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

IN THE MATTER OF:	)	
	)	NO: 02-036
TOMMY'S NAILS	)	
License No. 002-010107,	)	**STATEMENT OF CHARGES**
	)	
RESPONDENT	)	

Thinh Quag Nguyen
819 Gordon Drive
Sioux City, Iowa 51101

TO THE ABOVE NAMED RESPONDENT:

1. On or about January 8, 2004, the Iowa Board of Cosmetology Arts and Science Examiners (Board) issued cosmetology salon license number 002-010107 to Respondent. Board records show that Thinh Quag Nguyen is the owner of Respondent Tommy's Nails. Respondent's last known address is 819 Gordon Drive, Sioux City, Iowa 51101.

2. Licenses issued by the Board are subject to the laws of the State of Iowa and the administrative rules promulgated by the Board. At all times relevant to the conduct alleged in this Statement of Charges, Respondent's salon license was active and current.

3. The penalties authorized under Iowa law which the Board may impose against any licensed cosmetology salon found to have engaged in prohibited conduct include imposition of a civil monetary penalty up to $1,000 and/or revocation of the licensee's cosmetology salon license. See Iowa Code sections 157.9, 272C.3 (2003) and 645 Iowa Administrative Code (IAC) rules 13.1, 65.2, and 65.3.

4. Pursuant to Iowa Code chapters 17A, 157, and 272C (2003), the Board has jurisdiction of this matter.

COUNT I

5. Respondent is charged with engaging in practices that are harmful or detrimental to the public by operating its nail technology salon in violation of Iowa Code section 157.6 and 645 Iowa Administrative Code (IAC) rule 63.2.

CIRCUMSTANCES

6. During an inspection of Respondent salon on February 9, 2004, it was discovered that Respondent failed to post in a conspicuous place in Respondent salon a copy of the most recent sanitation rules in violation of 645 IAC rule 63.2.

COUNT II

7. Respondent is charged with employing individuals to practice cosmetology arts and sciences without a license in violation of Iowa Code section 157.13 and 645 IAC rule 65.2(28).

CIRCUMSTANCES

8. During an inspection of Respondent salon on February 9, 2004, four persons in Respondent salon were indicated to the person conducting the inspection to be employees of Respondent salon employed to perform nail technology services.

9. Three of the four employees were not licensed to perform nail technology services in the state of Iowa.

10. Nail technology is a cosmetology arts and sciences practice pursuant to Iowa Code section 157.1(3). Iowa Code section 157.13 and 645 IAC rule 65.2(28)

prohibit the employment of an individual to practice cosmetology arts and sciences unless that individual is licensed.

COUNT III

11. Respondent is charged with engaging in practices that are harmful or detrimental to the public by operating its nail technology salon in violation of Iowa Code section 157.6 and 645 IAC rules 63.9, 63.10(6), 63.12(1), 63.18, and 63.22(2).

CIRCUMSTANCES

12. During an inspection of Respondent salon on February 9, 2004, deficiencies in sanitation measures were discovered including:

a. Failure of all licensees engaged in serving the public to be neat and clean in person and attire and to maintain personal cleanliness in violation of 645 IAC rule 63.9(1) and (2).

b. Failure to sanitize manicure implements in violation of 645 IAC rule 63.10(6);

c. Cosmetic products containing substances which have been banned or otherwise deemed hazardous or deleterious by the FDA for use in cosmetic products, including products containing methyl methacrylate, in violation of 645 IAC rule 63.18; and

d. Failure to keep all workstations and flooring in work areas clean in violation of 645 IAC rule 63.22(2);

13. A license issued by the Board is subject to discipline if the licensee engages in practices that are harmful or detrimental to the public pursuant to Iowa Code sections147.55, 157.9, 272C.3(2) (2003) and 645 IAC rule 65.2(3).

14. A license issued by the Board is subject to discipline if a licensee violates a rule promulgated by the Board pursuant to Iowa Code sections 157.6, 157.9, 157.13, 157.14 and 645 IAC 65.2(13).

FINDING OF PROBABLE CAUSE

On February 4, 2004, the Board found probable cause to file this Statement of Charges and to order a hearing set in this case.

This Statement of Charges was approved by the board on May 5, 2004.