

**STATE OF NEW HAMPSHIRE  
BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS  
CONCORD, NH 03301**

In the Matter of:  
**Envy Nails & Spa,  
Shop Lic. #4031**

Docket No.: 24-BAR-004

**Mai T. Phan, Manager  
License #31228**

**Steven Duong, Owner  
Unlicensed**

**SETTLEMENT AGREEMENT**

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of Barbering, Cosmetology, and Esthetics, the New Hampshire Board of Barbering, Cosmetology, and Esthetics (“Board”) and Envy Nails & Spa (“Shop”), a shop currently licensed by the Board, Mai T. Phan (“Manager”) a licensed manicurists/cosmetologist, and Steven Duong (“Licensee”), owner of shop, (together as “Respondents”) do hereby stipulate and agree to resolve certain allegations of violations of rules and laws regulating the profession now pending before the Board according to the following terms and conditions:

1. Pursuant to NH RSA 310:10, NH RSA 313-A:21, and N.H. Code Admin. R Bar (“Bar”) 404.01, Board inspectors have jurisdiction to conduct inspections of shops and schools.
2. Pursuant to NH RSA 310:12, NH RSA 313-A, and Bar 404.04, the Board has the authority to issue administrative fines for violations of statutes.
3. Pursuant to RSA 310:10, VIII. (a), and Bar 217.02, the Board may, at any time, dispose of such allegations by settlement, and without commencing a disciplinary hearing.

4. The Manager's active manicurist license #31228 expires on 10/31/2024.
5. The Board granted Shop at 221 N. Broadway #3, Salem, NH 03079. Licensee is the owner of record of Shop.
6. On 09/15/2023, Board inspectors conducted a routine inspection of Respondents which resulted in alleged violations totaling 3,572 points. In response the Board issued a Notice of Adjudicative Hearing.
7. Respondents stipulate to the following facts:
  - A. At all times relevant, Respondents were active licensees of the Board.
  - B. Respondents passed inspections on 12/24/2019 and 06/28/2019. Respondents were fined for an inspection on 06/05/2018.
  - C. On 08/23/2023, a Board inspector conducted a routine inspection of Shop at 221 N. Broadway #3, Salem, NH 03079.
  - D. As a result of the inspection, the inspector found multiple violations totaling 3,572 points of which:
    - i. One thousand and thirty-two (1,032) points were related to health and sanitation including foot spa agitators (3) improperly cleaned, disinfected and/or stored; failure to maintain a spa cleaning records, improperly cleaned and stored re-useable implements and appliances; failure to properly store and/or dispose of used single use implements; and lacked an installed eyewash station;
    - ii. Five hundred twenty-five (525) points were related to licenses and certifications including: one individual working without a New Hampshire license and failure to display a report as required and unobstructed; and,

- iii. Two thousand (2,000) points were related to other violations, namely, having multiple (five (5)) bladed implements available for use in the facility.
8. The Board finds that Respondent committed the acts described above and concludes that, by engaging in such conduct, Respondent violated NH RSA 313-A:22, II(d) and (i) (*see* RSA 313-A:9, Rule Bar 302.05 (p), (t), (u), (q), (aj); 302.07(c)(2), (c)(5), (g)(4); 404.01(n); 404.09(1)).
9. Respondents acknowledge that the allegations and facts set forth above constitutes grounds for the Board to impose disciplinary sanctions against their license to operate as a cosmetology shop in the State of New Hampshire.
10. WHEREFORE, Respondents consent to the Board imposing the following discipline, pursuant to RSA 313-A:22, III.
- A. Respondents are **REPRIMANDED**.
  - B. Respondents are subject to **PROBATION** for a period of two (2) years commencing on the effective date (“Effective Date”) of this settlement agreement as further defined below. Probation terms are as follows:
    - 1. Any inspection during the probationary period resulting in over one hundred (100) points for violation(s) of the Board’s rules relating to sanitation, hygiene, safety, and/or unlicensed practice specifically, Shop Inspection Report Rev. 2301 sections (1) – (20); (25) and (42), shall be a violation of probation;
    - 2. If OPLC Enforcement receives notice of a violation of probation, OPLC Enforcement may request that the Board impose any suspended disciplinary

sanction(s) after a hearing. A violation of probation shall also constitute misconduct pursuant to RSA 313-A:22 and may form the basis for additional disciplinary sanctions after appropriate notice and opportunity for a hearing pursuant to RSA 313-A:23, RSA 541-A:30, and/or Bar 201;

3. The Board reserves the right to order an immediate emergency suspension pending an adjudicative proceeding pursuant to RSA 541-A:30; and,
4. The Board is putting the Respondents on notice that it may enforce this order specifically using unannounced inspections.
5. Within sixty (60) days of the effective date, Licensee's shop owner and shop manager shall participate in ten (10) hours of program(s) of **CONTINUING EDUCATION** in the areas of sanitation, sterilization, disinfection, and infection control. The Respondent shall, within 10 days of completion, provide the Board with certificate(s) of completion. **Whether any program(s) meets the requirements of this section shall be determined by the Board. Therefore, the Licensee is strongly encouraged to seek the Board's pre-approval of program(s) before taking them.** The Board has authorized the Board Chair to pre-approve courses on its behalf, so that the licensee does not have to wait until a meeting to learn whether coursework he and/or the manager wish to take is acceptable. The Licensee can submit information about proposed programs to the Board's Administrator, who shall present the same to the Board Chair for determination.
6. Upon completion of the program of continuing education and within 10 days of said completion, Respondents must request in writing via mail or email a

