

**State of New Hampshire
Board of Barbering, Cosmetology, and Esthetics
Concord, New Hampshire 03301**

In the matter of:
Glossy Nails
Lic. #4440 – Shop

DOCKET #22-BAR-040

Cuong Trinh, Owner
Lic. #22503 – Cosmetologist

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 Glossy Nails (“Shop”), a cosmetology shop currently licensed by the Board, and Chi Giech (“Licensee”), a manicurist currently licensed by the Board, (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. The parties stipulate that Board inspectors have jurisdiction to conduct inspections of shops and schools pursuant to NH RSA 313-A: 21 and N.H. Code Admin. R Bar (“Bar”) 404.01.
2. The parties further stipulate the Board has the authority to issue administrative fines for violations of statutes pursuant to NH RSA 313-A and Bar 404.04.
3. Pursuant to RSA 310-A:1-k, III, RSA 541-A, V, and Bar 217.02, the Board may, at any time, dispose of such allegations by settlement.
4. The Board first granted Licensee’s cosmetology license #22503 on 12/11/2014. That license expires on 1/31/2024.

5. The Shop is located at 655 So. Willow Street, Unit #118, Manchester, NH. The Board first granted Shop license #4440 on 10/13/2015. That license expired on 1/31/2023.
6. On 08/25/2021, Board inspectors conducted a routine inspection of the Shop, which resulted in alleged health, sanitation, and licensure violations totaling one hundred sixty-one thousand, eight hundred twenty-five (161,825) points. The Board thereafter initiated the present adjudicative proceeding.
7. Respondents stipulate that Hearing Counsel could prove that Respondents violated RSA 313-A:22, II(c), (d), and (i) (*see* Bar 404.01(c) and (n), 404.09, 302.05, 302.07, RSA 313-A:17 and/or RSA 313-A:19) by the following facts:
 - A. On 08/25/2021, Board inspectors conducted a follow-up inspection of Respondents.
 - B. As a result of the 08/25/2021 inspection, the inspector found multiple violations totaling 161,825 points of which:
 - i. All 21 spa agitators had biofilm and debris
 - ii. All 21 spas had incomplete records of cleaning and disinfecting
 - iii. The shop contained an improper nail drill and improper nail drill certification
 - iv. A non-certified worker was engaging in unauthorized use of an electric nail drill,
 - v. The shop had no safety data sheets,
 - vi. Worker licenses were improperly displayed,
 - vii. 1 worker had no photograph on their license;

- viii. Worker Be T Pham was working with an expired license (expired 6/30/21),
 - ix. Worker Thanh Tu Nguyen was working with an expired license (expired 1/31/21), and,
 - x. Worker Andy Nguyen was working with an expired license (expired 7/31/21).
8. Respondents acknowledge that their conduct constitutes grounds for the Board to impose disciplinary sanctions against their license to operate as a shop and cosmetologist in the State of New Hampshire.
9. Respondents consent to the Board imposing the following discipline, pursuant to RSA 313-A:22, III and RSA 310-A:1-m:
- A. Respondents are **REPRIMANDED**.
 - B. Respondents are subject to **PROBATION** for one year commencing on the effective date of this *Settlement Agreement* and ending one (1) year from the date of successfully passing reinspection by the Board inspector. Any violation of the Board's rules relating to sanitation and hygiene over 100 points within the probationary period shall constitute misconduct pursuant to RSA 313-A:22, and a separate and sufficient basis for further disciplinary action by the Board against the Respondent including an order of immediate suspension of license. The Board is putting the Respondents on notice that it may enforce this order specifically using unannounced inspections. The Respondents agree to the following probation terms and conditions:
 - i. Shop owner shall participate in 10 hours of program(s) of **CONTINUING EDUCATION** in the areas of sanitation and disinfection control within

thirty (30) days of the signed date of this order. To document successful completion of the program(s), the Licensee shall provide the Board with written documentary proof issued/authored by the program offering the course(s). **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.

- ii. 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;
- iii. Within 30 days of the effective date of this *Settlement Agreement*, Respondents must bring their shop into compliance with all Board statutes and rules;
- iv. Within 30 days of the effective date of this *Settlement Agreement*, Respondents must request in writing via mail or email a reinspection appointment with a Board inspector;

- v. Respondents must **PASS A REINSPECTION**;
 - vi. If reinspection 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 reinspection;
 - vii. Additional violations found at a failed reinspection 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.
- C. The Shop is assessed an **ADMINISTRATIVE FINE** in the amount of four thousand six hundred and seventy-five dollars (\$4,675.00), representing \$3,175 in fines for 3,175 points of health, sanitation, and licensure violations plus three separate and aggregated \$500 fines for each individual working with an expired license. Respondent shall pay this fine in full within forty-five (45) days of the effective date of this *Settlement Agreement*, as defined further below, 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* and/or the following note with the check or money order: **Enclosed please find a check in the amount of (\$4,675.00) for the administrative fine assessed by the Board of Barbering, Cosmetology, and Esthetics ("Board") in resolution of In the Matter of Glossy Nails, Docket No. 22-BAR-040 as agreed to with the Board.**

- D. Licensee Cuong Trinh is assessed the reasonable **COST OF INVESTIGATION AND PROSECUTION** in the amount of two hundred and fifty dollars (\$250.00). Respondent shall pay this fine in full within forty-five (45) days of the effective date of this *Settlement Agreement*, as defined further below, 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* and/or the following note with the check or money order: **Enclosed please find a check in the amount of \$250.00 for the cost of investigation and prosecution assessed by the Board of Barbering, Cosmetology, and Esthetics ("Board") in resolution of In the Matter of Glossy Nails, Docket No. 22-BAR-040 as agreed to with the Board.**
10. 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.
 11. 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.
 12. The Board may consider Respondents' compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondents' licenses
 13. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above.

However, 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.

14. This *Settlement Agreement* shall become a permanent part of Respondents' file, which is maintained by the Board as a public document.
15. Respondents voluntarily enter and sign this *Settlement Agreement* and state that no promises or representations have been made other than those terms and conditions expressly stated herein.
16. 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.
17. Respondents understand that Respondents' action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
18. 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 agreement.
19. Respondents agree to support and defend the adoption of this *Settlement Agreement* before the Board.
20. Respondents understand 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 waive any claims that any disclosures made to, or by, the Board surrounding its review of this *Settlement Agreement* have

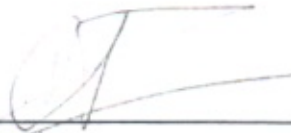
prejudiced Respondents' right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.

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 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.
23. 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. This date shall be the effective date of the *Settlement Agreement*.

[Signatures on next page.]

FOR RESPONDENT

Date: 2/21/23

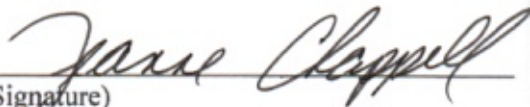


(Owner)
Cuong Trinh, Owner
Glossy Nails
Respondents

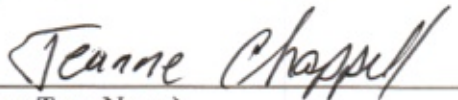
FOR THE BOARD/*

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 3.13.23



(Signature)



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

/*Board members, recused: