

STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

_____)	
IN THE MATTER OF)	
)	
MAGIC NAILS)	
103 South Jefferson Street)	CONSENT ORDER
Mount Pleasant, IA 52641)	
)	
APPLICANT)	
_____)	

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Magic Nails, through its owner Nhon Le (Applicant) enter into this Consent Order (Agreement) pursuant to Iowa Code Sections 17A.10(1), 272C.3(4) (2003), and Chapter 645 Iowa Administrative Code Section 12.1.

1. On August 19, 2002, the Board filed a Statement of Charges against the Magic Nails salon, 103 South Jefferson Street, Mount Pleasant, Iowa, license number 002-008637, in disciplinary case number 01-011. Lanh Van Le was the owner of record of the salon covered by salon license number 002-008637.

2. Subsequent to the filing of the Statement of Charges in disciplinary case number 01-011, Lanh Van Le transferred ownership of the Magic Nails salon to Nhon Le. Nhon Le has applied to the Board pursuant to chapter 645 Iowa Administrative Code section 61.1(6)(d) for a new nail technology salon license to reflect the salon's change in ownership.

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

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

5. The Applicant 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.

6. 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.

7. Any failure by the Applicant to comply with the terms and conditions of this Agreement shall subject the Applicant to licensee disciplinary action to be initiated by the Board through the filing of a Statement of Charges with a hearing to be held on the merits.

8. This Agreement is public record pursuant to Iowa Code Sections 272C.3(4) and 272C.6(4) (2003).

IT IS THEREFORE ORDERED:

Upon approval of this Agreement by the Board, the Applicant shall receive a new license to operate a nail technology salon at 103 South Jefferson Street, Mount Pleasant, Iowa, subject to a twelve month period of probation. The probationary period shall commence on the execution date of this Agreement. The execution date is that date which accompanies the Board Chairperson's signature. During the probationary period, the Applicant shall comply with the following terms:

- (1) The Applicant shall comply with all relevant statutes and administrative rules in the course of its operations as a nail technology salon. Within its salon, the Applicant shall only permit nail technology services to be performed by persons who are properly licensed by the State of Iowa. The Applicant salon shall be maintained in a clean and sanitary manner as required by Board rules.
- (2) The Applicant shall file quarterly reports with the Board listing the salon's nail technicians. The quarterly employee reports shall be typewritten and shall attest to the following information for each and every person who performed nail technology services within the Applicant salon during the three month period immediately preceding the report:
 - a) The name of the employee who performed nail technology services
 - b) The license number and expiration date for the employee's Iowa cosmetology and/or nail technology license.
 - c) The employee's date of hire
 - d) If applicable, the employee's date of termination.

The failure of the Applicant salon to provide complete and truthful information in the quarterly employee reports shall constitute a violation of this order. The first report required by this Agreement shall be submitted to the Board by April 1, 2003, and each report thereafter by the first day of every subsequent third month (July, October, January).

- (3) The Applicant shall provide all necessary supervision or oversight over its employees who provide nail technology services so as to prevent the use of any products or chemicals that contain Methyl Methacrylate (MMA) on consumers receiving nail technology services at the Applicant Salon. Applicant shall monitor and ensure its employees' compliance with all other applicable health and sanitation standards.
- (4) Upon the Board's request, the Applicant shall permit the Board or its designee to collect samples of all products or chemicals used in the Applicant Salon on consumers of nail technology services. The Applicant authorizes the Board to have all collected product and chemical samples analyzed to determine whether the samples contain Methyl Methacrylate. The Applicant agrees to the designation of the University of Iowa Hygienic Laboratory in Iowa City, Iowa, as the entity to test whether the collected samples contain Methyl Methacrylate.
- (5) Upon request of the Board, the owner of the Applicant salon shall appear before the Board to report on the status of the Applicant's operations as a nail technology salon and to answer any questions or concerns the Board may have regarding the Applicant's compliance with this Agreement. The Board shall provide the Applicant with reasonable notice of the date, time, and place for any requested appearance. The Applicant agrees that any such appearance would be governed by 645 Iowa Administrative Code section 9.7 (June 2, 1999) 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.
- (6) The Board or its designee shall have the right to verify the Applicant salon's compliance with all provisions of this Order through established investigative protocols including, but not limited to, examination of Board records, interviews with persons identified as

salon employees or clients, and by conducting unannounced inspections of the Applicant salon.

Upon full compliance with all terms and conditions prescribed by this order, the Applicant's license to operate a nail technology salon shall be free and clear of all probationary restrictions.

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

This Consent Agreement is approved by the Board on March 13, 2003.