

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
	:	
DUNG H. NGUYEN AND HOLLYWOOD	:	Case # LS09020212BAC
NAILS,	:	
RESPONDENTS.	:	

Division of Enforcement Case # 08 BAC 197

The parties to this action for the purposes of Wis. Stats. § 227.53 are:

Dung H. Nguyen
807B Military Avenue
Green Bay, Wisconsin 54303

Hollywood Nails
807B Military Avenue
Green Bay, Wisconsin 54303

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Barbering and Cosmetology Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
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 decision of this matter, subject to the approval of the Barbering and Cosmetology Board (Board). The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Hollywood Nails, 807B Military Avenue, Green Bay, Wisconsin 54303, is duly licensed as a manicuring establishment in the state of Wisconsin (license # 2382-71). This license was first granted on December 29, 2003, and is current through March 31, 2008.
2. Dung H. Nguyen is licensed as a manicurist in Florida (license # FV 9558102. 07/02/07, (06705038), AC #3275504) that was current through October 31, 2008, but does not hold a license in Wisconsin. He is listed in Department records as owner of Hollywood Nails.
3. On June 25, 2008, Investigator Willie Garrette from the Division of Enforcement made an unannounced inspection of Hollywood Nails.
4. Investigator Garrette observed Johanna Valentin Rivera performing a pedicure on a client.
5. Ms. Rivera does not hold a valid license issued by the Department.
6. Investigator Garrette observed Diana Contreras performing a manicure on a client.
7. Ms. Contreras does not hold a valid license issued by the Department.

8. Mr. Nguyen was present in the establishment during the visit.
9. Investigator Garrette also observed that no licenses for the establishment or its employees were posted.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 454.15, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stats. § 227.44 (5).
2. Wis. Stat. § 454.04 (1) (d) provides that no person may engage in manicuring unless the person has received training in the areas of service provided and holds a current manicurist license.
3. By the conduct described in paragraphs 6 and 7 above, Johanna Valentin Rivera violated Wis. Stat. § 454.04 (1) (d) by engaging in the practice of manicuring without a valid license.
4. By the conduct described in paragraphs 8 and 9 above, Diana Contreras violated Wis. Stat. § 454.04 (1) (a) by engaging in the practice of manicuring without a valid license.
5. Wis. Administrative Code § BC 2.04 (1) provides that licensees may not assist or participate in the unauthorized or unlicensed practice of manicuring.
6. By permitting Johanna Rivera and Diana Contreras to provide manicuring services at Hollywood Nails without valid licenses, Dung H. Nguyen and Hollywood Nails have violated Wis. Administrative Code § BC 2.04 (1).
7. Wis. Administrative Code § BC 2.06 (intro.) provides that the owner of any licensed establishment shall be responsible for compliance with chapter 454, Stats., and chapters BC 2, 3, and 4.
8. By knowingly permitting Ms. Rivera and Ms. Contreras to provide manicuring services without valid licenses, Dung H. Nguyen has violated Wis. Administrative Code § BC 2.06 (intro.).
9. Wis. Stat. § 454.08 (8) requires an owner to post an establishment's license in a conspicuous place in the establishment.
10. Wis. Administrative Code § BC 2.06 (intro.) provides that the owner of any licensed establishment shall be responsible for compliance with chapter 454, Stats., and chapters BC 2, 3, and 4.
11. By failing to post any licenses in a conspicuous place, Dung H. Nguyen has violated Wis. Stat. § 454.08 (8) and Wis. Administrative Code § BC 2.06 (intro.).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of Hollywood Nails to function as a manicuring establishment in the state of Wisconsin is hereby reprimanded.
2. Respondents shall pay a forfeiture of TWO THOUSAND ONE HUNDRED dollars (\$2,100.00) and costs of costs of this proceeding in the amount of FOUR HUNDRED dollars (\$400.00), for a total of TWO THOUSAND FIVE HUNDRED (\$2,500.00) dollars. Payment shall be submitted on the following payment schedule:

Date	Amount
April 25, 2009	\$500.00
July 25, 2009	\$500.00
October 25, 2009	\$500.00
January 25, 2010	\$500.00
April 25, 2010	\$500.00

The full amount of the forfeiture and costs may be paid at any time prior to each due date for payment.

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

3. **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 fails to submit timely any payment of the forfeiture as set forth above, or fail to pay costs as ordered, Respondents' license (#2382-71) SHALL BE SUSPENDED, without further notice or hearing until Respondents have complied with the terms of this Order.**
4. This Order is effective on the date of its signing.

By: Jeannie M. Bush
A Member of the Board

2/2/09
Date