

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

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IN THE MATTER OF:	)	
	)	CASE NO. 05-056 and 06-116
L.A. Nails	)	
License No. 002-010907	)	COMBINED STATEMENT OF
	)	CHARGES, INFORMAL
	)	SETTLEMENT AGREEMENT,
RESPONDENT.	)	AND CONSENT ORDER

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The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and L.A. Nails (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)(2005), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

1. L.A. Nails presently possesses license number 002-010907 to operate a nail technology salon in the state of Iowa. The license is current and will next expire on December 31, 2006. Board records indicate that the salon license was issued to Maria Huynh on July 6, 2005, and the salon is located at 4116 University #5, Cedar Falls, Iowa 50613. Board Rules, 645 Iowa Administrative Code section 61.2(6)(c) requires a seller to notify the Board within ten days of sale and that registered owner remains responsible for the salon until notice is given to the Board's office.

2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 147, 157, and 272C (2005). 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 147.55, 157.6, 157.9, 157.13, 272C.3(2) and 645 IAC rules 65.2(3) and 65.2(13) by engaging in practices that are harmful or detrimental to the public and operating his nail technology salon in violation of 645 IAC rules 63.12(1), 63.13(2), 63.14, 63.16(1), 63.18(3) and 63.25(5).

### **CIRCUMSTANCES**

4. A customer complained of an inflamed sore great toe after a pedicure at respondent salon.

5. During an inspection of Respondent salon on February 2, 2006, it was found that used nail buffers that could not be sanitized were in some of the drawers of the individual stations.

6. During an inspection on May 22, 2006 it was found that the nail buffer situation still existed. In addition deficiencies were noted. Electric bits were not properly cleaned and disinfected. All liquids, crèmes, powders and cosmetics used on patrons were not kept in closed labeled containers. Proper records of cleaning and disinfecting whirlpool foot spas were not kept.

### **COUNT II**

7. Respondent is 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**

8. During an inspection of Respondent salon on February 2, 2006, it was found that an Iowa unlicensed person, Johnny Thanh Do was engaged in activities requiring an Iowa license.

9. During an inspection of Respondent salon on May 22, 2006, the inspector observed three persons who had been providing nail technology services to patrons leave the salon. Such behavior is prima facie evidence that an unlicensed person was providing services. The owner is responsible for allowing unlicensed persons to practice.

### **COUNT III**

10. Respondent is charged with violating Board Rule 645 Iowa Administrative Code 63.2.

### **CIRCUMSTANCES**

11. During an inspection of Respondent salon on May 22, 2006, it was noted that neither the salon sanitary rules or the last inspection report were posted.

### **SETTLEMENT AGREEMENT**

12. Respondent, without admission of wrongdoing or guilt, agrees not to contest the above stated charges before the Board.

13 Respondent has a right to receive notice of the charges and to request a hearing before the Board on the merits of the charges, 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 action, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in these cases.

14. 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.

15. 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.

16. 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.

17. 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 these cases.

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

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

20. Respondent agrees to pay to the Board a civil monetary penalty of \$1000.00. 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.

**WHEREFORE**, the terms of this Statement of Charges, Informal Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Board of Cosmetology Arts and Sciences and Respondent.

**This combined statement of charges, informal settlement agreement and consent order is approved by the board on August 2, 2006.**