

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :

IVY THANH THUY NGUYEN and :
GOLDEN NAILS, :
RESPONDENTS. :

FINAL DECISION AND ORDER
LS# 0607121BAC

Division of Enforcement Case File Number 05 BAC 062

The parties to this action for the purposes of Section 227.53 of the Wisconsin statutes are:

Ivy Thanh Thuy Nguyen
5537 South 26th Street
Milwaukee, Wisconsin 53221

Golden Nails
1918 West Layton Avenue
Milwaukee, Wisconsin 53221

Barbering and Cosmetology Examining Board
Post Office Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

A formal Complaint was filed in this matter on July 12, 2006.

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Ivy Thanh Thuy Nguyen (Date of Birth is July 26, 1976) is duly licensed as a manicurist in the state of Wisconsin (license #85-4365). This license was first granted on December 1, 2000, and is current through June 30, 2007. Ms. Nguyen is also duly licensed as a barbering or cosmetology practitioner in the state of Wisconsin (license 82-85460). That license was first granted on January 17, 2006, and is current through June 30, 2007. The last address Ms. Nguyen reported to the Department of Regulation and Licensing is 5537 South 26th Street, Milwaukee, WI 53221.

2. Golden Nails is duly licensed as a manicuring establishment in the state of Wisconsin (license #71-2767). This license was first granted on August 19, 2005, and is current through June 30, 2007. Ms. Nguyen is listed with the Department of Regulation and Licensing as the current owner of Golden Nails. As owner, Ms. Nguyen is and was at all times relevant to this action responsible for compliance with Wis. Stat. Ch. 454 and Wisconsin Administrative Code Chs. BC 2, 3 and 4. The last address reported for Golden Nails to the Department of Regulation and Licensing is 1918 West Layton Avenue, Milwaukee, Wisconsin 53221. Ms. Nguyen has informed the Department that she had sold Golden Nails as of May 1, 2006. Records kept at the Department, however, fail to reflect any recent sale or change of ownership.

3. An inspection of Golden Nails by Investigator Kelley Sankbeil of the Department of Regulation and Licensing on August 24, 2005, found Vu Nguyen, Duc Thanh Nguyen and Van Nguyen providing manicuring services without valid Wisconsin manicurist licenses. Investigator Sankbeil also found common acrylic powder and liquid bowls being used on multiple customers, individual quantities of acrylic powder and liquid not dispensed for individual customers and the containers not sanitized between customers. The Investigator discovered that some of the acrylic dispensers were cloudy with floating particulate matter and that Ivy Thanh Thuy Nguyen's manicurist certificate was not posted in the establishment. Ivy Thanh Thuy Nguyen informed Investigator Sankbeil that the Barbicide was changed at least every other day.

4. In resolution of this matter, Ivy Thanh Thuy Nguyen and Golden Nails consent to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. Sec. 454.15.

2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached stipulation pursuant to Wis. Stat. Sec. 227.44(5).

3. By conduct referred to in Paragraphs 3 of the Findings of Fact, Ivy Thanh Thuy Nguyen and Golden Nails, have violated:

1. Wis. Stat. sec., 454.04(1)(d). No person may engage in manicuring unless the person has received training in the areas of service provided and holds a current manicurist license, barbering or cosmetologist license, manager license, temporary permit or training permit issued by the examining board or is an apprentice under s. 454.10 or a student in a manicuring or barbering or cosmetology course of instruction.
2. Wis. Stat. sec. 454.06(7). The examining board shall furnish a certificate to each licensee, certifying that the holder is licensed to practice barbering or cosmetology, aesthetics, electrology or manicuring or is a licensed manger. The licensee shall post the certificate in a conspicuous space in the licensed establishment.
3. Wis. Stat. sec. 454.15(2)(i). Violated this chapter or any rule promulgated under this chapter.
4. Wis. Admin. Code § BC 2.03(1). Services provided by any licensee shall be performed in a manner that is consistent with basic and accepted practice standards and in accordance with all state statutes, board rules and all local codes and ordinances.
5. Wis. Admin. Code § BC 2.03(5). Licensees shall take adequate and necessary precautions to protect the patron from health and safety hazards when performing services.
6. Wis. Admin. Code § BC 2.04(1). Licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
7. Wis. Admin. Code § BC. 2.06. The owner of any licensed establishment shall be responsible for compliance with ch. 454, Stats., and chs. BC 2,3 and 4.

