

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	:	
	:	
LUU PHUONG NGUYEN	:	FINAL DECISION AND ORDER
and SUPER NAILS,	:	LS0604035BAC
RESPONDENTS.	:	

Division of Enforcement Case File Number 03 BAC 057

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

Luu Phoung Nguyen
95 North Moorland Road, A-15
Brookfield, WI 53005

Super Nails
95 North Moorland Road, A-15
Brookfield, WI 53005

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

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. Luu Phoung Nguyen (Date of Birth is December 9, 1958), 95 North Moorland Road, A-15, Brookfield, Wisconsin 53005, is duly licensed as a Manicurist in the state of Wisconsin (license #85-2714). This license was first granted on December 6, 1996, and is current through June 30, 2007.
2. Super Nails, 95 North Moorland Road, A-15, Brookfield, Wisconsin 53005, is duly licensed as a manicuring establishment in the state of Wisconsin (license #71-973). This license was first granted on July 25, 1997, and is current through June 30, 2007. Ms. Nguyen is listed with the Department of Regulation and Licensing as the current owner of Super 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.
3. On July, 1, 1998, Luu Phoung Nguyen and Super Nails were disciplined by the Barbering and Cosmetology Examining Board (Case 97 BAC 222) for reusing emery file bits without disinfecting them prior to each use and for using a disinfectant that did not contain a tuberculocidal agent.
4. In 2002, Luu Phoung Nguyen was disciplined by the Barbering and Cosmetology Examining Board (Case 01

BAC 065) for allowing an unlicensed person to provide manicuring services at Super Nails.

5. An inspection of Super Nails by Investigators Kelley Sankbeil and Brynn Krumviede of the Department of Regulation and Licensing on June 21, 2005, found Long Thanh Huynh providing manicuring services without a valid Wisconsin manicurist license. The Investigators also found Thuy T. Nguyen providing pedicure services without a valid manicurist license. Thuy T. Nguyen is licensed as aesthetician in Wisconsin but not a manicurist.

6. The Investigators also found that no individual manicurist licenses were posted, that manicurists were reusing nail and pedicure files, that the disinfectant used in the establishment appeared to be cloudy with particles floating in it, that there were no individual quantities of powder and liquid acrylic at the workstations, and manicure containers were not cleaned out between clients.

7. In resolution of this matter, Luu Phoung Nguyen and Super Nails consents 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 5 and 6 of the Findings of Fact, Luu Phoung Nguyen and Super Nails, has violated:

1. Wis. Stat. Sec. 454.06(7). The examining board shall furnish a certificate to each license, 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.
2. Wis. Stat. Sec. 454.15(2)(i). Violated this chapter or any rule promulgated under this chapter.
3. 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.
4. Wis. Admin. Code § BC 4.02(5). Disinfectant used for decontamination shall be changed daily and shall be kept in a covered container.
5. Wis. Admin. Code § BC 4.10(2). Disinfectant used for decontamination shall be changed daily and shall be kept in a covered container.
6. Wis. Admin. Code § BC 4.10(4). Manicure instruments that can't be cleaned and disinfected or sterilized shall be disposed of following each use.

ORDER

NOW, THEREFORE, **IT IS HEREBY ORDERED** that Luu Phoung Nguyen and Super Nails shall jointly and severally pay to the Department of Regulation and Licensing a forfeiture of TWO THOUSAND FIVE HUNDRED FIFTY dollars (\$2,550.00). Luu Phoung Nguyen and Super Nails shall also jointly and severally pay costs in the amount of SEVEN HUNDRED THIRTY-TWO dollars (\$732.00) in this matter.

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 have been provided an opportunity to obtain legal advice prior to signing this stipulation.

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 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 Department policy.

8. The Division of Enforcement joins Luu Phoung Nguyen and Super Nails in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Luu Phoung Nguyen
Respondent
95 North Moorland Road, A-15
Brookfield, WI 53005
License Number 85-2714

Date

On behalf of Super Nails
Respondent
95 North Moorland Road, A-15
Brookfield, WI 53005
License Number 71-973

Date

Claudia Berry Miran, Attorney

Date

Division of Enforcement
Post Office Box 8935
Madison, WI 53708-8935