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

IN THE MATTER OF:	
Regal Nails, License No. 002-009257 Nail Company, License No.002-009494 Wonder Nails, License No. 002-09469	CASE NOS. 05-008, 05-009, 05-010, 05-011
and)	COMBINED STATEMENT OF CHARGES, INFORMAL
Hung Quoc Pham, Owner,) License No. 840-00758	SETTLEMENT AGREEMENT AND CONSENT ORDER
RESPONDENTS)	

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Regal Nails, Nail Company and Wonder Nails, through their owner Hung Quoc Pham, (Respondents) enter into this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order (Agreement) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

- 1. Respondent Hung Quoc Pham, License No. 840-00758, presently possesses license numbers 002-009257, 002-009494, and 002-009469 to operate nail technology salons in the State of Iowa. Board records indicate that Respondent salons are owned by Mr. Pham, himself a licensed nail technologist, and are located at 4151 4th Street SW, 2464 4th Street #9, and 100 South Federal Avenue, all in Mason City, Iowa 50401.
- 2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 157, and 272C. 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. Respondents, Nail Company and Hung Quoc Pham, are charged with employing an individual to practice cosmetology arts and sciences without a license in violation of Iowa Code section 157.13(1), and 645 IAC rules 63.4(1) and 65.2(28).

CIRCUMSTANCES

- 4. During an inspection of Nail Company on May 3, 2005, the inspector observed one individual, later identified as Minh Dang, working on a customer. Minh Dang, who also uses the name "Lee", left the customer and exited the salon by the back door.
- 5. Mr. Pham, the owner, stated "Lee" (Minh Dang) has a California license but does not hold an Iowa license.

COUNT II

6. Regal Nails is charged with a violation of 645 IAC 63.2 and 63.3(1).

CIRCUMSTANCES

7. During an inspection of Regal Nails on May 3, 2005, it was noted that neither the sanitations rules, required by 645 IAC 63.2, nor the current wallet card for the salon license, required by 645 IAC 63.3(1), were posted.

COUNT III

8. Respondents are charged under Iowa Code sections 147.55, 157.6, 157.9, 157.13, 272C.3(2) and 645 IAC rules 63.12, 63.14, 63.16(1), 63.17(4) and 63.22(2) by engaging in practices that are harmful or detrimental to the public and operating its nail technology salon in violation of those statutes and administrative rules.

CIRCUMSTANCES

- 9. During an inspection of Respondent salons on May 5, 2005, it was found:
 - a. nail buffers that cannot be sanitized were present at all three salons;
 - b. the work stations at Wonder Nails were not clean;
 - c. used emery boards were at the stations at all salons;
 - d. some containers containing crèmes and cosmetics used in providing services to clients were not labeled at all three salons.

COUNT IV

10. Nail Company is charged with violating building standards stated in 645 IAC 63.5(4), (6) and (7).

CIRCUMSTANCES

11. During an inspection of Nail Company on May 5, 2005, it was noted that the restroom had a burned out light, the sink lacked soap and the towel dispenser was empty.

SETTLEMENT AGREEMENT

- 12. Respondents agree not to contest the above stated charge before the Board.
- 13. Respondents have 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.
- 14. Respondents agree that the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.

- 15. This Agreement shall be part of the permanent record of Respondents 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.
- 16. Any failure by Respondent to comply with the terms and conditions of this Agreement shall subject Respondent to further license 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.
 - 17. 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.
- 18. This Agreement is a public record pursuant to Iowa Code sections 272C.3(4) and 272C.6(4)(2005).
- 19. This Agreement shall not be binding as to any new complaints received by the Board.

CONSENT ORDER

IT IS THEREFORE ORDERED:

- 20. Respondent's salon licenses to operate these three nail technology salons shall be placed on probation for a period of one (1) year.
- 21. Respondent Pham's personal nail technology license is also placed on probation for one year.
- 22. Respondent Pham shall surrender his salon and personal licenses to the Board who shall promptly reissue probationary licenses to the salons and Pham.

- 23. This Agreement shall not restrict or otherwise limit Respondent's operation of nail technology salons or his personal practice in the state of lowa except as expressly stated by the terms of this Agreement. During the probationary period, Respondents shall comply with the following terms.
 - (a) Respondents shall comply with all relevant statutes and administrative rules in the course of its operations as nail technology salons.
 - (b) Each salon 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. For each and every person who performed nail technology services within each of the Respondent's three salons during the three months immediately preceding the report.
 - the name of the employee who performed nail technology services;
 - ii) the license number and expiration date for each employee's lowa cosmetology and/or nail technology license;
 - iii) each employee's date of hire;
 - iv) each employee's date of termination, if applicable.

The failure of Respondent's salons 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 salons.

(c) Upon request of the Board, the owner of Respondent salons shall appear before the Board to report on the status of Respondent's operations as nail technology salons 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.

- 24. Respondents agree to pay to the Board a civil monetary penalty of \$1000 in total. Respondents are jointly and severally responsible for the payment of the \$1000. Respondents shall remit full payment of the \$1000 civil monetary penalty to the Board within 30 days of the date this Agreement is executed by the Board.
- 25. Upon full compliance with the above terms and conditions, Respondent's licenses to operate nail technology salons in the state of Iowa shall be restored to its full privileges free and clear of all probationary restrictions and the Board will reissue non-probationary licenses.

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 are approved by the board on May 17, 2006.