The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Top Nails, through its owner Tommy Nguyen, (Respondent) enter into this Consent Order and Agreement (Agreement) pursuant to Iowa Code sections 17A.10(1) and 272C.3(4) (2003) and 645 Iowa Administrative Code rule 12.1.

1. Respondent currently possesses license number 002-009007 to operate a nail technology salon in the state of Iowa. Tommy Nguyen is the owner of record for Respondent salon.

2. The Board has jurisdiction over the licensee disciplinary action pending against Respondent.

3. After an inspection of Respondent salon revealed the use of nail buffers and the failure to display licensing documentation as required by rule, the Board instituted formal disciplinary proceedings by filing a Statement of Charges on May 5, 2004.

4. Respondent has a right to a hearing on the charges, but waives its right to hearing and all attendant rights by freely and voluntarily entering into this Agreement. The Agreement is the final agency order in the contested case.

5. 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.

6. This Agreement shall be part of the permanent record of the 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.

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

8. 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, and it shall not be
admissible for any purpose in further proceedings in this matter. If the Board approves this Agreement, it shall fully dispose of all issues in this case.

9. This Agreement is a public record pursuant to Iowa Code sections 272C.3(4) and 272C.6(4) (2003).

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

IT IS THEREFORE ORDERED:

A. PROBATION

Respondent’s salon license shall be placed on probation for a period of twelve months from the execution date of this Agreement. The execution date is the date which accompanies the Board Chairperson’s signature. During the probationary period, Respondent shall comply with the following terms:

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

2. Respondent shall ensure that the original license certificate, duplicate certificate, reissued certificate or temporary permit certifying that each practitioner or trainee is certified by the Board is displayed for each licensee or trainee performing nail technology services in compliance with 645 Iowa Administrative Code rule 633;

3. Respondent shall monitor and ensure its employees’ compliance with all applicable health and sanitation standards including but not limited to ensuring that all instruments and supplies which come in direct contact with a patron and cannot be disinfected are immediately disposed of after use in compliance with 645 Iowa Administrative Code rule 63.14; and

4. Upon request of the Board, the owner of Respondent 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.
Upon full compliance with the above terms and conditions, Respondent’s license to operate a nail technology salon shall be restored to its full privileges free and clear of all probationary restrictions.

B. CIVIL MONETARY PENALTY

Respondent agrees to pay to the Board a civil monetary penalty of $200. Respondent shall remit full payment of the civil monetary penalty to the Board within 30 days of the execution date of this Agreement.

C. FUTURE COMPLIANCE

Respondent shall adhere to all relevant statues and administrative rules in the course of operating a nail technology salon.

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

This Consent Order and Agreement is approved by the Board on August 4, 2004.