8. Wis. Admin. Code § BC 4.01(4). All liquids, creams, powders and semi-sold substances shall be dispensed from a container in a manner which will prevent contamination of the unused portion of the substance.
9. Wis. Admin. Code § BC 4.02(5). Disinfectant used for decontamination shall be changed daily and shall be kept in a covered container.
10. Wis. Admin. Code § BC 4.10(2). Disinfectant used for decontamination shall be changed daily and shall be kept in a covered container.

ORDER

NOW, THEREFORE, **IT IS HEREBY ORDERED** that Ivy Thanh Thuy Nguyen and Golden Nails shall jointly and severally pay to the Department of Regulation and Licensing a forfeiture of TWO THOUSAND dollars (\$2,000.00). Ivy Thanh Thuy Nguyen and Golden Nails shall also jointly and severally pay costs in the amount of ONE THOUSAND dollars (\$1,000.00) in this matter. Payment shall be submitted on the following payment schedule:

Date	Amount
May 2, 2007	\$250.00
June 2, 2007	\$250.00
July 2, 2007	\$250.00
August 2, 2007	\$250.00
September 2, 2007	\$250.00
October 2, 2007	\$250.00
November 2, 2007	\$250.00
December 2, 2007	\$250.00
January 2, 2008	\$250.00
February 2, 2008	\$250.00
March 2, 2008	\$250.00
April 2, 2008	\$250.00

The full amount of the forfeiture and costs may be paid at any time prior to each due date for payment.

Payment shall be made by ***certified check or money order***, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
 Division of Enforcement
 Post Office Box 8935
 Madison, Wisconsin 53708-8935
 608-261-7904

IT IS FURTHER ORDERED that in the event that Ivy Thanh Thuy Nguyen and Golden Nails fails to comply with all the terms of the Order as set forth above, the establishment license of Golden Nails (#71-2767), the manicurist license of Ivy Thanh Thuy Nguyen (#85-4365) and the barbering or cosmetology practitioner license of Ivy Thanh Thuy Nguyen (82-85460) **SHALL BE SUSPENDED**, without further notice or hearing, until Ivy Thanh Thuy Nguyen and Golden Nails have complied with the terms of this Order.

This Order shall become effective upon the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
A member of the Board

4/2/07
Date

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 :
 :
 IVY THANH THUY NGUYEN and :
 GOLDEN NAILS, : STIPULATION
 RESPONDENTS. : LS# 0607121BAC
 :
 :

Division of Enforcement Case File Number 05 BAC 062

It is hereby stipulated between Ivy Thanh Thuy Nguyen and Golden Nails, personally on her own behalf and on behalf of Golden Nails (hereinafter Respondents), Victor E. Plantinga, Respondent's Attorney, and Claudia Berry Miran, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a formal complaint by the Division of Enforcement (05 BAC 062). A formal Complaint was filed in this matter on July 12, 2006. Respondents consent to the resolution of the Complaint by stipulation.

2. Respondents understand that by the signing of this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

3. Respondents are aware of their right to seek legal representation and they have done so.

4. Respondents agree to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the attached order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Barbering and Cosmetology Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondents or their attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondents are informed that should the Board adopt this stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Departmental policy.

8. The Division of Enforcement joins Ivy Thanh Thuy Nguyen and Golden Nails in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Ivy Thanh Thuy Nguyen
Respondent
5537 South 26th Street
Milwaukee, Wisconsin 53221
License Number 85-4365

Date

Golden Nails
Respondent
1918 West Layton Avenue
Milwaukee, Wisconsin 53221

Date

Victor E. Plantinga
Attorney for Respondents
Rose & De Jong
16620 West Bluemound Road
Suite 500
Brookfield, Wisconsin 53005

Date

Claudia Berry Miran
Attorney
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

Date