

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	FINAL DECISION
PROCEEDINGS AGAINST	:	AND ORDER
	:	LS9704151BAC
LANE SISOUVONG,	:	
d/b/a HOT LINE NAILS,	:	
RESPONDENT.	:	

The State of Wisconsin, Barbering and Cosmetology Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

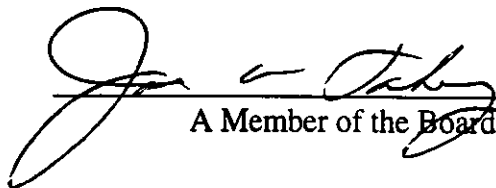
ORDER

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, Barbering and Cosmetology Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

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 JUNE 2nd day of JUNE 1997.


A Member of the Board

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS
AGAINST
LANE SISOUVONG,
d/b/a HOT LINE NAILS,
RESPONDENT.

PROPOSED DECISION
Case No. LS-9704151-BAC
(DOE nos. 96 BAC 135 & 97 BAC 004)

PARTIES

The parties in this matter under section 227.44 of the Statutes and section RL 2.037 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats. are:

Complainant:

Division of Enforcement
Department of Regulation and Licensing
Madison, WI 53708-8935

Respondent:

Lane Sisouvang
Hot Line Nails
2240 Prairie St., #6
Beloit, WI 53511

Disciplinary Authority:

Barbering and Cosmetology Board
1400 East Washington Ave.
Madison, WI 53703

PROCEDURAL HISTORY

A. This case was initiated by the filing of a complaint with the Barbering and Cosmetology Examining Board on April 14, 1997. A disciplinary proceeding (hearing) was scheduled for May 8, 1997. Notice of Hearing was prepared by the Division of Enforcement of the Department of Regulation and Licensing and sent by certified mail on April 14, 1997 to Lane Sisouvang at the address above. The notice was returned undelivered, with the notation "moved, left no address."

B. No answer was filed within twenty days, as required by sec. RL 2.09(4), Wis. Admin. Code.

C. All time limits and notice and service requirements having been met, the disciplinary proceeding was held as scheduled on May 8, 1997. Lane Sisouvong did not appear. The Barbering and Cosmetology Board was represented by attorney Steven Gloe of the Department's Division of Enforcement.

D. Mr. Gloe moved that Lane Sisouvong be found in default under sec. RL 2.14, Wis. Admin. Code, and the motion was granted.

E. The hearing was recorded; no transcript was prepared. The complaint, the other official documents in the file, and the remarks of Mr. Gloe during the hearing form the basis for this Proposed Decision.

FINDINGS OF FACT

1. Hot Line Nails is licensed under chapter 454, Stats., to perform manicuring services in the state of Wisconsin with establishment license #693. The address on file with the department for Hot Line Nails is 2240 Prairie St., #6, Beloit, WI 53711. As of the hearing date, Hot Line Nails was no longer at this address.
2. Lane Sisouvong is listed with the department as the owner of Hot Line Nails.
3. Repeated attempts between April 14, 1997 and May 8, 1997 to locate either Hot Line Nails or Lane Sisouvong have been unsuccessful.
4. Under sec. RL 2.08(1), Wis. Admin. Code, a complaint may be served by mailing a copy to the respondent's last-known address, and service is complete upon mailing.
5. No answer was filed within twenty days, as required by sec. RL 2.09(4), Wis. Admin. Code.
6. On exact dates unknown, but at least on September 17, 1996, Lane Sisouvong employed Loan Tran to provide manicuring services to the public at Hot Line Nails. At no time relevant to this action did Loan Tran hold a valid Wisconsin manicurist's license.
7. On exact dates unknown, but at least on November 1, 1996, Lane Sisouvong employed Saylom Inthisane to provide manicuring services to the public at Hot Line Nails. At no time relevant to this action did Saylom Inthisane hold a valid Wisconsin manicurist's license.
8. On exact dates unknown, but at least on November 1, 1996, Lane Sisouvong employed Bounmy Sisouvong to provide manicuring services to the public at Hot Line Nails. At no time relevant to this action did Bounmy Sisouvong hold a valid Wisconsin manicurist's license.

9. On November 1, 1996, at approximately 2:00 P.M., personnel of the Division of Enforcement in the department informed Bounmy Sisouvong that individual licensure is required to perform professional manicuring services in Wisconsin. On the same day after the division personnel departed, Bounmy Sisouvong resumed the illegal provision of manicuring services at Hot Line Nails.

