

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 :
 : FINAL DECISION AND ORDER
TINA LU AND Q NAIL, :
RESPONDENTS. : LS0604034BAC
 :

[Division of Enforcement Case No. 03 BAC 072]

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Tina Lu
4103 West Sharon Lane
Franklin, WI 53132

Q Nail
7166 South 76th Street
Franklin, WI 53132

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

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

PROCEDURAL HISTORY

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 Barbering and Cosmetology Examining Board (“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. Respondent **Tina Lu** is a duly licensed manicurist in the state of Wisconsin, having license # 85-2503. This license was first granted on June 6, 1996, and is current until July 1, 2007. Ms. Lu's last reported address on file with the Department of Regulation and Licensing is 4103 West Sharon Lane, Franklin, Wisconsin 53132

2. Respondent **Q Nail** is a duly licensed manicuring establishment in the state of Wisconsin, having license # 71-2693. The license was first granted on May 19, 2005, and is current until July 1, 2007. Q Nail's last reported address on file with the Department of Regulation and Licensing is 7166 South 76th Street, Franklin, Wisconsin 53132,

3. Ms. Lu is listed with the Department of Regulation and Licensing as the current owner of Q Nail. As owner, Ms. Lu is, and was at all times relevant to this action, responsible for compliance with Wisconsin Statutes Chapter 454 and Wisconsin Administrative Code Chapters BC 2, 3 and 4.

4. An inspection of Q Nail by Investigator Ralph Draeger of the Department of Regulation and Licensing on August 3, 2005, found a half-gallon container of nail liquid containing Methyl Methacrylate Monomer (MMA) on the premises of the establishment.

CONCLUSIONS OF LAW

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

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

3. By using a nail product formulated with methyl methacrylate monomer (MMA) as one of its ingredients, Tina Lu and Q Nail have violated Wis. Admin. Code § BC 2.03(9) and are subject to discipline pursuant to Wis. Stat. §§ 454.15(2)(c), 454.15(2)(i), and 454.15(3).

MITIGATING CIRCUMSTANCES

1. Aside from the container of nail liquid containing MMA, the August 3, 2005 inspection of Q Nail revealed no sanitation or other violations of the Wisconsin Statutes and Administrative Code.

2. An inspection of Q Nail in 2002 revealed no violations of the Wisconsin Statutes or Administrative Code.

3. Tina Lu explained to Investigator Draeger that she was not sure why the nail liquid containing MMA was on the premises on August 3, 2005 because it was not the brand of nail liquid normally used at the establishment.

4. Tina Lu provided Investigator Draeger with documentation demonstrating purchases of non-MMA nail liquid on June 1, 2005 and on September 29, 2005. Ms. Lu also assured Investigator Draeger that she informed all employees to be sure to use only non-MMA nail liquid in the future.

5. These circumstances justify a departure from the forfeiture grid which ordinarily calls for a \$1000.00 forfeiture for use of MMA.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **Tina Lu and Q Nail** shall jointly and severally pay to the Department of Regulation and Licensing a forfeiture of **TWO HUNDRED FIFTY dollars (\$250.00)**.

2. **Tina Lu and Q Nail** shall also jointly and severally pay costs in the amount **FOUR HUNDRED dollars (\$400.00)**.

3. Payment shall be submitted within **90 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
Post Office Box 8935
Madison, WI 53708-8935
608-261-7904

4. IT IS FURTHER ORDERED that **Tina Lu and Q Nail** are hereby WARNED that if any future inspection of Q Nail by an employee of the Department of Regulation and Licensing, while owned by Tina Lu, finds Methyl Methacrylate Monomer (MMA) on the premises of the establishment, then Tina Lu and Q Nail shall be subject to more severe discipline as authorized under the Wisconsin Administrative Code, Wisconsin Statutes, and the forfeiture grid adopted by the Board.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondents' licenses. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondents fail to timely submit any payment as ordered, then the manicurist license of Tina Lu (#85-2503) and the establishment license of Q Nail (#71-2693) SHALL BE SUSPENDED without further notice or hearing until Respondents have complied with the terms of this Order.

6. This Order is effective on the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
A member of the Board

4/3/06