Code § 157.6 (2013) and 645 IAC §§ 63.11(8), 63.13(2), 63.13(6)(d), and 63.14.

COUNT V – MMA ON PREMISES

8. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with having a product containing liquid methyl methacrylate (MMA) on its premises in violation of 645 IAC § 63.18(1).

COUNT VI – CLEANING AND DISINFECTING SPA TUBS

9. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to properly disinfectant and record the cleaning of spa tubs in violation of 645 IAC § 63.25(2-5).

FACTUAL CIRCUMSTANCES

10. During an investigation of Cali Nail on September 17, 2013, investigators documented the following violations:

11. Employees left the salon when asked for photo identification.

12. No biohazard bag or container was on the premises

13. Sanitation rules were not posted in the front entrance area.

14. Used non-sanitizable nail files and buffers were located throughout the salon.

15. No whirlpool spa cleaning record was observed in the salon.

16. Clean instruments were intermixed with money, paper, pens, etc.

17. Disinfectant contained debris and was not located at each station.

18. Two samples of nail liquid were taken by investigators and submitted to the University of Iowa Hygienic Laboratory. Testing confirmed high concentration levels of methyl methacrylate acid (MMA) in both samples.

SETTLEMENT AGREEMENT AND FINAL ORDER

19. Respondents Jym Tran and Cali Nail agree to pay to the Board a civil monetary penalty of $1,000.00 total. The funds shall be payable to the State of Iowa. Respondents shall remit full payment of the civil monetary penalty within 60 days of the date this Order is executed.

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

21. By entering into this Agreement and Order, Respondents voluntarily waive 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.

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

23. Respondents acknowledge they have a right to be represented by counsel in this matter.

24. Respondents agree that counsel for the State may present this Agreement and Order ex parte to the Board.

25. 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.

26. This Agreement and Order shall be part of the Respondents' 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.

27. In the event Respondents 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 Respondents' licenses or to impose other licensee discipline in accordance with Iowa Code section 272C.3(2)(a).

28. 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.

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

Wherefore, the terms and conditions of this Statement of Charges, Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Board of Cosmetology Arts & Sciences and the Respondents.

Respondent(s)

By: _____

Iowa Board of Cosmetology Arts & Sciences

By: Chairperson

May 16/2014
Date

7-7-14
Date

cc: Jym Tran, Owner
Cali Nail
121 5th Avenue, S.W., Suite D
Le Mars, IA 51031

David VanCompernolle
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, IA 50319