CONCLUSIONS OF LAW

I. The Barbering and Cosmetology Examining Board has personal jurisdiction over Lane Sisouvong, based on her holding a credential issued by the board, and based on notice under sec. 801.04 (2), Stats. Under sec. RL 2.08 (1), Wis. Admin. Code, a respondent may be served by mailing to his or her last-known address.

II. The Barbering and Cosmetology Examining Board is the legal authority responsible for issuing and controlling credentials for manicurists, under ch. 454, Stats., and it has jurisdiction over the subject-matter of a complaint alleging unprofessional conduct, under sections 15.08(5)(c) and 454.15, Stats.

III. Under sec. BC 2.06, Wis. Admin. Code, as the owner of Hot Line Nails, an establishment licensed under chapter 454, Stats., Lane Sisouvong is responsible for compliance with chapter 454, Stats., and with chapters BC 2, BC 3, and BC 3, Wis. Admin. Code.

IV. Ms. Sisouvong is in default under sec. RL 2.14, Wis. Admin. Code, and the Barbering and Cosmetology Examining Board may make findings and enter an order on the basis of the complaint and other evidence.

V. The violations in Findings of Fact 6, 7, 8 and 9 above constitute unprofessional conduct, under section 454.04(1)(d), Stats., and section BC 2.06(1), Wis. Admin. Code, and discipline is appropriate, under section 454.15(2)(i), Stats.

ORDER

THEREFORE, IT IS ORDERED that the respondent Lane Sisouvong, d/b/a Hot Line Nails, pay a forfeiture of \$1,500 as authorized by sec. 454.15(3), Stats., within 60 days of the date on which this order is signed on behalf of the Barbering and Cosmetology Examining Board.

IT IS FURTHER ORDERED that the respondent Lane Sisouvong, d/b/a Hot Line Nails, pay the costs of this proceeding, as authorized by sec. 440.22 (2), Stats., and sec. RL 2.18, Wis. Admin. Code, within 60 days of the date on which this order is signed on behalf of the Barbering and Cosmetology Board.

IT IS FURTHER ORDERED that if the forfeiture and costs are not paid within the ordered 60 days, the establishment license issued to Hot Line Nails shall be suspended indefinitely until payment is made.

IT IS FURTHER ORDERED that if the forfeiture and costs remain unpaid one year after the date on which this order is signed on behalf of the Barbering and Cosmetology Board, and if during that period the board receives no communication attempting to resolve this matter from or on behalf of Lane Sisouvong, then the establishment license issued to Hot Line Nails shall be revoked.

OPINION

This is a disciplinary proceeding conducted under the authority of ch. 227, Stats. and ch. RL 2, Wis. Admin. Code. The Division of Enforcement in the Department of Regulation and Licensing filed a complaint with the Barbering and Cosmetology Examining Board, alleging that the respondent, Lane Sisouvong, is the owner of Hot Line Nails, a manicuring establishment licensed by the board, and that on certain dates unlicensed individuals provided manicuring services at Hot Line Nails. The burden of proof is on the Division of Enforcement to prove the allegations of the complaint by a preponderance of the evidence. The respondent is in default, having failed to file a written answer to the complaint and having failed to appear for the scheduled hearing. I therefore accept the facts alleged in the complaint as true, and the allegations of unprofessional conduct proven.

Discipline.

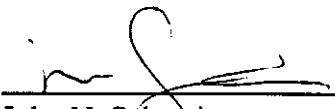
There is no evidence that the manicuring services provided at Hot Line Nails were incompetent or unsafe. On the other hand, because some of the individuals providing those services were unlicensed, the state has no assurance that the services they provided were competent and safe. As the owner of a licensed establishment, Ms. Sisouvong is responsible for compliance with all statutes and rules regulating the provision of manicuring services, and employment of unlicensed persons violates section 454.04(1)(d), Stats., and section BC 2.06(1), Wis. Admin. Code. Those violations are the basis of the complaint. Mr. Gloe recommended a forfeiture of \$1,500 for the offenses charged in the complaint, and since multiple offenses were observed on more than one day, this amount is justified under sec. 454.15(3), Stats.

However, at about the time this action was filed, Hot Line Nails simply disappeared, an action which deprives the state of any opportunity to regulate competence and safety, and to the charges in the complaint must be added the disappearance of both Ms. Sisouvong and Hot Line Nails. Such disregard for proper regulatory authority makes the removal of Hot Line Nails' license a more appropriate disciplinary action, not only to protect the public from unlicensed practitioners, but to remind the profession of the importance of compliance and cooperation with the board. Mr. Gloe stated that the board would prefer to deal with licensed practitioners than unlicensed ones, so the recommended order above leaves the establishment license for Hot Line Nails in place for up to one year, but if no further interest is shown by Ms. Sisouvong in her establishment's license during that time, then the license should be revoked, in order to avoid a situation of truly indefinite suspension.

