STATE OF IOWA BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:	.)
) CASE NO. CO 13-008
Hollywood Nails)
License No. 102772)
and)
Dung Thi Ngo) STATEMENT OF CHARGES,
License No. 00612) SETTLEMENT AGREEMENT AND
) FINAL ORDER
)
RESPONDENTS.)

COMES NOW the Iowa Board of Cosmetology Arts and Sciences (Board) and Hollywood Nails, through its owner Dung Thi Ngo (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 102772 to operate a salon in the State of Iowa on February 23, 2009. Respondents' salon license will expire on December 31, 2014. Respondent Ngo was issued esthetician license number 00612 on December 11, 1997, and cosmetology license number 00612 on May 18, 2009. Respondent Ngo's individual licenses are current and will next expire on March 31, 2015.
- 2. Board records indicate that Respondents' salon is located at 1551 Valley West Drive, Suite 202, West Des Moines, Iowa, 50266.
 - 3. The Board has jurisdiction over the parties and the matter pursuant to Iowa

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 - SUBVERTING AN INVESTIGAITON

5. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with engaging in conduct intended to subvert a Board investigation, in violation of 645 IAC § 65.2(18).

COUNT III - FAILURE TO PROVIDE BIOHAZARD DISPOSAL

6. 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 IV - INCOMPLETE FIRST AID KIT

7. Respondents are charged under Iowa Code §147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to maintain a complete first aid kit in violation of 645 IAC § 63.6(9).

COUNT V - FAILURE TO POST RULES AND REPORT

8. 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 and inspection report in the reception area at eye level in violation of 645 IAC § 63.2.

COUNT VI - FAILURE TO POST PROFESSIONAL LICENSES

9. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to properly post license renewal cards in the reception area at eye level in violation of 645 IAC § 63.3(3).

COUNT VII - UNSANITARY PRACTICES

10. 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), 63.13(6)(d), 63.14 and 63.18(4).

COUNT VIII - MMA ON PREMISES.

11. 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 IX - CLEANING AND DISINFECTING SPA TUBS

12. 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 spatubs in violation of 645 IAC § 63.25(2-5).

FACTUAL CIRCUMSTANCES

- 13. During an investigation of Hollywood Nails on July 19, 2013, investigators documented the following violations:
 - 14. Employees leaving the premises by the back door.
 - 15. An employee attempted to walk away with a white jug.
 - 16. No biohazard bag was on the premises
 - 17. First aid kit was absent of eyewash.
- 18. Sanitation rules and inspection report were not posted in the front entrance area.
 - 19. Three professional licenses were not posted at the front entrance of the salon.
- 20. Used non-sanitizable nail files and buffers located at the station and in closed drawers.
- 21. The whirlpool spa cleaning record was not up to date. Entries did not indicate the employees' license number.
- 22. Used metal bits were located on machines and in the manicure station drawers.
 - 23. Nippers, buffers, and nail files were intermixed with money, pens, etc.
 - 24. Used sanding bands were located at some of the manicure stations.
 - .25. Disinfectant contained debris and was not located at each station.

26. 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

- 27. Respondents Dung Thi Ngo and Hollywood Nails 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.
- 28. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.
- 29. 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.
- 30. This combined Agreement and Order, is voluntarily submitted by Respondents to the Board for consideration.
- 31. Respondents acknowledge they have a right to be represented by counsel in this matter.
- 32. Respondents agree that counsel for the State may present this Agreement and Order ex parte to the Board.
- 33. 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.

34. 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.

35. 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).

36. 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.

37. 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)

Iowa Board of Cosmetology Arts & Sciences

Dung 190

By:

By: Chairperso

11-19.13

Date

Date

cc: Dung Thi Ngo Hollywood Nails 1551 Valley West Drive Suite 202 West Des Moines, IA 50266

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