

**STATE OF VERMONT  
SECRETARY OF STATE  
OFFICE OF PROFESSIONAL REGULATION  
BOARD OF BARBERS AND COSMETOLOGISTS**

**IN RE: Mike Nguyen** ) **Docket No: CO06-0908**  
**License No. 086-0000373** )  
**IN RE: Beautiful Nails Salon** ) **Docket No: CO07-0908**  
**License No. 012-0002334** )

**STIPULATION AND CONSENT ORDER**

**STIPULATION**

NOW COMES the State of Vermont, through State Prosecuting Attorney, Gregg Meyer, and Respondents Mike Nguyen and Beautiful Nails Salon, who stipulate and agree as follows:

**Board Authority**

1. The Vermont Board of Barbers and Cosmetologists has jurisdiction to investigate and adjudicate allegations of unprofessional conduct pursuant to 3 V.S.A. §129 and 129a; 26 V.S.A. Chapter 6; the Rules of the Board of Barbers and Cosmetologists ("RBBC"); and the Rules of the Office of Professional Regulation.

**Statement of Facts**

2. Respondents Mike Nguyen and Beautiful Nails Salon, are licensed in the State of Vermont as Estheticians and a nail salon under license numbers 0860000373 and 0120000334 respectively.
3. On September 8, 2008, Daniel Vincent, Inspector for the Office of Professional Regulation (hereinafter "Vincent"), conducted an inspection of the Beautiful Nails Salon (hereinafter "Salon") located in the Berlin Mall in Montpelier, Vermont. Ms. Jan Crossan (hereinafter "Crossman"), a licensed cosmetologist and member of the Cosmetology Board accompanied Vincent.
4. Vincent and Crossman were responding to a complaint to the Office of Professional Regulation (hereinafter "OPR") concerning the cleanliness and sanitation of the Salon.
5. The inspection began around 9:45 AM, when Mike Nguyen (hereinafter Nguyen") arrived at the Salon. Vincent and Crossman identified themselves to Nguyen and explained their purpose. There was one woman in the Salon for service who left after a few minutes. A second woman came in for services and remained during the inspection.
6. The Salon is laid out along the mall corridor. The shop is in an "L" shape, with the long leg of the "L" running along the mall walkway and the short leg turning

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inward. The nail stations are set across the front of the Salon (the long leg of the "L") with clients facing inward and the nail technician facing outward toward the mall walkway.

7. The pedicure / bath chairs are at the shorter leg of the "L" facing the nail stations. There are two closets on the inside long wall and a sink along the short wall near the pedicure chairs.
8. Vincent and Crossman's initial inspection started at the nails stations. There were four (4) stations in sequence. Each station has a faux stone black table surface and a hand rest. All of the work stations had residue on the surface of the table and the hand rest.
9. On the floor around each of the work stations was a variety of debris including band aide wrappers, backings, and tissues. There was also an open trash container which was full of similar trash.
10. At the end station (which Nguyen said was used for paperwork) was a food bowl with chop sticks and food residue in it and on the floor around it.
11. Vincent and Crossman did not see individual disinfectant units on any of the individual workstations. Vincent and Crossman also examined the pedicure / bath chairs and saw there was residue by the jets.
12. Between the chairs was a plastic set of drawers. The top of the drawer unit had a variety of containers which were stained, as was the pad the drawer unit was on. In the top drawer there was an open, substantially used jar of salt scrub with the top by it. No wooden spatulas were observed in the drawer and the salt scrub appeared crusty and unevenly colored. Additionally the two covered trash receptacles near the stations were observed as full and overflowing with trash along with a mop and bucket that was partly filled with dirty water and some type of cleaning solution, all within the salon area.
13. Vincent and Crossman asked Nguyen when the last time he cleaned the Salon. Nguyen said it was over a week ago. Nguyen further said he had been experiencing personal issues that prevented him from maintaining the Salon properly. At the time, Nguyen lived in Springfield, Vermont and was commuting to the Montpelier Salon at least six days a week. The Salon hours are 10:00 AM -9:00 PM. Nguyen does not employ any additional workers or manicurists at the Salon.
14. Nguyen informed Vincent and Crossman that he uses cutters, nippers, clippers. He further stated he scrubs the tools after use and puts them in a disinfectant solution. A glass receptacle containing a bluish fluid, about ¼ full was observed, presumably the disinfectant solution. Nguyen stated the fluid was the disinfectant solution.
15. Nguyen then explained he puts the tools into a drawer and when used again at the work station, he sprays them with a solution. Nguyen showed Vincent and Crossman the spray solution and also the sanitized storage area. The storage area was an open drawer which had contaminated items in it. The spray solution had shredded paper looking substance in it. The content may have been nail cleaner but it was not clear.

