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

IN THE MATTER OF:	)	
	)	
Hoang M. Duong	)	CASE NO. 05-006
License No. 840-01363	)	
	)	
doing business as Cali ProNail	)	COMBINED STATEMENT OF
License No. 002-010412	)	CHARGES, INFORMAL
	)	SETTLEMENT AGREEMENT,
RESPONDENT.	)	AND CONSENT ORDER

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Hoang M. Duong dba Cali ProNail (Respondent) enters into this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order (Agreement) pursuant to Iowa Code sections 17A.10(2), 272C.3(4)(2005), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

1. Cali ProNail presently possesses license number 002-010412 to operate a nail technology salon in the state of Iowa. The license is current and will next expire on December 31, 2006. Board records indicate that the salon license was issued to Hoang M. Duong August 6, 2004, and the salon is located at 320 W. Kimberly Road, #316, Davenport, Iowa 52806. Hoang M. Duong's nail technology license number 840-01363, was issued on December 19, 2003, and will expire on March 31, 2006.

2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 157, and 272C (2005). Licenses issued by the Board are subject to the laws of the State of Iowa and the administrative rules promulgated by the Board.

STATEMENT OF CHARGES

COUNT I

3. Respondent is charged under 147.55, 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 63.12(1), 63.22 and 65.2(13).

CIRCUMSTANCES

4. During an inspection of Respondent's salon on June 17, 2005, it was found that some of the drawers of the individual stations were not clean.

COUNT II

5. Respondent is charged with employing individuals to practice cosmetology arts and sciences without an Iowa license in violation of Iowa code section 157.13(1) and 645 IAC rules 63.3(2), 63.4 and 65.2(23) and (28).

CIRCUMSTANCES

6. During an inspection of Respondent salon on June 17, 2005, it was found that an Iowa unlicensed person, Mai Quynh Nguyen was engaged in activities requiring an Iowa license. Two Illinois practitioner licenses were posted. The owner is responsible for allowing unlicensed persons to practice.

SETTLEMENT AGREEMENT

7. Respondent, without admission of wrongdoing or guilt, agrees not to contest the above stated charge before the Board.

8. Respondent has a right to receive notice of the charge and to request a hearing before the Board on the merits of the charge, but waives its right to notice and a hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's actions, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in this case.

9. Respondent agrees that the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.

10. This Agreement shall be part of the permanent record of Respondent 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.

11. Any failure by Respondent to comply with the terms and conditions of this Agreement shall subject Respondent to further 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.

12. This Agreement is subject to approval by the Board:

(a) If the Board does not approve this Agreement, it shall be of no force or effect on either party and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Board approves this Agreement, it shall fully dispose of all issues in this case.

13. This Agreement is a public record pursuant to Iowa Code sections 272C.3(4) and 272C.6(4)(2005).

14. This Agreement shall not be binding as to any new complaints received by the Board.

CONSENT ORDER

IT IS THEREFORE ORDERED:

15. Respondent's salon license and nail technology license shall be placed on probation for a period of one (1) year.

16. This Agreement shall not restrict or otherwise limit Respondent's operation of a nail technology salon or his practice in the state of Iowa except as expressly stated by the terms of this Agreement. During the probationary period, Respondent shall comply with the following terms.

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

(b) Respondent shall specifically comply with all sanitary, labeling and licensing rules.

(c) Respondent shall file quarterly reports with the Board listing the salon's employees, whether licensed by the State of Iowa to provide nail technology services or not, and the approximate number and type of nail technology services performed by each employee. The 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 Respondent salon during the three months 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;
iii) the type of services performed by each employee;
iv) each employee's date of hire;
v) each employee's date of termination, if applicable.

The failure of Respondent's 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 Respondent's salon.

(d) Upon request of the Board, the owner of the salon shall appear before the Board to report on the status of Respondent's operations as a nail technology salon and to answer any questions or concerns the Board may have regarding Respondent's compliance with this Agreement. The Board shall provide Respondent with reasonable notice of the date, time, and place of any requested appearance. Respondent 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.

17. Respondent agrees to pay to the Board a civil monetary penalty of $900.00. Respondent shall remit full payment of the civil monetary penalty to the Board within 30 days of the date this Agreement is executed by the Board.

18. Upon full compliance with the above terms and conditions, Respondent's license to operate a nail technology salon and his practitioner's license in the state of Iowa shall be restored to its full privileges free and clear of all probationary restrictions.

WHEREFORE, the terms of this Statement of Charges, Informal Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Board of Cosmetology Arts and Sciences and Respondent.

This Combined Statement of Charges, Informal Settlement Agreement and Consent Order is approved by the board on November 2, 2005.