STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:

)  ) Case No. CO 13-029
U.S. Nails
  License No. A00844
  and
Nhung Thi Kim Tran
  License No. 00780

) Statement of Charges,
) Settlement Agreement and
) Final Order

RESPONDENTS.

COMES NOW the Iowa Board of Cosmetology Arts and Sciences (Board) and
U.S. Nail, through its owner Nhung Thi Kim Tran (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 A00844 to operate a salon in the
State of Iowa on June 9, 1999. Respondents’ salon license will expire on December 31,
2014. Respondent Tran was issued a nail technologist license number 00780 on January
8, 1999; and an esthetician license number 00780 on April 16, 2008. Respondent Tran’s
individual licenses are current and will next expire on March 31, 2015.

2. Board records indicate that Respondents’ salon is located at 2909 Ingersoll
Avenue, Des Moines, Iowa, 50312.

3. The Board has jurisdiction over the parties and the matter pursuant to Iowa
COUNT I - UNSANITARY PRACTICES

4. 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 §§ 63.6(6), 63.6(9), 63.11(8), 63.13(2), 63.13(3), 63.14, 63.18(1), 63.18(2) and 63.25(1-3).

COUNT II - FAILURE TO POST RULES

5. 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 in the reception area at eye level in violation of 645 IAC § 63.2.

COUNT III - FAILURE TO MAINTAIN BUILDING STANDARDS

6. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to provide adequate hand-washing facilities and a complete first aid kit in violation of 645 IAC §§ 63.6(6) and 63.6(9).

COUNT IV - MMA ON PREMISES

7. 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 V - FAILING TO DISINFECT INSTRUMENTS AND EQUIPMENT

8. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to store disinfected implements in a dry, covered container, failing to change disinfectant solution when visibly dirty; and failing to keep disinfectant solution at each work station in violation of 645 IAC §§ 63.11(8), 63.13(2) and 63.13(3).

COUNT V - CLEANING AND DISINFECTING SPA TUBS

9. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to properly disinfect and record the cleaning of spa tubs in violation of 645 IAC § 63.25(1-3).

COUNT VI - PROHIBITED EQUIPMENT

10. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with having a razor-edged device on its premises in violation of 645 IAC § 63.18(2).

FACTUAL CIRCUMSTANCES

11. During an investigation of U.S. Nails on June 20, 2014, investigators documented the following violations:

12. Sanitation rules were not posted in the front entrance area.

13. The salon restroom facilities did not provide soap and papers towels and
first aid kit contained eye-wash with an expiration date of 2007.

14. 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.

15. Spa cleanings were sporadically documented on a calendar; the impellers of the pedicure chairs contained debris.

16. Investigators found two heel shavers with blades intact on the premises.

17. Supplies such as nippers and clippers were intermixed with personals items such money, pens, and scissors in closed drawers.

18. Investigators found the presence of non-sanitizable implements including emery boards, sandpaper bands, buffers, large brushes and flip flops.

19. Nail supplies were not completely immersed in disinfectant solution. The disinfectant solution was cloudy and contained debris.

SETTLEMENT AGREEMENT AND FINAL ORDER

20. Respondents Nhung Thi Kim Tran and U.S. Nails agree to pay to the Board a civil monetary penalty of $500.00 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.

21. Respondent Nhung Thi Kim Tran and all employees of U.S. Nails shall complete two (2) hours of continuing education on Iowa law and sanitation within sixty
(60) days of the date this Order is executed.

22. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

23. 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.

24. This combined Agreement and Order, is voluntarily submitted by Respondents to the Board for consideration.

25. Respondents acknowledge they have a right to be represented by counsel in this matter.

26. Respondents agree that counsel for the State may present this Agreement and Order ex parte to the Board.

27. 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.

28. 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.

29. 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).
30. 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.

31. 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) 

[Signature]

By:

12/19/14

Date

Iowa Board of Cosmetology Arts & Sciences

[Signature]

By: Chairperson

1/12/15

Date

cc: Ms. Nhung Thi Kim Tran, Owner
U.S. Nails
2909 Ingersoll Avenue
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