Costs.

The assessment of costs against a disciplined professional is authorized by sec. 440.22(2), Wis. Stats. and sec. RL 2.18, Wis. Admin. Code. Ms. Sisouvong failed to cooperate in any way with the Department in this action, and simply disappeared. Her lack of cooperation and disregard for these proceedings make an order for costs appropriate.

Dated and signed: May 8, 1997



John N. Schweitzer
Administrative Law Judge
Department of Regulation and Licensing

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On June 2, 1997, the Barbering and Cosmetology Examining Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$1,121.09 Case #: L:S9704151BAC

The amount of the forfeiture is: \$1,500.00 Case # LS9704151BAC

Please submit a check or a money order in the amount of \$ 2,621.09

The costs and/or forfeitures are due: July 31, 1997

NAME: Lane Sisouvong, d/b/a Hot Line Nails LICENSE NUMBER: 693

STREET ADDRESS: 2240 Prairie Street #6

CITY: Beloit STATE: WI ZIP CODE: 53511

Check whether the payment is for costs or for a forfeiture or both:

X COSTS

X FORFEITURE

Check whether the payment is for an individual license or an establishment license:

X INDIVIDUAL

 ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

G:\BDLS\FM2145.DOC

For Receipting Use Only

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS
AGAINST
LANE SISOUVONG,
d/b/a HOT LINE NAILS,
RESPONDENT.

AFFIDAVIT OF COSTS
Case No. LS-9704151-BAC
(96 BAC 135 and 97 bac 004)

John N. Schweitzer affirms the following before a notary public for use in this action, subject to the penalties for perjury in sec. 946.31, Wis. Stats.:

1. I am an attorney licensed to practice law in the State of Wisconsin, and am employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.
2. In the course of my employment, I was assigned as the administrative law judge in the above-captioned matter.
3. The expenses for the Office of Board Legal Services are set out below:

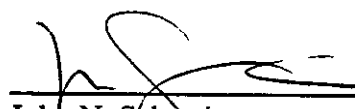
a. Administrative Law Judge Expense @ \$26.29/hour.

4-15-97	Receive complaint	0 min.
4-22-97	Draft proposed decision	2 hrs.
4-28-97	Attempt to locate Lane Sisouvong or Hot Line Nails	15 min.
5-8-97	Hearing	15 min.
5-8-97	Complete proposed decision	1 hr., 15 min.
Total:		3 3/4 hrs. = \$98.59

b. Court Reporter Costs, paid by the Office of Board Legal Services.

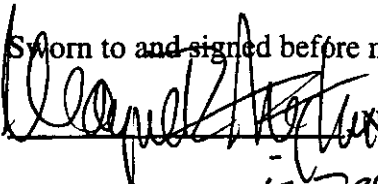
Attendance	\$0.00
0 pages of transcript	\$0.00
Total:	\$0.00

Total allocable costs for Office of Board Legal Services = \$98.59



John N. Schweitzer
Administrative Law Judge

Sworn to and signed before me this 2nd day of June, 1997.

 Notary Public, State of Wisconsin.

My commission is permanent.

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

LANE SISOUVONG,
d/b/a HOT LINE NAILS
RESPONDENT.

:
:
:
: AFFIDAVIT OF COSTS
: 96 BAC 135 and 97 BAC 004
:
:

STATE OF WISCONSIN)
)ss.
COUNTY OF DANE)

Steven M. Gloe, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and am employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement;

2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and

3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
1-30-97	Review file and stipulation	0 hour 45 minutes
4-4-97	Review and sign Notice of Hearing and Complaint	0 hour 30 minutes
5-8-97	Hearing preparation; attend Hearing	1 hour 15 minutes

TOTAL HOURS

2 Hours 30 Min.

Total attorney expense for 2 hours and 30 minutes at
\$41.00 per hour (based upon average salary and benefits
for Division of Enforcement attorneys) equals:

