

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

LS9901131RAL

DANNY" HUNG T. LY,

RESPONDENT.

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 11th day of March, 1999.

Marlene A. Cummings, Secretary

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

:

IN THE MATTER OF A PETITION

"DANNY" HUNG T. LY

Case No. LS-9901131-RAL

RESPONDENT

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:

*"Danny" Hung T. Ly
5642 N. Spaulding
Chicago, IL 60659*

*also c/o Rose's Nails
4860 S. 74th Street
Greenfield, WI 53220*

PROCEDURAL HISTORY

On January 13, 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 February 23, 1999. A copy of the petition and a notice of hearing were sent to Mr. Ly on January 13, 1999, by first-class and certified mail to his last known address.

Mr. Ly failed to file an answer to the petition. The hearing on the petition was held as scheduled. Mr. Ly 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. "Danny" Hung T. Ly does not hold a license to practice as a manicurist in the State of Wisconsin.
2. On November 12, 1998, Mr. Ly was engaged in the practice of manicuring at Rose's Nails, a manicuring establishment located at 4860 S. 74th Street, Greenfield, Wisconsin.
3. On January 13, 1999, the Department of Regulation and Licensing (Department) sent a Petition For Injunction by first-class and registered mail to "Danny" Hung T. Ly at his last known address. Mr. Ly did not file an answer to the Petition.

CONCLUSIONS OF LAW

1. "Danny" Hung T. Ly 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, "Danny" Hung T. Ly, 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. Ly was employed at Rose's Nails in Greenfield, Wisconsin, to provide manicuring services to the public. He was observed on that same date manicuring a customer's nails at Rose's Nails. Mr. Ly 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. Ly both by first-class and registered mail on January 13, 1999. Mr. Ly 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. Ly 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 24th day of February, 1999.

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

Jacquelynn B. Rothstein

Administrative Law Judge