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16. The conversations with Nguyen were not always clear. Nguyen's English language skills were not always fluent. Vincent and Crossman asked for clarifications on several occasions. They also asked if Nguyen was clear about their questions and comments. When asking specific questions about procedural issues, Vincent and Crossman were not sure Nguyen thoroughly understood the questions and his answers were difficult to understand at times as well.

17. Vincent and Crossman found one unopened gallon container of Divina germicidal cleaner under a sink. Nguyen was asked if he had any other containers of germicidal cleaner in the Salon, either new, open, or empty, and Nguyen stated he did not. Vincent and Crossman also saw only one, partly filled soaking jar. They did not see any germicidal cleaner. They did not see any Material Data Safety sheets in the Salon as required by law. A re-inspection was conducted on the Salon and some but not all deficiencies noted above were corrected.

### Charges

18. The above acts, omissions and/or circumstances described above and detailed below, constitute unprofessional conduct in violation of:

i. 3 V.S.A. §129a(b)(2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice);

ii. 3 V.S.A. §129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);

iii. Cosmetology Rule 12.1 – Sanitation and safety standards (Licensees are responsible to assure that any shop . . . where manicure or pedicure (nail technician practice) is practiced is clean and sanitary at all times. Licensees must comply with all federal, state and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health.);

iv. Cosmetology Rules 12.2 (a), (b), (c), (e), (g) and (h) (All various sanitation related rules); and Rule 12.3 (Additional sanitation related standards).

### Understandings

19. The parties understand that the terms of this Stipulation and Consent Order are contingent upon review and acceptance by the Board and that if the Board rejects any portion the entire Stipulation and Consent Order shall be null and void.

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21. This Stipulation and Consent Order is entered into voluntarily by Respondents after the opportunity to consult with legal counsel. Respondents have not been coerced by anyone into signing this Stipulation and Consent Order.
22. Respondents voluntarily waive their right to a contested hearing before the Board and waive any right to appeal from this Stipulation and Consent Order.
23. Respondents agree that the State has sufficient evidence for the Board to find that Respondents have engaged in unprofessional conduct and that the Order set forth below may be entered by the Board.

WHEREFORE, the parties agree that the following constitutes a reasonable resolution given the above violations:

### CONSENT ORDER

Based upon the above stipulation, it is **ORDERED** and **ADJUDGED** as follows:

- A. The Board of Barbers and Cosmetologists hereby **WARNS** Respondents' licenses;
- B. Respondent Nguyen shall take a course in salon sanitation practices within 30 days of the date of this order and report back to the Board that he satisfactorily completed said course, as well as be personally responsible for any and all costs for the course;
- C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- D. This Stipulation and Consent Order will remain part of the Respondents' licensing files and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

STATE OF VERMONT  
SECRETARY OF STATE

Dated: 2/5/09

By:   
Gregg Meyer  
State Prosecuting Attorney

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Mike Nguyen  
RESPONDENT

Dated: 1-28-9  
Mike Nguyen

By: MIKE - NGUYEN  
[Signature]

Beautiful Nails  
RESPONDENT

Dated: 1-28-9

By: MIKE - NGUYEN  
[Signature]  
Mike Nguyen, Designated Agent

APPROVED AND SO ORDERED: VERMONT BOARD OF BARBERS  
AND COSMETOLOGISTS

Dated: 3/16/2009 By: [Signature]  
Chairperson  
Date of Entry: 3/17/09

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