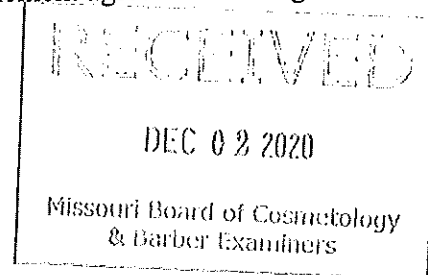


**SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD OF COSMETOLOGY
AND BARBER EXAMINERS AND BICH LE**

Come now Bich Le ("Licensee") and the Missouri Board of Cosmetology and Barber Examiners ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's cosmetology establishment license and "Class CA-hairdressing and manicuring" license will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline Licensee's licenses and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo.

Licensee acknowledges that Licensee understands the various rights and privileges afforded Licensee by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Licensee; the right to present evidence on Licensee's own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensee and, subsequently, the right to a disciplinary hearing before the Board at which time Licensee may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against Licensee's licenses. Being aware of these rights provided Licensee by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to Licensee.



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Licensee acknowledges that Licensees had the opportunity to review the inspection reports and other documents relied upon by the Board in determining there was cause to discipline Licensee's licenses, along with citations to law and/or regulations the Board believes were violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's cosmetology establishment license, license number 2018001340, and "Class CA-hairdressing and manicuring" license, license number 2012018484, are subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 329, RSMo.

Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Board of Cosmetology and Barber Examiners ("Board") is an agency of the State of Missouri created and established pursuant to § 329.015, RSMo, for the purpose of executing and enforcing the provisions of Chapters 328 and 329, RSMo.
2. Licensee holds a "Class CA-hairdressing and manicuring" license, license number 2012018484. Licensee's "Class CA-hairdressing and manicuring" license is current and active, and was so at all times relevant herein.
3. Licensee also holds a cosmetology establishment license issued by the Board, license number 2018001340 for Excelsior Nail Spa. Excelsior Nail Spa is located at 2367 Vintage Dr. Unit D, Excelsior Springs, Missouri 64024. Licensee's cosmetology establishment license is current and active, and was so at all times relevant herein.
4. On or about December 19, 2019, the Board's inspector conducted an inspection at Licensee's establishment. The Board's inspection revealed the following violations of Missouri regulations:
 - (a) The establishment had dirty files, buffers, and wood chopsticks in manicure and pedicure drawers, in violation of 20 CSR 2085-11.020(2)(D);

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(b) There was a dirty sink in the men's restroom, in violation of 20 CSR 2085-11.020(1)(B);

(c) The sink cabinets, paraffin wax machine, and floors and water heaters in the backroom of the establishment were dirty, in violation of 20 CSR 2085-11.020(1)(B);

(d) There was no photo attached to the operator license of Phuong Nguyen, in violation of 20 CSR 2085-10.010(3);

(e) The men's bathroom was dirty, in violation of 20 CSR 2085-11.020(1)(D);

(f) Some clean towels were not in a closed cabinet or drawer, in violation of 20 CSR 2085-11.020(2)(A)(2);

(g) Soiled towels were not in a closeable leak-proof container, in violation of 20 CSR 2085-11.020(2)(A)(3);

(h) The establishment did not have an employee reporting form available, in violation of 20 CSR 2085-10.030(1); and,

(i) The establishment was licensed for three operators, but there were four licenses posted, in violation of 20 CSR 2085-10.050(1).

5. On or about January 6, 2020, the Board sent Licensee a violation notice regarding the December 19, 2019 inspection.

6. On or about February 4, 2020, the Board's inspector conducted an inspection at Licensee's establishment location. The Board's inspection revealed the following violations of Missouri regulations:

(a) The floors under and behind the establishment's towel warmer area were dirty, in violation of 20 CSR 2085-11.020(1)(B);

(b) Tommy Nguyen was working without an operator license, in violation of 20 CSR 2085-10.060(3);

(c) There were towels by sinks that were not in a closed cabinet or drawer, in violation of 20 CSR 2085-11.020(2)(A)(2); and,

(d) The establishment was licensed for three operators, but there were four operator licenses posted, in violation of 20 CSR 2085-10.050(1).

7. On or about March 5, 2020, the Board sent Licensee a violation notice regarding the February 4, 2020 inspection.

8. On or about July 23, 2020, the Board's inspector conducted an inspection at Licensee's establishment. The Board's inspection revealed that Licensee could not provide proper identification at the time of the inspection, in violation of 20 CSR 2085-4.040.

9. On or about August 6, 2020, the Board sent Licensee a violation notice regarding the July 23, 2020 inspection.

10. Regulation 20 CSR 2085-4.040 states, in relevant part:

(1) All licensees must possess or obtain one (1) of two (2) forms of state identification.

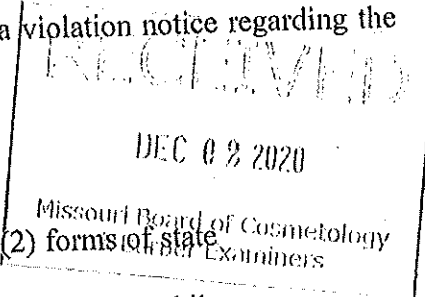
(A) The first acceptable form of identification is an automobile driver's license from any state; or

(B) The second acceptable form of identification is a Missouri state identification card. Missouri state identification cards may be obtained from the Missouri Department of Revenue's offices throughout the state.

(2) All licensees must carry one (1) of these forms of identification with them at all times when providing any professional barber or cosmetology services. Licensees must immediately produce one (1) of these forms of identification upon demand to any board inspector, to the board or its representative.

