

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	:	FINAL DECISION AND ORDER
	:	
HONG NGOC THI PHAM AND	:	
FANCY NAILS,	:	LS08110318BAC
RESPONDENTS.	:	

Division of Enforcement Case File # 06 BAC 128

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

Hong Ngoc Thi Pham
8448 E. Ridge Drive
Pleasant Prairie, WI 53158

Fancy Nails
6924 Green Bay Road
Kenosha, WI 53142

Barbering and Cosmetology Examining Board
P.O. Box 8935
Madison, WI 53707-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. 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 disposition 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

- Respondent Hong Ngoc Thi Pham is licensed in the State of Wisconsin as a Manicurist, license # 85-2175. This license was first granted to her on 11/21/1995 and is current through 03/31/2009. The most recent address on file with the Department of Regulation and Licensing for Ms. Pham is 8448 E. Ridge Drive, Pleasant Prairie, WI 53158.
- Respondent Fancy Nails is licensed in the State of Wisconsin as a Manicuring Establishment, license # 71-772. This license was first granted to it on 09/13/1996 and is current through 03/31/2009. The most recent address on file with the Department of Regulation and Licensing for this establishment is 6924 Green Bay Road, Kenosha, WI 53142.

3. Ms. Pham is listed with the Department of Regulation and Licensing as the owner of Fancy Nails. As owner, Ms. Pham was at all times relevant to this action responsible for compliance with Wis. Stat. Ch. 454 and Wis. Admin. Code §§ BC 2, BC 3 and BC 4.

4. On March 20, 2007, an investigator from the Department of Regulation and Licensing performed an unannounced inspection at Fancy Nails. The inspection and follow-up investigation revealed the following:

Current licenses were not posted in the establishment;

On the date of the inspection, two people were providing manicuring services without being licensed in Wisconsin—both were subsequently granted Wisconsin manicurist licenses;

An area of the manicuring establishment was set up to provide waxing services and a price list was posted for eyebrow, lip and chin waxing services;

Respondent Hong Ngoc Thi Pham was the person who provided waxing services at the establishment, yet Ms. Pham has never held an aesthetics or barbering/cosmetology license in Wisconsin, and Fancy Nails has never been licensed as an aesthetics or barbering/cosmetology establishment;

Dirty/used disposable nail files and buffers were stored in workstation drawers; and;

KDS New Diamond nail liquid being used at the establishment was found to contain 5% methyl methacrylate (MMA).

5. At the conclusion of the inspection on March 20, 2007, the investigator issued an Order to Correct to Ms. Pham, requesting that corrective measures be taken by March 27, 2007.

6. A letter from Respondents' attorney was returned to the Department and indicated that the violations had been corrected.

7. On December 7, 1998, Respondents Hong Ngoc Thi Pham and Fancy Nails were disciplined by the Wisconsin Barbering and Cosmetology Examining Board for employing three unlicensed employees to provide manicuring services to the public.

CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 454.15, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Respondents Hong Ngoc Thi Pham and Fancy Nails have violated:

a. Wis. Stat. § 454.06(7) and Wis. Admin. Code §§ BC 2.07(2) and 3.01(13) by failing to insure that all required licenses were posted in the establishment;

b. Wis. Admin. Code § BC 2.04(1) by assisting in the unlicensed practice of manicuring when two persons not licensed in Wisconsin were allowed to provide manicuring services to patrons;

c. Wis. Stat. §§ 454.01(13), 454.08(2)(d), Wis. Admin. Code §§ BC 4.08(2), BC 2.03(1), and BC 3.01(1) by advertising and providing waxing services beyond what a manicurist and a manicuring establishment may provide and providing waxing without proper training;

d. Wis. Admin. Code § BC 4.10(4) by failing to insure disposal of manicure instruments that cannot be cleaned and disinfected or sterilized after each use; and

e. Wis. Admin. Code § BC 2.03(9) by using a nail product formulated with methyl methacrylate (MMA) as one of its ingredients.

3. As a result of these violations, Respondents are subject to discipline pursuant to Wis. Stat. § 454.15(2)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The manicurist license of Hong Ngoc Thi Pham, (license # 85-2175), and the manicuring establishment license of Fancy Nails (license # 71-772), are hereby **SUSPENDED** for 5-working days, beginning November 10, 2008.

IT IS FURTHER ORDERED that:

2. Respondents shall, jointly and severally, pay a **FORFEITURE** in the amount of **THREE THOUSAND DOLLARS (\$3,000.00)** and shall pay **COSTS** in the amount of **ONE THOUSAND DOLLARS (\$1,000.00)**.

3. Payment of the costs and forfeiture, which total **FOUR THOUSAND DOLLARS (\$ 4,000.00)**, shall be made according to the following schedule:

PAYMENT DUE DATE	PAYMENT AMOUNT
February 1, 2009	\$500.00
May 1, 2009	\$500.00
August 1, 2009	\$500.00
November 1, 2009	\$500.00
February 1, 2010	\$500.00
May 1, 2010	\$500.00
August 1, 2010	\$500.00
November 1, 2010	\$500.00

4. 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
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

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 Respondents' licenses (# 85-2175 and # 71-772) **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.

Dated this 3rd day of November, 2008.

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush