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

IN THE MATTER OF:	)	
	)	
Luong Pham,	)	CASE NO. 04-038
	)	
License No. 840-01619	)	
and	)	
Fashion Nails	)	NOTICE OF HEARING AND
License No. 002-009986	)	STATEMENT OF CHARGES
	)	IN A DISCIPLINARY CASE
Respondents.	)	

COMES NOW the Iowa Board of Cosmetology Arts and Sciences Examiners and files this Notice of Hearing pursuant to Iowa Code Sections 17A.12(2). Respondent Luong Pham holds practitioner license no. 840-01619. He holds a license to operate respondent, Fashion Nails, salon license no. 002-009986. Both licenses are now current.

A. TIME, PLACE AND NATURE OF HEARING,
AND HEARING PROCEDURES

1. **Hearing.** A disciplinary contested case hearing be held before the Board on the 8th day of January 2007, at 1:30 p.m. at the Lucas State Office Building, 5th Floor, 321 E. 12th Street, Des Moines, Iowa 50319.

2. **Answer**. Within twenty (20) days of the date you are served this Notice of Hearing you must file an answer to the charges in 645 Iowa Administrative Code 11.12.

3. **Presiding Officer.** The Board shall serve as presiding officer at the hearing, pursuant to Iowa Code section 272C.6(1) and 645 Iowa Administrative Code 11.8. The Board may request an Administrative Law Judge make initial rulings on

prehearing matters and be present to assist and advise the Board at hearing as described in 645 Iowa Administrative Code (IAC) 11.8.

4. **Hearing Procedures.** Board rules on hearing procedures are found at 645 IAC chapter 11. You have the right to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 645 IAC 11.18. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

5. **Prosecution**. The officer of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings shall be filed with the Board, with copies mailed to: John Baty, Assistant Attorney General, Iowa Department of Justice, General Counsel Division, 800 Lincoln Way, Ames, Iowa 50010. Phone: 515-239-1368; Fax: 515-239-1609.

6. **Respondent's Counsel.** None currently listed.

7. **Settlement.** 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 Assistant Attorney General John Baty.

8. **Communications.** You may not contact Board members by phone, letter, facsimile, e-mail, or in person 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. You should direct any questions to Assistant Attorney General John Baty or Ella Mae Baird, Board Administrator at 515-281-5234.

B. LEGAL AUTHORITY AND JURISDICTION

9. **Jurisdiction.** The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A.147, 157, and 272C (2005).

10. **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 (2005) and 645 IAC chapter 65.

11. **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 Section 17A.12(3) and 645 IAC 11.21.

C. CHARGES AND STATUTES AND RULES INVOLVED

COUNT I

12. Respondent Fashion Nails is charged under Iowa Code sections 147.5, 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 63.18(2) and 65.2(13).

COUNT II

13. Respondents Fashion Nails and Luong Pham are charged with employing individuals to practice cosmetology arts and sciences without a license in violation of Iowa Code section 157.13(1) and 645 IAC rules 63.4, 63.18(2) and 65.2(26) and (28).

COUNT III

14. Respondent Fashion Nails is charged with operating a salon with an expired license in violation of Iowa Code section 157.11 and 645 IAC rules 61.2, 61.3 and 61.4.

D. STATEMENT OF MATTERS ASSERTED

15. A short and plain Statement of the Matters Asserted was reviewed and approved by the Board at the time this Notice of Hearing was filed. A Statement of the Matters Asserted shall be furnished to Respondent as an attachment to this Notice. However, this short and plain statement of the matters asserted is not a public record.

E. PROBABLE CAUSE FINDING

16. On the 1st day of November, 2006, the Iowa Board of Cosmetology Arts and Sciences Examiners found probable cause to file this Notice of Hearing.

This notice of hearing and statement of charges in a disciplinary case is approved by the board on November 1, 2006.