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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
NGA TUYET VU, QUY TUNG VU, and	:	Case # LS09020232BAC
SUPER NAILS & SPA,	:	
RESPONDENTS.	:	

Division of Enforcement Case ## 04 BAC 008 and 07 BAC 276

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

Nga Tuyet Vu
4742 Nora Lane
Madison, Wisconsin 53711

Quy Tung Vu
4742 Nora Lane
Madison, Wisconsin 53711

Super Nails & Spa
133 West Towne Mall
Madison, Wisconsin 53719

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 Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Nga Tuyet Vu (DOB September 7, 1948) is duly licensed as an aesthetician in the State of Wisconsin (license # 86-1431). This license was first granted on April 26, 2006, and is current until March 31, 2009. Ms. Vu held temporary aesthetician permit #161-93 from May 4, 2005, until November 4, 2005.
2. Quy Tung Vu (DOB April 6, 1944) is duly licensed as a manicurist in the State of Wisconsin (license # 85-5458). This license was first granted on November 7, 2003, and is current until March 31, 2009.
3. Respondents Vu's most recent address on file with the Department of Regulation and Licensing (Department) is 4742 Nora Lane, Madison, Wisconsin 53711.
4. From July 1, 2007, through October 4, 2007, NgaVu's aesthetician license was in expired status with the Department.
5. Super Nails & Spa is duly licensed as a manicuring establishment in the state of Wisconsin (license # 71-2801). That license was first granted on October 14, 2005, and is current until March 31, 2009.

6. Nga Tuyet Vu is listed with the Department as the current owner of Super Nails & Spa. As owner, Ms. Vu is and was at all times relevant to this action responsible for compliance with Wis. Stat. chapter 454 and Wis. Administrative Code chapters BC 2, 3 and 4.
7. Quy Tung Vu is listed with the Department as the responsible manicurist licensee of Super Nails & Spa. As responsible manicurist licensee, Mr. Vu is and was at all times relevant to this action responsible for compliance with Wis. Stat. chapter 454 and Wis. Administrative Code chapters BC 2, 3 and 4.
8. Super Nails & Spa is duly licensed as an aesthetics establishment in the state of Wisconsin (license #69-529). That license was first granted on June 29, 2006, and is current until March 31, 2009.
9. Nga Tuyet Vu is listed with the Department as the responsible aesthetician licensee of Super Nails & Spa. As responsible aesthetician licensee, Ms. Vu is and was at all times relevant to this action responsible for compliance with Wis. Stat. chapter 454 and Wis. Administrative Code chapters BC 2, 3 and 4.
10. The last address reported to the Department for Super Nails & Spa is 133 West Towne Mall, Madison, Wisconsin 53719.
11. An inspection of Super Nails & Spa by Investigators Brynn Krumviede and Kelley Sankbeil of the Department on August 3, 2005, found Tich Hoang Nguyen, Phoung Hang Nguyen, Can Dinh Dao and Nga Tuyet Vu providing pedicure services without valid Wisconsin manicurist licenses.
12. Ms. Vu told Investigators Krumviede and Sankbeil during the inspection that she provided waxing services in addition to manicuring services.
13. Super Nails & Spa did not hold any type of an establishment license under Wis. Stat. chapter 454 at the time of the inspection.
14. Investigators Krumviede and Sankbeil saw that the disinfectant used in the establishment was cloudy and had particles floating in it.
15. Powder and acrylic were used from common bowls rather than in individual quantities for each client.
16. Manicure containers were not cleaned between clients.
17. Super Nails & Spa was using a polymer liquid containing Methyl Methacrylate monomer (MMA) in providing services to clients.
18. Practitioners at Super Nails & Spa were reusing disposable nail and pedicure files and buffers.
19. On March 20, 2008, Investigator Kelley Sankbeil inspected Super Nails & Spa. Investigator Sankbeil found Thai Pham providing manicurist services without a valid Wisconsin manicurist license.
20. In resolution of this matter, Respondents consent to the entry of the following Conclusions of Law and Final Decision and Order.

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 Board is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stats. § 227.44 (5).
3. By allowing unlicensed individuals to practice aesthetics in Super Nails & Spa, Respondents have violated Wis. Stat. § 454.04 (1) (b), which provides that no person may engage in aesthetics unless the person has received training in the areas of services provided and holds a current aesthetician license, barber or cosmetologist license, manager license, or temporary permit issued by the Board or is an apprentice under Wis. Stat. § 454.10 or a student in an aesthetics or barbering or cosmetology course of instruction.