\$ 102.50

EXPENSE FOR LEGAL ASSISTANT

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
11-1-96	Assist in investigation-2 stops at shop	2 hours 00 minutes
1-21-97	Discuss case summary w/ investigator	0 hour 15 minutes
1-30-97	Review file; Draft Stipulation offer	0 hour 45 minutes
1-30-97	Forward Stipulation offer to attorney; Obtain attorney signature; copy and mail offer	0 hour 20 minutes
3-31-97	Review files; Draft Complaint and Notice of Hearing TC to obtain Judge and Hearing date	1 hour 00 minutes
4-1-97	Obtain Judge and Hearing Date; Update Notice of Hearing; Prepare Complaint Checklist; Obtain attorney signature; Forward Complaint and Notice of Hearing to Supervisor for approval; organize files	0 hour 30 minutes
4-14-97	Receive Complaint Checklist w/ Supervisor approval; Copy and Mail Complaint and Notice of Hearing	0 hour 20 minutes
4-15-97	Draft Affidavit of Mailing; Hand-Deliver Complaint and Notice of Hearing to Legal Services	0 hour 20 minutes
4-18-97	Receive undelivered mailing from post office; xc all and forward to investigator	0 hour 10 minutes
4-25-97	Discuss investigative stop at establishment w/ investigator and attorney	0 hour 20 minutes
5-8-97	Prepare and Attend Hearing; Review Proposed Decision	1 hour 0 minutes

TOTAL HOURS

7 Hours 00 Min.

Total expense for 7 hours and 00 minutes at
\$20.00 per hour (based upon average salary and benefits)
equals:

\$140.00

EXPENSE FOR INVESTIGATOR
File #97 BAC 004

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
10-25-96	Inv. prep. & planning in Beloit includes travel	6 hours 0 minutes
11-1-96	team inspections includes split travel	2 hours 0 minutes
11-6-96	inspection visit includes split travel	2 hours 0 minutes
11-11-96	memo	1 hour 0 minutes
11-12-96	spot check salon	0 hours 30 minutes
11-15-96	letter to da - split time	4 hours 0 mintues
12-10-96	court - includes split travel	4 hours 0 mintues
1-7-97	court - includes travel	7 hours 0 minutes
1-28-97	file review	0 hours 30 minutes
1-29-97	memo & organize file	1 hour 0 minutes
4-24-97	spot check salon - split, includes travel	0 hours 30 minutes
5-5-97	phone calls	0 hours 15 minutes
5-7-97	prepare for hearing	0 hours 30 minutes
5-8-97	prepare for and attend hearing - split	0 hours 30 minutes

TOTAL HOURS

29 Hours 45 Min.

Total expense for 29 hours and 00 minutes at
\$20.00 per hour (based upon average salary and benefits)
equals:

\$595.00

EXPENSE FOR INVESTIGATOR
File # 96 BAC 135

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
10-25-96	Interview complainant includes travel	1 hour 30 minutes
10-29-96	memo & letter	2 hours 30 mintues
11-14-96	phone calls & record check	0 hours 30 minutes
1-28-97	review file & memo	3 hours 0 minutes
4-24-97	spot check salon - split, includes travel	0 hours 30 minutes
5-5-97	phone calls - split	0 hours 15 minutes
5-7-97	prepare for hearing - split	0 hours 30 minutes
5-8-97	prepare for and attend hearing - split	0 hours 30 minutes

TOTAL HOURS

9 Hours 15 Min.

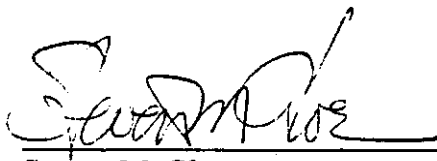
EXPENSE FOR INVESTIGATOR (continued)
File # 96 BAC 135

Total expense for 9 hours and 15 minutes at
\$20.00 per hour (based upon average salary and benefits)
equals:

\$185.00

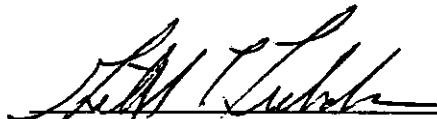
TOTAL ASSESSABLE COSTS

\$1022.50



Steven M. Gloe, Attorney

Subscribed and sworn to before me
this 3rd day of June, 1997.



Notary Public
My Commission is permanent.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Lane Sisouvong,
d/b/a Hot Line Nails,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On June 4, 1997, I served the Final Decision and Order dated June 2, 1997, LS9704151BAC, upon the Respondent Lane Sisouvong, d/b/a Hot Line Nails, by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 157 548.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

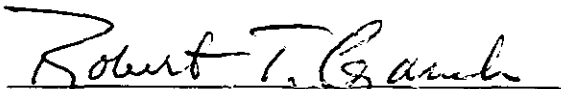
Lane Sisouvong,
d/b/a Hot Line Nails
2240 Prairie Street #6
Beloit WI 53511



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 4th day of June, 1997.



Notary Public, State of Wisconsin
My commission is permanent

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

June 4, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)