

**BEFORE THE MISSOURI  
STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS**

STATE BOARD OF COSMETOLOGY	)	
AND BARBER EXAMINERS,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 12-0007 CB
	)	
DAVID NGUYEN, OWNER	)	
d/b/a VV NAILS	)	
	)	
Respondent.	)	

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND DISCIPLINARY ORDER**

At its regularly scheduled meeting on September 24, 2012, and pursuant to notice described in the Findings of Fact, the Missouri State Board of Cosmetology and Barber Examiners (“Board”) took up the probation violation complaint alleging that David Nguyen, Owner, d/b/a VV Nails (“Nguyen”) failed to comply with the terms of his probation of his cosmetology establishment license.

The Board appeared at the hearing through its attorney Tina Crow Halcomb. Nguyen appeared personally at the hearing. Division of Professional Registration Legal Counsel Sarah Ledgerwood served as the board’s legal advisor at the hearing, during deliberations, and in the preparation of this order.

**Findings of Fact**

1. The Missouri State Board of Cosmetology and Barber Examiners (Board) is an agency of the State of Missouri created and existing pursuant to § 329.015, RSMo.<sup>1</sup>

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<sup>1</sup> All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

for the purpose of executing and enforcing the provisions of Chapters 328 and 329, RSMo.

2. Respondent, David Nguyen (f/k/a Mau Thahn Nguyen), is a natural person, whose address of record for the Board is 3715 Highway 54, Suite #6, Osage Beach, Missouri 65065.

3. Respondent, Nguyen, holds a Probationary Cosmetology Establishment license for VV Nails, license number 2010012395.

4. Respondent, Nguyen, owns and operates a cosmetology establishment, VV Nails, located at 3715 Highway 54, Suite #6, Osage Beach, Missouri, 65065.

5. Respondent Nguyen's probationary cosmetology establishment license, license number 2010012395, is now, and was at all times relevant herein, current and active.

6. On or about March 23, 2011, the Board and Nguyen entered into a Settlement Agreement placing Nguyen's cosmetology establishment license on probation for a period of three (3) years as a result of VV Nails not being licensed for the correct number of operators present and sanitation violations.

7. During the probationary period set forth in the March 23, 2011 Settlement Agreement, Nguyen was entitled to offer and engage in the practice of cosmetology under Chapter 329, RSMo, provided that he adhere to all the terms and conditions of the Settlement Agreement.

8. The Settlement Agreement, page 5, paragraph D, states, as a term and condition of probation, that 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.

9. The Settlement Agreement, page 5, paragraph B states that Nguyen shall submit reports to the Board no later than January 1 and July 1 during each year of the probationary period, stating whether he has complied with all the terms and conditions of the Settlement Agreement.

10. On or about July 5, 2011, the Board sent Nguyen a notice stating he had violated the terms and conditions of his probation in that Nguyen failed to timely submit his report of compliance on or before July 1, 2011. The Board received the compliance report on or about July 11, 2011.

11. On or about January 17, 2012, the Board sent Nguyen a notice stating he had violated the terms and conditions of his probation in that Nguyen failed to timely submit his report of compliance on or before January 1, 2012. The Board received the compliance report on January 20, 2012.

12. On January 19, 2012, the Board's inspector inspected VV Nails. The inspection revealed violations of the Board's statutes and regulations in that there were unlicensed operators performing services for compensation in violation of § 329.045, RSMo and regulation 20 CSR 2085-10.010, there was a bed in the salon and there were unsanitary blocks and nail files at stations in VV Nails in violation of regulation 20 CSR 2085-11.020. Respondent was not present for the inspection.

13. Nguyen appeared before the Board for the probation violation hearing. Nguyen testified on his own behalf. Nguyen stated that he was not present for the

January 19, 2012 inspection but that he had corrected the sanitation violations the Board's inspector found.

14. The Board's inspector inspected VV Nails on July 3, 2012. The inspection revealed that an unlicensed operator was present and performing services in violation of § 329.045, RSMo, and that more operators were present than for which the establishment was licensed in violation of § 329.045, RSMo, and regulation 20 CSR 2085-10.010.

#### Conclusions of Law

15. The Committee has jurisdiction in this proceeding, pursuant to the March 23, 2011 Settlement Agreement and § 324.042, RSMo, to determine whether Nguyen has violated the terms and conditions of the March 23, 2011 Settlement Agreement for his cosmetology establishment license.

16. Section 324.042 RSMo provides:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

17. Nguyen violated the terms of discipline set forth in the March 23, 2011 Settlement Agreement, as described in the Findings of Fact of this Order.

18. The March 23, 2011 Settlement Agreement and § 324.042, RSMo, allow the Board to take such disciplinary action that the Board deems appropriate for failure to comply with the terms of March 23, 2011 Settlement Agreement as described in the Findings of Fact of this Order.

### Decision and Order

19. It is the decision of the Missouri State Board of Cosmetology and Barber Examiners that Nguyen has violated the terms of the March 23, 2011 Settlement Agreement and his cosmetology establishment license is, therefore, subject to further disciplinary action.

20. The Missouri State Board of Cosmetology and Barber Examiners orders that the cosmetology establishment license for David Nguyen, owner, d/b/a VV Nails, license number 2010012395, be **SUSPENDED** for two (2) weekends (**Friday through Sunday**). The **SUSPENSION** shall run from open of business on Friday through close of business on Sunday for each of the two weekends. The two weekends of **SUSPENSION** shall commence with the first weekend which begins **TEN (10)** days from the date of this Order. During the time between the periods of **SUSPENSION**, and immediately following the **SUSPENSION**, Licensee's license shall be on probation subject to the terms and conditions in the March 23, 2011 Settlement Agreement. Licensee's license shall also be subject to **TWO (2)** years of **PROBATION** in addition to the probation ordered pursuant to the March 2011 Settlement Agreement. The additional years will conclude March 23, 2016. Nguyen's entire period of probation is subject to the terms and conditions set forth below.

### Terms and Conditions

During the aforementioned probation, Nguyen shall be entitled to a cosmetology establishment license subject to the following terms and conditions:

- A. During the disciplinary period, Nguyen shall comply with all provisions of Chapter 329, RSMo (as amended), all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and

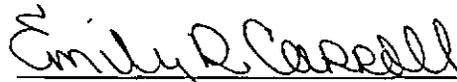
state criminal laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

- B. During the probation period, Nguyen shall keep the Board informed of his current home and work 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 cosmetology establishment 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 continue to 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 next such report shall be received by the Board on or before January 1, 2013.
- G. If, at any time during the probationary period, Nguyen changes his address from the state of Missouri, or ceases to maintain his cosmetology establishment license current or active under the provisions of Chapter 329, RSMo (as amended), 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 (as amended).
- 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 1335, 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.

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

SO ORDERED, EFFECTIVE THIS 11 DAY OF OCTOBER, 2012.

MISSOURI STATE BOARD OF COSMETOLOGY  
AND BARBER EXAMINERS



Emily Carroll, Executive Director