4. By allowing unlicensed individuals to practice manicuring in Super Nails & Spa, Respondents have violated Wis. Stat. § 454.04 (1) (d), which provides that no person may engage in manicuring unless the person has received training in the areas of services provided and holds a current manicurist license, barber or cosmetologist license, manager license, or temporary permit issued by the Board or is an apprentice under Wis. Stat. § 454.10 or a student in a manicuring or barbering or cosmetology course of instruction.
5. By not having Super Nails & Spa licensed as an aesthetics or manicuring establishment, Respondents have violated Wis. Stats. § 454.08 (1) (b), which requires licensure of establishments in which barbering and cosmetology, aesthetics, manicuring or electrology services are provided.
6. By permitting MMA to be used in Super Nails & Spa, Respondents have violated Wis. Administrative Code § BC 2.03 (9), which prohibits the use of MMA in providing services or products to clients.
7. By permitting unlicensed activity to take place in Super Nails & Spa, Respondents violated Wis. Administrative Code § BC 2.04 (1), which provides that licensees may not assist or participate in the unauthorized or unlicensed practice of barbering or cosmetology, aesthetics, electrology or manicuring.
8. By not having individual quantities of powder and liquid acrylic at individual work stations, Respondents have violated Wis. Administrative Code § BC 4.01 (4), which requires all liquids, creams, powders and semi-solid substances to be dispensed from a container in a manner that will prevent contamination of the unused portion of the substance.
9. By permitting employees to use cloudy disinfectant with particles floating in it, Respondents have violated Wis. Administrative Code §§ BC 4.02 (5) and BC 4.10 (2), which require disinfectant to be changed daily and kept in a covered container.
10. By allowing employees to reuse disposable nail and pedicure files and buffers, Respondents have violated Wis. Administrative Code § BL 4.10 (4), which requires manicure instruments that cannot be cleaned and disinfected or sterilized to be disposed of following each use.
11. By the conduct identified in paragraphs 3 through 10 above, Respondents have violated Wis. Stat. § 454.15 (2) which provides that any violation of Chapter 454 or of rules promulgated under that chapter is cause for discipline.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The licenses of Nga Tuyet Vu (#86-1431), Quy Tung Vu (#85-5458), and Super Nails & Spa (## 71-2801 and 69-529) are hereby REPRIMANDED.
2. Respondents shall jointly and severally pay to the Department a forfeiture of EIGHT THOUSAND THREE HUNDRED dollars (\$8,300.00). Payment of THREE THOUSAND dollars (\$3,000.00) of the total forfeiture of EIGHT THOUSAND THREE HUNDRED dollars (\$8,300.00) shall be stayed. The stay of the payment of THREE THOUSAND dollars (\$3,000.00) shall end at any time that the Department of Regulation and Licensing, or its agents, discovers any person providing manicuring services at Super Nails & Spa without a current Wisconsin manicurist license or that any person at Super Nails & Spa is utilizing a polymer liquid containing Methyl Methacrylate monomer (MMA). Payment of the stayed payment of THREE THOUSAND dollars (\$3,000.00) shall be made within THIRTY (30) days after the Department of Regulation and Licensing, or its agents, discovers unlicensed manicurist activity and/or the use of MMA at Super Nails & Spa.
3. Respondent shall jointly and severally pay to the Department the costs of this proceeding in the amount of TWO THOUSAND SIX HUNDRED dollars (\$2,600.00).
4. The first payment of NINE HUNDRED EIGHTY-SEVEN AND .50 dollars (\$987.50) shall be due ninety (90) days from the effective date of this Order. Seven further payments of NINE HUNDRED EIGHTY-SEVEN AND .50 dollars (\$987.50) shall be due every ninety (90) days from the date of the previous payment until the full SEVEN THOUSAND NINE HUNDRED dollars (\$7,900.00) in costs and forfeitures is paid.
5. Payment of forfeitures and costs shall be made by ***certified check or money order***, payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P. O. Box 8935

6. **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 Respondent's license. 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 submit timely any payment of the forfeiture as set forth above, or fail to pay costs as ordered, Respondents' licenses (##86-1431, 85-5458, 71-2801, and 69-529) SHALL BE SUSPENDED, without further notice or hearing until Respondents have complied with the terms of this Order.**
7. This Order is effective on the date of its signing.

By: Jeannie M. Bush
A Member of the Board

2/2/09
Date