BEFORE THE MISSOURI STATE BOARD
OF COSMETOLOGY AND BARBER EXAMINERS

In the Matter of the Application of	)
	)
KIEP NGUYEN	)
	)
Applicant.	)

ORDER OF THE MISSOURI STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS ISSUING A PROBATIONARY CLASS MO MANICURIST OPERATOR LICENSE TO KIEP NGUYEN

The Missouri State Board of Cosmetology and Barber Examiners (the "Board") hereby issues its **ORDER** granting a **PROBATIONARY CLASS MO MANICURIST OPERATOR LICENSE, License No. 2014021030,** to Kiep Nguyen (hereafter, Nguyen), pursuant to the provisions of § 324.038, RSMo.[1] As set forth in § 324.038.2, RSMo, Nguyen may submit a written request to the Administrative Hearing Commission seeking a hearing and review of the Board's decision to issue a probated operator license. Such written request must be filed with the Administrative Hearing Commission within 30 days of delivery or mailing of this Order of the Board. The written request should be addressed to the Administrative Hearing Commission, P.O. Box 1557, Truman State Office Building, Room 640, Jefferson City, MO 65102-1557. If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the Board's decision shall be considered waived. Should Nguyen file a written request for review of this Order, the terms and conditions of this Order shall remain in force and effect unless or until such time as the Administrative Hearing Commission issues an Order to the contrary.

[1] All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

I.

Based upon the foregoing, the Board hereby states:

FINDINGS OF FACT

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo, for the purpose of licensing all persons engaged in the practice of barbering and cosmetology in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapters 328 and 329, RSMo.

2. Nguyen currently resides at 1312 E. Battlefield Road, Springfield, Missouri.

3. On or about May 2, 2014, Nguyen applied by reciprocity for a Class MO manicurist operator license.

4. Nguyen holds a Florida Manicurist operator license, license number FV9545787. The State of Florida Department of Business & Professional Registration (Florida DPPR) issued Nguyen's Florida Manicurist license on or about May 10, 2005. Nguyen's Florida Manicurist license expires October 31, 2014.

5. On or about May 21, 2014, the Board's inspector conducted an inspection of Lee Nails & Spa, 2401 Missouri Boulevard, Jefferson City, Missouri. Nguyen was present and performing services at the time of the inspection without a current and active Missouri Manicurist license in violation of § 329.030, RSMo. The inspection report noted that Nguyen was not to perform services until he received his Missouri Manicurist license from the Board.

6. Section 329.030, RSMo, states:

> It is unlawful for any person in this state to engage in the occupation of cosmetology or to operate a cosmetology establishment or school of cosmetology, unless such person has first obtained a license as provided in this chapter.

II.

CONCLUSIONS OF LAW

7. The Board has authority to deny or refuse a license application pursuant to § 329.140.1, RSMo, which provides:

> The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

8. The Board has cause to deny or refuse Nguyen's application for a Class MO Manicurist operator license pursuant to § 329.140.2, RSMo, which provides:

> The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:
>
> . . .
>
> (6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter[.]

9. As a result of Nguyen's conduct as stated in paragraphs 3 through 5 above, the Board has cause to deny or refuse Nguyen's application for a Class MO Manicurist operator license pursuant to §§ 329.140.1 and 329.140.2(6), RSMo, in that Nguyen provided cosmetology services (manicuring) without a current and active Missouri license, for which the Board has cause to deny Nguyen's application for a Class MO Manicurist operator license.

10. As an alternative to refusing to issue a license, the Board may, at its discretion, issue a license subject to probation, pursuant to § 324.038.1, RSMo, which provides:

> Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

11. The Board issues this Order in lieu of denial of Nguyen's application for a Class MO Manicurist operator license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

11. Based on the foregoing, Kiep Nguyen is granted a Class MO Manicurist operator license, which is hereby placed on **PROBATION** for a period five (5) years, subject to the terms and conditions set forth below.

IV.

TERMS AND CONDITIONS

12. During the aforementioned probation, Nguyen shall be entitled to a Class MO Manicurist operator license subject to the following terms and conditions:

A. During the disciplinary period, Nguyen shall comply with all provisions of Chapter 329, RSMo, all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

B. During the disciplinary period, Nguyen shall keep the Board informed of his current work and home telephone numbers. Nguyen shall notify the Board in writing within ten days (10) of any change in this information.

C. During the probationary period, Nguyen shall timely renew his class MO Manicurist operator license granted hereby and shall timely pay all fees required for licensure and comply with all other Board requirements necessary to maintain said license in a current and active state.

D. During the probationary period, Nguyen shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.

E. During the disciplinary period, Nguyen shall appear in person for interviews with the Board or its designee upon request.

F. Nguyen shall submit written reports to the Board on or before January 1 and July 1 during each year of the probationary period stating truthfully whether there has been compliance with all terms and conditions of this Order. The first such report shall be received by the Board on or before January 1, 2015.

G. If, at any time during the probationary period, Nguyen changes his address from the state of Missouri, or ceases to maintain his class MO Manicurist operator license current or active under the provisions of Chapter 329, RSMo, or fails to keep the Board advised of all current places of residence, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.

H. The Board retains jurisdiction to hold a hearing at any time to determine if a violation of this Order has occurred and, if a violation of this Order has occurred, may seek to amend this Order or impose further disciplinary or appropriate action at the discretion of the Board. No order shall be entered by the Board pursuant to this paragraph without any required notice and opportunity for a hearing before the Board as provided by Chapter 536, RSMo.

I. Unless otherwise specified by the Board, all reports, documentation, notices, or other materials required to be submitted to the Board shall be forwarded to: Missouri State Board of Cosmetology and Barber Examiners, P.O. Box 1062, Jefferson City, Missouri 65102.

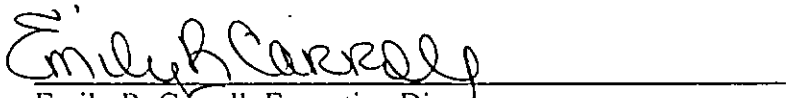
J. Any failure by Nguyen to comply with any condition of discipline set forth herein constitutes a violation of this Order.

13. This Order does not bind the Board or restrict the remedies available to it concerning any violation by Respondent of the terms and conditions of this Order, Chapters 324 and 329, RSMo, or the regulations promulgated thereunder.

14. The Board will maintain this Order as an open, public record of the Board as provided in Chapters 329, 610 and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 26 DAY OF JUNE, 2014.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily R. Carroll, Executive Director