

S. Bure

**STATE OF VERMONT
BOARD OF BARBERS AND COSMETOLOGISTS**

IN RE:)	
STEPHEN LE)	
Lic. No. 086-0000087)	Docket No: CO 19-0302
&)	
GOLDEN NAILS)	
Lic. No. 012-0001991)	

IN RE:)	
VICKIE L. LE)	
Lic. No. 086-00000117)	Docket No: CO 22-0502
&)	
GOLDEN NAILS)	
Lic. No. 012-0001991)	

STIPULATION AND CONSENT ORDER

The Respondents, Stephen Le and Vicki Le, and Respondent shop, Golden Nails, and the State of Vermont, by its Attorney General, William H. Sorrell, stipulate to the statements of Board Authority, Facts and Understandings set forth below and agree to the entry of the following Consent Order by the Vermont State Board of Barbers and Cosmetologists as a final order in this matter.

Board Authority

- 1) The Vermont Board of Barbers and Cosmetologists has jurisdiction to investigate and adjudicate allegations of unprofessional conduct by manicurists and to approve consent orders entered by the parties pursuant to 3 V.S.A. §129; 26 V.S.A. §276; and the Board of Barbers and Cosmetologists Rules (hereinafter "Rules").
- 2) Failing to comply with provisions of federal or state statutes or rules governing the practice

- of the profession is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. §129a(a)(3).
- 3) Practicing or offering to practice beyond the scope permitted by law is unprofessional conduct upon which the Board may take disciplinary action. 26 V.S.A. §288(1).
 - 4) Failing to adequately supervise employees engaged in any of the practices of cosmetology is unprofessional conduct upon which the Board may take disciplinary action. 26 V.S.A. §288(2).
 - 5) Delegating professional responsibilities to a person the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credentials to perform them is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. § 129a(a)(6).
 - 6) Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. § 129a(a)(3).
 - 7) In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. § 129a(a)(10).

Facts

7. Respondent, Stephen Le, is licensed as a manicurist by the State of Vermont holding license number 086-0000087. Respondent Le was originally licensed on December 31,

of the profession is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. §129a(a)(3).

- 3) Practicing or offering to practice beyond the scope permitted by law is unprofessional conduct upon which the Board may take disciplinary action. 26 V.S.A. §288(1).
- 4) Failing to adequately supervise employees engaged in any of the practices of cosmetology is unprofessional conduct upon which the Board may take disciplinary action. 26 V.S.A. §288(2).
- 5) Delegating professional responsibilities to a person the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credentials to perform them is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. § 129a(a)(6).

6) Failing to comply with provisions of federal law...

- 1996 and Respondent's license is set to expire on November 30, 2003.
8. Respondent, Golden Nails, is licensed as a shop and holds license number 012-0001991.
Respondent, Golden Nails, was originally licensed on July 14, 1998 and Respondent shop license is set to expire on November 30, 2003.
 9. Respondent, Le, is one of the owners of the Respondent shop, Golden Nails located at the University Mall, South Burlington, Vermont.
 10. Respondent Le, as an owner and operator of the salon/shop, is responsible for the salon/shop.
 11. Respondent, Vickie L. Le, is licensed as a manicurist by the State of Vermont holding license number 086-0000117. Respondent Le was originally licensed on March 30, 1998 and Respondent's license is set to expire on November 30, 2003.
 12. Respondent, Golden Nails, is licensed as a shop and holds license number 012-0001991.
Respondent, Golden Nails, was originally licensed on September 4, 2001 and Respondent shop license is set to expire on November 30, 2003.
 13. Respondent, Le, is one of the owners of the Respondent shop, Golden Nails located at the University Mall, South Burlington, Vermont.
 14. Respondent Le, as an owner and operator of the salon/shop, is responsible for the salon/shop.
 15. On or about March 26, 2002, the Vermont State Board of Barbers and Cosmetologists ["the Board"] performed a random inspection of the Respondent shop, Golden Nails.
 16. By way of history, Respondent Vicki Le's and Respondent Stephen Le's licenses were summarily suspended by the Board on June 17, 2002.

Unlicensed Employees

17. Paragraphs 1-16 are incorporated.
18. The random inspection allegedly discovered numerous unlicensed employees performing manicuring services.
19. Investigation allegedly revealed that one of the unlicensed employees had recently performed a manicuring apprenticeship under the prior owner and should not have been working until he/she passed the examination.
20. Investigation allegedly revealed that one of the unlicensed employees had completed his/her manicuring apprenticeship under a different salon and should not have been working until he/she passed the examination.
21. Respondent Le allegedly admitted allowing the unlicensed employees to work and furthermore stated that the employees were apprenticeship students.
22. Neither Respondent Le nor Respondent Golden Nails allegedly filed the proper document(s) for apprenticeship(s).
23. Several unlicensed employees were allegedly observed subsequent to the random inspection, around June 2002, performing manicuring services.

