

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	:	
	:	
TRAN MAI LE and	:	FINAL DECISION AND ORDER
QUEEN NAIL,	:	LS0809085BAC
RESPONDENTS.	:	
	:	

Division of Enforcement Case File Number: 07 BAC 145

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

Tram Mai Le
506 West 12th Street
Marshfield, Wisconsin 54449

Queen Nail
1633 North Central Avenue
Marshfield, Wisconsin 54449

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 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. Queen Nail is duly licensed as a manicuring establishment in the state of Wisconsin (license #71-1924). This license was first granted on August 3, 2001, and is current through March 31, 2009. The last address reported to the Department of Regulation and Licensing (Department) for Queen Nail is 1633 North Central Avenue, Marshfield, Wisconsin 54449.
2. Tram Mai Le, is duly licensed as a manicurist in the state of Wisconsin (license number 85-3388). This license was first granted on April 2, 1998, and is current through March 31, 2009. The last address reported to the Department for Ms. Le is 506 West 12th Street, Marshfield, Wisconsin 54449. Ms. Le is listed with the Department as the owner and responsible licensee of Queen Nail. As owner and responsible licensee of a licensed manicuring establishment, Ms. Le is responsible for compliance with Wis. Stats. Ch. 454 and Wisconsin Administrative Code Chs. BC 2, 3 and 4.
3. On September 12, 2005, Tram Mai Le and Queen Nail were disciplined by the Wisconsin Barbering and Cosmetology Examining Board. Ms. Tran and Queen Nail were ordered to pay a forfeiture of \$1,300.00 and costs of

\$700.00 for allowing an unlicensed person to perform manicuring services, for having used contact equipment and cutting instruments stored in drawers, for unsanitary cutting tools, for failure to post a manicurist license, for the failure to have gloves or bandages at work stations and for having no Blood Exposure Protocol posted.

4. On November 15, 2007, Investigator Douglas Austin from the Department inspected Queen Nail. Investigator Austin found:

nail clippings on the floor
employees not washing hands between customers,
work stations not being cleaned between customers,
disinfectant containers were not covered
a disinfectant container did not have enough disinfectant to completely cover the implements.

Investigator Austin also found Eric Troung working as a manicurist at Queen Nail while being unlicensed as a manicurist in the state of Wisconsin.

5. In resolution of this matter, Tram Mai Le and Queen Nail consent 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. Stats. sec. 454.15.

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

3. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated Wis. Stat. sec. 454.04(1)(d). No person may engage in manicuring unless the person has received training in the areas of service provided and holds a current manicurist license, barber or cosmetologist license, manager license, temporary permit or training permit issued by the examining board or is an apprentice under s. 454.10 or a student in a manicuring or barbering or cosmetology course of instruction.

4. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated Wis. Stats. Sec. 454.15(2)(i). Violated this chapter or any rule promulgated under this chapter.

5. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated Wis. Admin. Code § BC 2.03(1). Services provided by any licensee shall be performed in a manner that is consistent with basic and accepted practice standards and in accordance with all state statutes, board rules and local codes and ordinances.

6. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated Wis. Admin. Code § BC 2.03(5). Licensees shall take adequate and necessary precautions to protect the patron from health and safety hazards when performing services.

7. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated 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.

8. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have Violated Wis. Admin. Code § BC 2.08(1)(a). Licensees shall be responsible for compliance with sanitation and safety precautions contained in ch BC 4.

9. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated Admin. Code § BC 3.01(4). All floor coverings in an establishment shall be kept in a clean, orderly and safe condition.

10. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated Wis. Admin. Code § BC 4.01(1). All areas of an establishment and the equipment, tools and implements for services shall be maintained in a clean, sanitary and safe condition.

11. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated Wis. Admin. Code § BC 4.01(2). Licensees shall wash their hands thoroughly with soap and running water prior to each patron and following removal of gloves. Waterless hand washing agents with alcohol as an active ingredient with a concentration of at least 70% are an acceptable substitute for washing hands that are not visibly soiled with soap and running water.

11. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated Wis. Admin. Code § BC 4.01(7). All other equipment and instruments shall be clean to sight and touch.

12. By the conduct referred to in Findings of Fact 4., Tram Mai Le and Queen Nail have violated Wis. Admin. Code § BC 4.10(2). Disinfectant used for decontamination shall be changed daily and shall be kept in a covered container.

ORDER

NOW, THEREFORE, **IT IS HEREBY ORDERED** that Tram Mai Le (license number 85-3388) and Queen Nail (license number 71-1924) are hereby **REPRIMANDED**.

IT IS ALSO ORDERED that Tram Mai Le and Queen Nail shall jointly and severally pay to the Department of Regulation and Licensing a forfeiture of **ONE THOUSAND NINE HUNDRED** dollars (\$1,900.00).

IT IS FURTHER ORDERED that Tram Mai Le and Queen Nail shall jointly pay full costs in the amount of **FIVE HUNDRED** dollars (\$500.00) in this matter.

IT IS FURTHERED ORDERED that Tram Mai Le's manicurist license (license number 85-3388) shall be **SUSPENDED** for a period of ten (10) days. That suspension shall be divided into two five (5) day terms of suspension. Ms. Tram's first term of suspension shall occur on a schedule to be determined by the Department Monitor, Department of Regulation and Licensing, Division of Enforcement, Post Office Box 8935, Madison, Wisconsin 53708-8935. Ms. Tran's second term of suspension shall occur six (6) months after the end of the first term of suspension

Ms. Tran shall submit to the Department Monitor after the first five (5) day term of suspension a letter stating the exact dates of suspension and she shall affirm that she did not perform any manicurist services during the term of suspension. Ms. Tran shall submit a similar letter to the Department Monitor after the second five (5) day term of suspension.

All payments shall be submitted within 120 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 the Department Monitor.

IT IS FURTHER ORDERED that in the event Tram Mai Le and Queen Nail fail to fully and timely comply with all the terms and conditions of the Order as set forth above, the manicurist license of Tram Mai Le (license number 85-3388) and the establishment license of Queen Nail (license number 71-1924) **SHALL BE SUSPENDED**, without further notice or hearing, until Tram Mai Le and Queen Nail have complied with the terms of this Order. In the alternative, the Barbering and Cosmetology Examining Board may impose, without further notice or hearing, additional terms, conditions and limitations on Ms. Tran's manicurist license and the manicuring establishment license of Queen Nail.

This Order shall become effective upon the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
A member of the Board

9/8/08
Date

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

TRAN MAI LE and
QUEEN NAIL,
RESPONDENTS.

STIPULATION
LS #08 _____ BAC

Division of Enforcement Case File Number: 07 BAC 145

It is hereby stipulated between Tran Mai Le and Queen Nail (hereafter “Respondents”), and Claudia Berry Miran, 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 (07 BAC 145). Respondents consent to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondents understand that by the signing of this Stipulation they voluntarily and knowingly waive their rights, including:
 - the right to a hearing on the allegations against them, 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;
 - the right to call 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 have been provided an opportunity to obtain legal counsel 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 (hereafter “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 Barbering and Cosmetology Examining 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 Tran Mai Le and Queen Nail in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Tran Mai Le
Respondent
506 West 12th Street
Marshfield, Wisconsin 54449
License number 85-3388

Date

Queen Nail
Respondent
1633 North Central Avenue
Marshfield, Wisconsin 54449
License Number 71-1924

Date

Claudia Berry Miran
Attorney
Division of Enforcement
Wisconsin Department of Regulation and Licensing
Post Office Box 8935
Madison, Wisconsin 53708-8935

Date