

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR

AN ADMINISTRATIVE INJUNCTION
INVOLVING

FINAL DECISION AND ORDER
LS9901043RAL

TOMMY HUU NGUYEN,
RESPONDENT.

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The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 18th day of February, 1999.

Marlene A. Cummings, Secretary

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION

FOR AN ADMINISTRATIVE INJUNCTION
INVOLVING

**PROPOSED DECISION
AND ORDER**

TOMMY HUU NGUYEN,
RESPONDENT

Case No. LS-9901043-RAL

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PARTIES

The parties to this action under section 227.44 of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and for purposes of review under §227.53, Wis. Stats., are:

Complainant:

*Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, WI 53703*

Respondent:

*Tommy Huu Nguyen
197 W. Bolivar Avenue
Milwaukee, WI 53207*

*also c/o Pro Nail Salon
275 W. Wisconsin Avenue, Suite 5
Milwaukee, WI 53203*

PROCEDURAL HISTORY

On January 4, 1999, the Division of Enforcement, by its attorney Steven M. Gloe, filed a petition for an administrative injunction. A hearing on the petition was scheduled for January 27, 1999. A copy of the petition and a notice of hearing were sent to Mr. Nguyen on January 4, 1999, by first-class mail to his last known address.

Mr. Nguyen failed to file an answer to the petition. The hearing on the petition was held as scheduled. Mr. Nguyen did not appear. Mr. Gloe appeared on behalf of the Department of Regulation and Licensing.

Based on the entire record of this case, this is the proposed decision and order of the undersigned administrative law judge.

FINDINGS OF FACT

1. Tommy Huu Nguyen does not hold a license to practice as a manicurist in the State of Wisconsin.
2. On November 12, 1998, Mr. Nguyen was engaged in the practice of manicuring at Pro Nail Salon, a manicuring establishment located at 275 W. Wisconsin Avenue, Suite 5, Milwaukee, Wisconsin.
3. On January 4, 1999, the Department of Regulation and Licensing (Department) sent a Petition For Injunction by first-class and registered mail to Tommy Huu Nguyen at his last known address. Mr. Nguyen did not file an answer to the Petition.

CONCLUSIONS OF LAW

1. Tommy Huu Nguyen engaged in the practice of manicuring in Wisconsin without the required credential contrary to §454.04 (1) (d), Wis. Stats.

ORDER

**THE DEPARTMENT OF REGULATION AND LICENSING HEREBY
ISSUES THE FOLLOWING SPECIAL ORDER:**

Effective on the date on which this order is signed by the Department Secretary or her designee,

- the respondent, Tommy Huu Nguyen, is **enjoined and prohibited** from engaging, directly or indirectly, in manicuring, which is conduct requiring a credential under Chapter 454, Wis. Stats., unless and until he obtains the appropriate credential under Chapter 454, Wis. Stats.; and

ANY VIOLATION OF THIS SPECIAL ORDER MAY RESULT IN A FORFEITURE OF UP TO \$10,000 FOR EACH OFFENSE, WITH EACH DAY OF CONTINUED VIOLATION CONSTITUTING A SEPARATE OFFENSE.

OPINION

On November 12, 1998, Mr. Nguyen was employed at Pro Nail Salon in Milwaukee, Wisconsin, to provide manicuring services to the public. He was observed on that same date manicuring a customer's nails at the Pro Nail Salon. Mr. Nguyen was not licensed as a manicurist at the time he was observed, nor is he presently licensed as a manicurist.

The Department subsequently served a Petition For Injunction on Mr. Nguyen both by first-class and registered mail on January 4, 1999. Mr. Nguyen failed to appear at his scheduled hearing and did not file an answer with the Department. He is therefore in default and has effectively admitted all the allegations contained in the Petition.

It is undisputed that Mr. Nguyen engaged in the practice of manicuring without the professional credential required by statute. Section 440.21, Wis. Stats., authorizes the Department to seek a special order enjoining anyone from practicing without a professional credential. Such an order is clearly appropriate here.

Any person who violates a special order issued under section 440.21(2), Stats., may be required to forfeit up to \$10,000 for each offense, under section 440.21(4), Stats., and each day of continued violation constitutes a separate offense.

Dated at Madison, Wisconsin, this 4th day of February, 1999.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION & LICENSING
1400 East Washington Avenue
Madison, Wisconsin 53703

Jacquelynn B. Rothstein
Administrative Law Judge