Unsanitary Salon/Shop

24. Paragraphs 1-16 are incorporated.
25. The March 2002 inspection additionally allegedly found the following unsanitary conditions existed at the Respondent salon/shop:
 - 1 money was commingled with utensils that are required to be separated and sterilized;
 - 2 the floor surface was not washable as required per the rules; and
 - 3 there were no disinfectants being utilized for the utensils.
26. Respondents allegedly failed the inspection as a result of the above.

Charges

1. Practicing or offering to practice beyond the scope permitted by law is unprofessional conduct upon which the Board may take disciplinary action. 26 V.S.A. §288(1).
2. Failing to adequately supervise employees engaged in any of the practices of cosmetology is unprofessional conduct upon which the Board may take disciplinary action. 26 V.S.A. §288(2).
3. Delegating professional responsibilities to a person the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credentials to perform them is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. § 129a(a)(6).
4. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. § 129a(a)(3). Specifically, operating an unsanitary shop in violation of Rules 6.1 through 6.3 and failing to have a designated licensee on the premises whom is responsible for overall cleanliness and sanitation of the shop.
5. In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred is unprofessional conduct upon which the Board may take disciplinary action. 3 V.S.A. § 129a(a)(10).

Understandings

6. The Respondents understand that the Board of Barbers and Cosmetologists must review

- and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.
7. The Respondents have read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
 8. The Respondents are not under the influence of any drugs or alcohol at the time this document is being signed.
 9. The Respondents agree that they have had sufficient opportunity to consult with legal counsel before signing this document.
 10. The Respondents agree to settle the charge against them on the terms set forth in this order and are voluntarily waiving their right to a contested hearing before the Board of Barbers and Cosmetologists.
 11. Respondents specifically waive any claims that any disclosures made to the full Board during its review of this agreement have prejudiced their rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
 12. The Respondents agree that the Order set forth immediately below may be entered by the Board of Barbers and Cosmetologists.
 13. Respondents do not admit nor deny the 'facts' above, however Respondents admit that should the matter proceed to an evidentiary hearing, there is sufficient evidence for the Board to find by a preponderance of the evidence that the 'facts' alleged did occur.

Consent Order

14. Based on the above stipulations, it is **ADJUDGED** as follows:
 - (1) The "Facts" listed above are not contested by Respondents and therefore taken as 'true' by this Board for purpose of resolving the matter, and

(2) The Respondents have engaged in unprofessional conduct in that the Respondents have:

- (1) Practiced or offered to practice beyond the scope permitted by law in violation of 26 V.S.A. §288(1);
- (2) Failed to adequately supervise employees engaged in any of the practices of cosmetology in violation of 26 V.S.A. §288(2);
- (3) Delegated professional responsibilities to a person the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credentials to perform them in violation of 3 V.S.A. § 129a(a)(6).
- (4) In the course of practice, shown a gross failure to use and exercise on a particular occasion or shown a failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred in violation of 3 V.S.A. § 129a(a)(10).

15. Based on the above stipulation and on the above Findings and Conclusions of this Board, it is **ORDERED** as follows:

Respondent's Shop License

16. The Board hereby **REVOKES RESPONDENT'S SHOP LICENSE.**

Respondents' Licenses

- (1) The Board hereby **SUSPENDS RESPONDENTS' LICENSES**, commencing on the date of entry of this Order, until each **Respondent successfully complete a**

course, approved by the Board in advance, concentrating on sterilization and sanitation.

(2) Each Respondent's license is additionally **CONDITIONED FOR A MINIMUM PERIOD OF ONE (1) YEAR** as follows:

1) Respondent shall notify the Board within five (5) days of a change in employment; and

2) Respondent shall not petition the Board for a minimum period of one (1) year from the date of entry of this Order regarding:

(1) Respondents' requests to be a supervisor for an apprenticeship pursuant to Board Rule 3.8-3.9; and

(2) Respondents' requests to be a designated licensee pursuant to Board Rule 3.12(B)(1).

17. Notwithstanding any provision above, Respondent's must meet all Board of Barbers and Cosmetologists requirements for license renewal and license reinstatement.

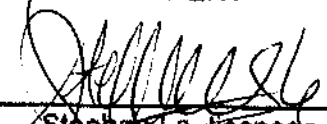
18. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

19. This Stipulation and Consent Order will remain part of the Respondents' licensing files and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

**BY: STEPHEN LE
RESPONDENT**

Date: Aug 15/02



Stephen Le, licensee

BY: VICKI LE

Date: 08/15/02

RESPONDENT

[Signature]
Vicki Le, licensee

BY: STEPHEN LE
RESPONDENT

Date: 08/15/02

[Signature]
Stephen Le, Shop Owner

BY: VICKI LE
RESPONDENT

Date: 08/15/02

[Signature]
Vicki Le, Designated Licensee

Approved to form:

[Signature]
Mary Kirkpatrick Esq.
Respondent's Attorney

AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: 9/5/02

[Signature]
George C. Haegle IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

Date: 9-16-02

Dated entered: 9/17/02

**BOARD OF BARBERS AND
COSMETOLOGISTS**

Maddeline Bay
Chairperson