

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 :
REGAL NAILS, VIET N. PHAN AND : FINAL DECISION AND ORDER
NGOC HUONG T. NGUYEN, :
RESPONDENTS. : ORDER 0000 648

Division of Enforcement Case File Number 08 BAC 245

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

Regal Nails
955 North Mutual Way
Appleton, WI 54915

Viet N. Phan
2220 West Seneca Drive
Appleton, WI 54914

Ngoc Huong T. Nguyen
2220 West Seneca Drive
Appleton, WI 54914

Wisconsin Barbering and Cosmetology Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin 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 Wisconsin Barbering and Cosmetology Examining (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. Regal Nails is licensed in the state of Wisconsin as a Manicuring Establishment, license number 71-2916. This license was first granted to Regal Nails on 05/02/2006 and is current through 03/31/2011.
2. The most recent address for Regal Nails on file with the Wisconsin Department of Regulation and Licensing (Department) is 955 North Mutual Way, Appleton, WI 54915.
3. Viet N. Phan is licensed in the state of Wisconsin as a Manicurist, license number 85-6509. This license was first granted to Viet N. Phan on 08/24/2006 and is current through 03/31/2011. Viet N. Phan is a co-owner of Regal Nails.
4. Viet N. Phan's most recent address on file with the Department is 2220 West Seneca Drive, Appleton, WI 54914.
5. Ngoc Huong T. Nguyen is licensed in the state of Wisconsin as a Manicurist, license number 85-6452. This license was first granted to Ngoc Huong T. Nguyen on 06/15/2006 and is current through 03/31/2011. Ngoc Huong T. Nguyen is a co-owner of Regal Nails.
6. Ngoc Huong T. Nguyen's most recent address on file with the Department is 2220 West Seneca Drive, Appleton, WI 54914.
7. On or about September 4, 2008, the Department received a complaint alleging unlicensed manicuring activity at Regal Nails in Appleton, WI. A case was subsequently opened for investigation.
8. On November 5, 2009, a Department investigator performed an unannounced inspection at Regal Nails in Appleton, WI. The November 5, 2009 inspection of Regal Nails revealed the following:
 - a. There were at least three unlicensed individuals performing manicuring services; including Phuong T. Vu, Anh Vu Hoang Nguyen, and one unidentified woman; and
 - b. The drains and water jets for four pedicure bowls contained debris.
9. In resolution of this matter, Respondents Regal Nails, Viet N. Phan and Ngoc Huong T. Nguyen 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. Stat. § 454.15, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the violations described in paragraph 8 of the Findings of Fact, Respondents Regal Nails, Viet N. Phan and Ngoc Huong T. Nguyen have violated the following:

- a. Wis. Stat. § 454.04(1)(d) by permitting individuals to perform manicuring services without the required training and without current manicurist licenses.
- b. Wis. Admin. Code § BC 2.04(1) by permitting unlicensed individuals to perform manicuring services;
- c. Wis. Admin. Code § BC 4.01(1) by failing to maintain all areas of the establishment in a clean, sanitary and safe condition; and
- d. Wis. Admin. Code § BC 4.01(7) by failing to maintain equipment and instruments that are clean to sight and touch.

3. As a result of the violations noted in paragraph 2 of the Conclusions of Law, Respondents Regal Nails, Viet N. Phan and Ngoc Huong T. Nguyen are subject to discipline pursuant to Wis. Stat. § 454.15(2)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondents Regal Nails, Viet N. Phan and Ngoc Huong T. Nguyen are hereby **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. Within ninety (90) days from the date of this Order, Respondent Regal Nails shall pay a **FORFIETURE** in the amount of ONE THOUSAND ONE HUNDRED DOLLARS (\$1,100.00) and **COSTS** in the amount of TWO HUNDRED TWENTY-THREE DOLLARS (\$223.00) for a total of ONE THOUSAND THREE HUNDRED TWENTY-THREE DOLLARS (\$1,323.00).

3. Within ninety (90) days from the date of this Order, Respondent Viet N. Phan shall pay a **FORFIETURE** in the amount of ONE THOUSAND DOLLARS (\$1,000.00) and **COSTS** in the amount of TWO HUNDRED TWENTY-THREE DOLLARS (\$223.00) for a total of ONE THOUSAND TWO HUNDRED TWENTY-THREE DOLLARS (\$1,223.00).

4. Within ninety (90) days from the date of this Order, Respondent Ngoc Huong T. Nguyen shall pay a **FORFIETURE** in the amount of ONE THOUSAND DOLLARS (\$1,000.00) and **COSTS** in the amount of TWO HUNDRED TWENTY-THREE DOLLARS (\$223.00) for a total of ONE THOUSAND TWO HUNDRED TWENTY-THREE DOLLARS (\$1,223.00).

5. Payment of the costs and forfeitures shall be made by 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

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 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 that the Respondents fail to timely submit payment of the costs and forfeitures as ordered and as set forth above, the Respondents' licenses (numbers 71-2916, 85-6509 and 85-6452) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with payment of the costs and forfeitures.

7. This Order is effective on the date of its signing.

Dated this 31 day of January, 2011.

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Janice M. Boeck