

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

In the Matter of:
Emily Le
Shop License No. 3134
Personal License No. 22316
(Misconduct Allegations)

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 & Esthetics ("Board") and Emily Le ("Respondent"), a licensee of the Board, do hereby stipulate and agree to the following terms and conditions regarding Respondent's shop and personal license:

1. Pursuant to RSA 313-A:22, RSA 541-A and Board of Barbering, Cosmetology & Esthetics Administrative Rule ("Bar") 206.01 et seq., the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by the Board's licensees. Pursuant to RSA 313-A:8, and Bar 217.02(c) the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. Respondent holds shop license number 3134 and personal license number 22316.
3. Respondent neither admits nor denies the allegations herein, but stipulates that if a disciplinary hearing were to take place, the Board could make the following factual findings to support the conclusion that Respondent engaged in professional misconduct as defined by RSA 313-A, by the following facts:
 - A. Respondent is the owner of A+ Princess Nails.
 - B. On or about January 29, 2013, complainant Kathleen Dutcher went to A+ Princess Nails shop to have her eyebrows waxed and acrylic nails applied.
 - C. Ms. Dutcher paid \$40 for this service.
 - D. While at the shop, Ms. Dutcher was concerned because the woman who provided services did not wash her hands. Ms. Dutcher was also concerned that it appeared another client prior to her had used the waxing bed.
 - E. When leaving the shop, Ms. Dutcher noticed some redness but expected that as a result of having her eyebrows waxed.
 - F. Later that night, Ms. Dutcher had a significant increase in redness around her eyes and eyebrows.
 - G. On January 30, 2013, Ms. Dutcher sought medical treatment from Sandra Bell, APRN for the itching and rash around her eyebrows.

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- H. APRN Bell reported that “this is likely staph infection”.
 - I. Ms. Bell prescribed keflex for treatment as well as Benadryl as need for the itch.
 - J. Since receiving her shop license on or about November 23, 2012, Respondent has been fined several times for violations of RSA 313-A.
 - K. The Board has received several complaints about A+ Princess Nails.
 - L. The first complaint from a customer alleged that there were unlicensed people working at A+ Princess Nails.
 - M. On or about May 6, 2011, Peggy Gnomes, inspector for the Board, went to A+ Princess Nails and found three (3) unlicensed people working and fined Respondent \$1500.
 - N. On or about August 4, 2011, the Board received a complaint about unsanitary conditions at A+ Princess Nails.
 - O. Based on the August 4, 2011 complaint, Inspector George Cacavas went to A+ Princess Nails and found several sanitation violations and imposed a fine of \$234.
 - P. On or about August 22, 2011, the Board received a complaint alleging that a customer’s husband saw cockroaches at A+ Princess Nails.
 - Q. On or about August 30, 2011, Inspector Cacavas conducted an inspection and found several cockroaches, which resulted in a fine of \$250.
 - R. On January 31, 2013, Beulah Stockman, inspector for the Board, and Kathryn Wantuck Executive Director for the Board, performed an inspection of A+ Princess Nails and found several sanitation violations including but not limited to the following:
 - Unclean foot spas;
 - Lack of cleaning and disinfection records for foot spas;
 - Unsanitized tables and pedicure areas;
 - Unsanitized implements and appliances that were not stored properly;
 - Implements that cannot be sanitized were not stored in a closed container;
 - Two apprentices were working who were not registered with the Board; and
 - Three (3) gallons of MethylMethacrylate (“MMA”).
 - S. Respondent was fined \$3,317 for the violations found on January 31, 2013.
4. Respondent consents to the Board imposing the following discipline, pursuant to RSA RSA 313-A:22, III:
- A. Respondent’s licenses are subject to a period of PROBATION for one (1) year.

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- B. Within ninety (90) days of the effective date of this agreement, Respondent will enroll in a sanitation course that has been pre-approved by the Board and will notify the Board of her successful completion of the course. The Board will consider the course successfully completed if Respondent passes the course with a grade of at least 75%. The Executive Director will work with Respondent to find an approved course.
 - C. Respondent agrees she will stay in compliance with all the rules of the Board related to, *inter alia*, sanitation, licensed workers, and the prohibition against using MethylMethacrylate.
 - D. Respondent agrees that she will educate her employees on proper sanitation practices.
 - E. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 313-A:22, II(c), and a separate and sufficient basis for further disciplinary action by the Board.
 - F. The Board will reduce the fees for the violations found at the January 31, 2013 to \$1000, all of which will be suspended pending the successful completion of the probationary period.
 - G. During the probation period, Respondent agrees that violations for unsanitary conditions, having unlicensed workers and/or having MethylMethacrylate on the premises may result in a 15-day suspension of her shop and/or personal license. Respondent shall have the opportunity to challenge the violation findings at a hearing prior to the suspension being imposed.
- 5. 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 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 Respondent in the future.
 - 6. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
 - 7. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.
 - 8. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
 - 9. Respondent understands that her action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.

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10. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her decision to enter into this agreement.
11. Respondent 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. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced her right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
12. Respondent is not under the influence of any drugs or alcohol at the time she signs this *Settlement Agreement*.
13. Respondent certifies that she has read this document titled *Settlement Agreement*. Respondent understands that she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, she waives these rights as they pertain to the misconduct described herein.
14. 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.

FOR RESPONDENT

Date: 3-5-2013-

Emily Le
Emily Le
Respondent

Date: March 5, 2013

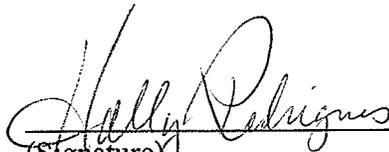
[Signature]
Counsel for Emily Le

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FOR THE BOARD

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

Date: 3/11/13


(Signature)

Holly Rodrigues
(Print of Type Name)
Authorized Representative of the
New Hampshire Board of Barbering,
Cosmetology & Esthetics