

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

In the Matter of:
Paull Nails
Shop Lic. #4300

Docket No.: 22-BAR-0033

Be Thi Nguyen, Owner
Manicurist Lic. #29285

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 Paull Nails, a nail salon currently licensed by the Board, and Be Thi Nguyen, 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 Be Thi Nguyen a manicurist license #29285 on October 6, 2015. Nguyen’s manicurist license expires on August 31, 2023.

5. The Board first granted Paull Nails at 31 South Main Street, Concord, NH shop license #4300 on or about August 27, 2018.
6. On or about September 21, 2022, a Board inspector conducted a routine inspection of Respondents which resulted in alleged violations totaling 4,695 points. In response the Board issued a Notice of Adjudicative Hearing.
7. Respondents stipulate that if the above referenced adjudicative hearing were to take place, Hearing Counsel could prove that Respondents violated RSA 313-A:22, II(c), (d), and (g) by the following facts:
 - A. On September 21, 2022, a Board inspector conducted a routine inspection of Respondents.
 - B. As a result of the inspection, the inspector found multiple violations totaling 4,695 points of which:
 - i. 1,395 points were related to health and sanitation including improperly disinfected tables and pedicure areas, improperly cleaned and store re-useable implements and appliances, improperly disposed of and/or storage of single use implements, and lack of required safety data sheets;
 - ii. 50 points were related to licenses and certifications where one licensed individual had no photo as required and the licenses were not displayed as required;
 - iii. 450 points were related to failing to maintain a current apprentice attendance and test record with the board for Ngi Thi Tran, License #28363 for a period of 2 months, Thi Nguyen License #38414 for a period of 3 months, and Thu Phan License #38371 for a period of 4 months; and,

- iv. 2,800 points were related to other violations, namely, possessing multiple bladed implements.
8. Respondents acknowledge that their conduct constitutes grounds for the Board to impose disciplinary sanctions against their license to operate as a nail salon and manicurist in the State of New Hampshire.
9. 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 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 only to sanitation and hygiene over 100 points within the probationary period may 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. Respondent shall be entitled to a hearing before the Board prior to any disciplinary action. 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. Licensee's shop owner *and* manager, to *each* 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 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. Respondents are assessed an **ADMINISTRATIVE FINE** in the amount of four thousand six hundred ninety-five dollars (\$4,695.00). 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 \$4,695.00 for the administrative fine assessed by the Board of Barbering, Cosmetology, and Esthetics (“Board”) in resolution of In the Matter of Paull Nails as agreed to with the Board.**
- D. Respondents are assessed 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 Paull Nail 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 Respondent’s 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 states 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 has 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 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 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.
20. 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*.
21. 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.

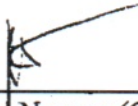
Respondents understand that by signing this *Settlement Agreement*, he/she waives these rights as they pertain to the misconduct described herein.

22. 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.

[Signatures on next page.]

FOR RESPONDENT

Date: May 23, 2023

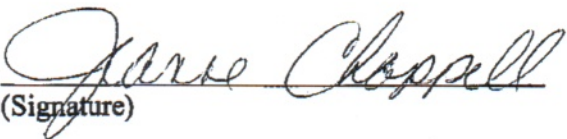


Be Thi Nguyen (Owner)
Paull Nails
Respondent

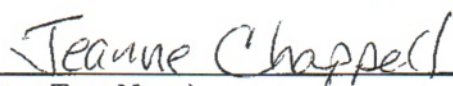
FOR THE BOARD/*

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

Date: 5.23.2023



(Signature)



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

/*Board members, recused: