

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

TOM DANH LY, :
D/B/A HOLLYWOOD NAILS :
RESPONDENTS :

FINAL DECISION AND ORDER
97 BAC 006

LS9802023BAC ✓

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

Tom Danh Ly
2619 W. National Ave.
Milwaukee, WI 53204

Barbering and Cosmetology Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

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. Tom Danh Ly (DOB 01-01-67) 2551 S. 43rd St., Milwaukee, WI 53219, is duly licensed as a manicurist in the state of Wisconsin (license #2667). This license was first granted on November 6, 1996.

2. Hollywood Nail, 2619 W. National Ave., Milwaukee, WI 53219, is duly licensed as a manicuring establishment in the state of Wisconsin (license #1096). This license was first granted on December 17, 1997. Tom Danh Ly is listed with the Department of Regulation and Licensing as the owner of Hollywood Nail. As owner, Mr. Ly was and is at all times relevant to

this action responsible for compliance with ch. 454, Stats. and Wisconsin Administrative Code chs. BC 2, 3 and 4.

3. On exact dates unknown, but at least from July 1997 until at least December 11, 1997, Hollywood Nail was open and operating as a manicuring establishment. At no time relevant to this action was Hollywood Nail licensed as a manicuring establishment.

4. On exact dates unknown, but at least on December 11, 1997, Hollywood Nail did not possess a disinfectant registered as a tuberculocidal agent.

5. On exact dates unknown, but at least on December 11, 1997, Ke Van To was employed at Hollywood Nail to provide manicuring services to the public. At no time relevant to this action did Ke Van To hold a valid and current Wisconsin manicurist license.

6. In resolution of this matter, Mr. Ly consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

By the conduct referred to in ¶¶ 3-5, above, Tom Danh Ly, d/b/a Hollywood Nail, violated secs. 454.08(2)(d) and 454.15(2)(i), Stats. and Wis. Admin. Code §§ BC 3.04 and 4.10.

ORDER

NOW, THEREFORE, **IT IS HEREBY ORDERED** that Tom Danh Ly, d/b/a Hollywood Nail shall pay to the Department of Regulation and Licensing a forfeiture of SEVEN HUNDRED dollars (\$700.00). Payment shall be submitted within 30 days from the date of this order.

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
PO Box 8935
Madison, WI 53708-8935

IT IS FURTHER ORDERED that in the event Tom Danh Ly fails to timely submit payment of the forfeiture as set forth above, the manicuring license of Mr. Ly (#2667) **SHALL BE SUSPENDED**, without further notice or hearing, until Respondents 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: Jan C. Tolney
A member of the Board

2/2/58
Date

STATE OF WISCONSIN
BEFORE THE BARBERING AND
COSMETOLOGY EXAMINING BOARD

----- TRANSACTION #927

IN THE MATTER OF	:	9300 FORFEITURE	700.00
DISCIPLINARY PROCEEDINGS AGAINST	:	TAX	.00
	:	CASH TOTAL	700.00
	:	L1 C4 14:07 05/JAN/98 M1	1-49 2
TOM DANH LY,	:	STIPULATION	
D/B/A HOLLYWOOD NAIL	:	97 BAC 006	
RESPONDENTS.	:		

It is hereby stipulated between Tom Danh Ly, d/b/a Hollywood Nail, personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (97 BAC 006). Mr. Ly consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Mr. Ly understands that by the signing of this Stipulation he voluntarily and knowingly waive his rights, including: the right to a hearing on the allegations against him, 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 against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

3. Mr. Ly is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.


4. Mr. Ly agrees to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining 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.

[Handwritten signature]

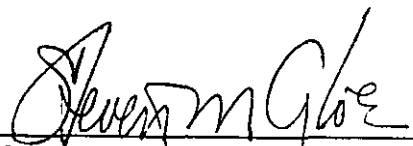
6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Barbering and Cosmetology Examining Board assigned as an advisor in this investigation may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Mr. Ly in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Tom Dank Ly
d/b/a Hollywood Nail

Jan. 05. 98
Date



Steven M. Gloe, Attorney
Division of Enforcement

1.5.98
Date

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

In the Matter of the Disciplinary Proceedings Against

Tom Danh Ly,
d/b/a Hollywood 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 February 9, 1998, I served the Final Decision and Order dated February 2, 1998, LS9802023BAC, upon the Respondent Tom Danh Ly, d/b/a Hollywood 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 221 158 701.

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:

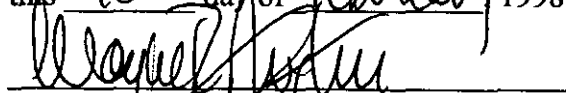
Tom Danh Ly,
d/b/a Hollywood Nails
2619 W. National Avenue
Milwaukee WI 53204



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 10th day of February 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: TOM DANH LY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 2/9/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

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

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

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 53708-8935