**FOLLOW-UP INSPECTION** appointment with a Board's Chief Inspector Sandra Hodgdon <sandra.l.hodgdon@oplc.nh.gov>. Terms of follow-up inspection are as follows:

- i. Respondents must pass a follow-up inspection.
  - ii. If follow-up inspection is failed, Respondents must remedy the violations and upon remedy immediately request in writing via mail or email an appointment with a Board inspector for an additional follow-up inspection.
  - iii. Failure to pass the additional follow-up inspection shall be a violation of probation and constitute misconduct pursuant to RSA 313-A:22 and may form the basis for additional disciplinary sanctions after appropriate notice and opportunity for a hearing pursuant to RSA 313-A:23, RSA 541-A:30, and/or Bar 201 which may include up to and including emergency license suspension.
  - iv. Respondents must immediately display, in full view of the public, a full and complete copy of this *Settlement Agreement* near or adjacent to the shop license and past inspection forms and continue to display a copy until the conclusion of the period of probation.
- C. Respondents are assessed an **ADMINISTRATIVE FINE** in the amount of three thousand five hundred and seventy-two dollars (\$3,572.00) where all but **one thousand six hundred and ninety-seven dollars (\$1,697.00)** is stayed during the period of probation then terminates upon conclusion of probation. The stayed fine

of one thousand six hundred (\$1,875.00) dollars represents violation points for four of the five counts of bladed implements, display of past inspection report, and lacking an eyewash station. Respondent shall pay **\$1,697.00** administrative fine in full within forty-five (45) days of the effective date of this *Settlement Agreement* by delivering a money order or bank check, made payable to “Treasurer, State of New Hampshire,” to the Board’s office at 7 Eagle Square, Concord, New Hampshire, 03301. **No separate invoice shall issue.** Payment shall include a copy of this Settlement Agreement or a note including the docket number and indicating the payment is made in compliance with a settlement agreement with the Board.

11. Respondents, specifically the shop owner, shall bear all costs required by this *Settlement Agreement* and shall be responsible for ensuring all payments are made, but Respondents shall be permitted to share such costs with third parties.
12. Respondents’ breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 313-A:22, and a separate and sufficient basis for further disciplinary action by the Board.
13. The Board may consider Respondents’ compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondents’ licenses.
14. The Board agrees that in return for Respondents executing this *Settlement Agreement* the Board will not proceed with the formal adjudicatory process based upon the facts described herein. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as

a factor in determining appropriate discipline should any further misconduct be proven against Respondents in the future.

15. This *Settlement Agreement* shall become a permanent part of Respondents' file, which is maintained by the Board as a public document.
16. Respondents voluntarily enter and sign this *Settlement Agreement* and states that no promises or representations have been made other than those terms and conditions expressly stated herein.
17. Respondents understand that Respondents' action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration, judicial review, or appeal.
18. Respondent agrees to support the adoption of this agreement by the Board.
19. Respondent understands that this agreement is an adverse action against Respondent's license and will be reported to all relevant jurisdictions.
20. Respondents have had the opportunity to seek and obtain the advice of an attorney of Respondents' choosing in connection with the decision to enter into this *Settlement Agreement*.
21. Respondents are not under the influence of any drugs or alcohol and are otherwise of sound mind at the time of signing this *Settlement Agreement*.
22. Respondents understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondents specifically waives any claims that any disclosures made to, or by, the Board surrounding its review of this *Settlement Agreement* have prejudiced Respondents' right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.

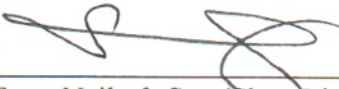
23. Respondents certify that he/she has read this document titled *Settlement Agreement*. Respondents understands that he/she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he/she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his/her own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondents fully understand the nature, qualities and dimensions of these rights. Respondents understand that by signing this *Settlement Agreement*, he/she waives these rights as they pertain to the misconduct described herein.
24. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board and shall become final after 30 days pursuant to Plc 205.04.

[Signatures on next page.]



**FOR RESPONDENT**

Date: 3/18/24

  
\_\_\_\_\_  
Envy Nails & Spa (Shop Lic. #4031)  
Steven Duong (Owner)  
Respondent

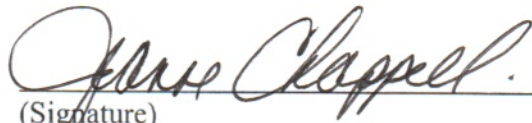
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Mai T. Phan (Manager)  
License #31228

**FOR THE BOARD/\***

Accepted by the Board of Barbering Cosmetology and Esthetics on this 15 day of April, 2024 ("Effective Date").

Date: 4.15.24

  
\_\_\_\_\_  
(Signature)

Jeanne Chappel  
\_\_\_\_\_  
(Print or Type Name)  
Authorized Representative of the  
New Hampshire Board of Barbering,  
Cosmetology, and Esthetics

/\*Board members recused: