IN THE MATTER OF:  

CLASSIC DESIGN NAILS,  

CONSENT ORDER AND AGREEMENT  

APPLICANT  

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Classic Design Nails, through its owner, Binh Q. Phung (Applicant) enter into this Consent Order and Agreement (Agreement) pursuant to Iowa Code sections 17A.10(1) (2003), 157.11 (2003) and 272C.3 (2003) and 645 Iowa Administrative Code (IAC) rule 61.2.

1. Applicant has made application to operate a nail technology salon in the state of Iowa located at Jordan Creek Mall, 101 Jordan Creek Parkway, Suite 12420, West Des Moines, Iowa.

2. On July 21, 2004, the Board entered a Consent Order and Agreement in which Applicant agreed to seek Board approval prior to owning and/or operating a salon in the state of Iowa as a result of disciplinary action taken against a salon owned by Applicant and for which he currently holds a salon license subject to probation.

3. Applicant agrees to comply with the terms and conditions of this Agreement and agrees that any violation(s) may subject Applicant to 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.

4. This Agreement is subject to approval by the Board or its designee. If the Board fails to approve this Agreement, it shall be of no force or effect on either party.

5. This Agreement is voluntarily submitted by Applicant to the Board for its consideration.

6. This Agreement is a public record available for inspection and copying in accordance with Iowa Code chapter 22 (2003).

7. This Agreement shall be part of the permanent record of the Applicant 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.

8. This Agreement shall not be binding as to any existing or new complaints received by the Board.
IT IS THEREFORE ORDERED:

A. PROBATION

Applicant’s salon license shall be placed on probation for a period of twelve months from the execution date of this Agreement. The execution date is the date which accompanies the Board Chairperson’s signature. During the probationary period, Applicant shall comply with the following terms:

(1) Applicant shall comply with all relevant statutes and administrative rules in the course of its operations as a nail technology salon;

(2) Applicant shall only permit nail technology services to be performed by persons who are properly licensed by the State of Iowa;

(3) Applicant shall monitor and ensure its employees’ compliance with all applicable health and sanitation standards;

(4) Applicant shall ensure that there are no products on the salon premises containing methyl methacrylate or any other substance prohibited by 645 IAC rule 63.18;

(5) Applicant shall file quarterly reports with the Board listing each employee who performs nail technology services, whether licensed by the State of Iowa to provide such services or not, the number and type of services performed, and all product(s) used in performing the services. Upon the Board’s request, Applicant shall provide the name of each person on whom nail technology services were provided for the requested time period. The required quarterly employee reports shall be typewritten and shall attest to the following information, at a minimum, for each and every person who performed nail technology services within the Applicant salon during the three month period immediately preceding the report:

i) the name of the employee who performed nail technology services;

ii) the license number and expiration date for each employee’s Iowa cosmetology and/or nail technology license, if applicable;

iii) each employee’s date of hire;

iv) each employee’s date of termination, if applicable;

v) the type of services performed by each employee;
vi) the number of each type of service performed by each employee; and
vii) the products used in performing each type of service.

The failure of Applicant salon to provide complete and truthful information in the quarterly employee reports shall constitute a violation of this Agreement. The Board or its designee may verify the information provided in the quarterly reports through an examination of Board records by interviewing persons listed as salon employees, or by conducting unannounced inspections of the Applicant salon;

(6) Applicant shall display the probationary license within ten (10) feet of the main entrance to the salon in a manner making it readily visible to persons upon entering the salon. Applicant shall make a copy of this Consent Order and Agreement available to any person upon request; and

(7) Upon request of the Board, the owner of Applicant salon shall appear before the Board to report on the status of Applicant’s operations as a nail technology salon and to answer any questions or concerns the Board may have regarding Applicant’s compliance with this Agreement. The Board shall provide Applicant with reasonable notice of the date, time, and place of any requested appearance. Applicant agrees that any such appearance would be governed by 645 Iowa Administrative Code rule 9.7 and that it waives any and all objections to the members of the Board both participating in the appearance and later participating as decision makers in a contested case proceeding.

Upon full compliance with the above terms and conditions, Applicant’s license to operate a nail technology salon shall be restored to its full privileges free and clear of all probationary restrictions.

B. FUTURE COMPLIANCE

Applicant shall adhere to all relevant statutes and administrative rules in the course of operating a nail technology salon.

WHEREFORE, the terms of this Consent Order and Agreement are agreed to and accepted by the Iowa Board of Cosmetology Arts and Sciences and Applicant.

This Consent Order and Agreement is approved by the Board on July 22, 2004.