11. Regulation 20 CSR 2085-10.010 states, in relevant part:

(3) Display of License. Establishment licenses shall be posted within the establishment in plain view at all times so that it may be easily seen by the public. Establishment licenses issued at a station or booth rental establishment shall be posted in plain view at the respective work station.



(4) Renewals and Reinstatements.

(B) Reinstatement of License. The holder(s) of an establishment license which has not been renewed by the renewal date shall be required to submit a late fee in addition to the biennial renewal fee in order to reinstate the license. The holder(s) of the establishment license who continues to operate although the license has not been renewed shall be subject to disciplinary action for operating an unlicensed establishment if the establishment license is not reinstated within fourteen (14) days following the mailing of a notice to the holder(s) or sixty (60) days from the renewal deadline, whichever is later, for operating an establishment without a license

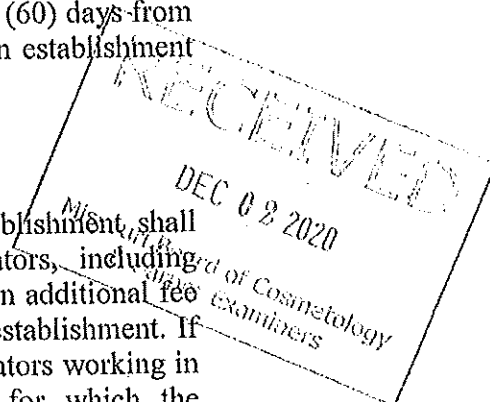
12. Regulation 20 CSR 10.050(1) states, in relevant part:

(1) The minimum biennial fee for a cosmetology establishment shall license the establishment for up to three (3) operators, including apprentices, students with temporary permits, or both. An additional fee is required for each additional operator working in the establishment. If at any time during the license period the number of operators working in the establishment exceeds the number of operators for which the establishment is licensed, it is the responsibility of the holder(s) of the establishment license to submit written notification to the board along with the fee for each additional operator.

13. Regulation 20 CSR 2085-10.060 states, in relevant part:

(1) Pursuant to Chapters 328 and 329, RSMo, no barber or cosmetology establishment owner, manager, or proprietor shall permit any person who does not hold a current Missouri barber or cosmetology license to practice as a barber or cosmetologist in the establishment. No license or permit issued by the board shall be posted in a licensed establishment unless the license or permit is current and active, and the licensee or permit holder is an employee of the establishment or holds a current and active renter establishment license issued by the board.

(3) Prohibited Practices Within An Establishment. In a licensed establishment, only persons properly licensed by the board shall be allowed to perform barbering, hairdressing, manicuring, or esthetician services on any person within the establishment. The provisions of this section shall apply even if services are being provided for no compensation.



14. Regulation 20 CSR 2085-11.020 states, in relevant part:

...
(1) (B) Floors, Walls, Ceilings, Equipment, and Contents. For areas where all classified occupations of cosmetology are practiced, including retail cosmetic sales counters, all floors, walls, ceilings, equipment, and contents shall be constructed of washable materials and must be kept clean and in good repair at all times. Commercial-type carpet may be used.

...
(D) Restrooms. All cosmetology establishments shall provide adequate and conveniently located restrooms, for use by patrons and operators. All schools shall provide two (2) or more restrooms to separately accommodate male and female students. All restrooms shall be provided with, at least, an operating toilet, a functional sink with hot and cold running water, soap (liquid or powder), and individual towels. Floors, walls, ceilings, and fixtures shall be made of washable materials and kept clean and in good repair at all times.

...
(2) (A)(3) Soiled towels shall be placed in a closeable, leakproof container immediately upon completion of use.

(D) Disinfecting and Storing Implements. All implements (instruments or tools) used in cosmetology establishments and schools, including scissors, clips, blades, rods, brushes, combs, etc. shall be thoroughly cleansed after each use. All implements which may come in contact directly or indirectly with the skin of the patron shall be disinfected with an Environmental Protection Agency (EPA)-registered disinfectant, which may be a spray solution. The label on the disinfectant shall show that it is EPA-registered with demonstrated bactericidal (disinfectant), virucidal, and fungicidal activity and shall be used according to the manufacturer's instructions. All implements shall be completely immersed in the solution or, if not capable of immersion, thoroughly dipped in the solution for a period of not less than five (5) minutes. Implements shall either be stored in the solution or removed and stored in a dust-tight cabinet, covered container, or drawer at all times when not in use. The dust-tight cabinet, covered container, or drawer shall be kept free of other items not capable of being disinfected. Implements shall be permitted to air dry.

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15. Licensee's conduct, as described herein, constitutes a violation of, or assisting or enabling any person to violate, Chapter 329, RSMo, and lawful regulations adopted pursuant to Chapter 329, RSMo, for which the Board has cause to take disciplinary action against Licensee's "Class CA-hairdressing and manicuring" license and cosmetology establishment license pursuant to § 329.140.2(6), RSMo.

16. Licensee's conduct, as described herein, constitutes failure to display a valid license as required by Chapter 329, RSMo, and lawful regulations adopted pursuant to Chapter 329, RSMo, for which the Board has cause to take disciplinary action against Licensee's "Class CA-hairdressing and manicuring" license and cosmetology establishment license pursuant to § 329.140.2(12), RSMo.

17. Licensee's conduct, as described herein, constitutes failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof, for which the Board has cause to take disciplinary action against Licensee's "Class CA-hairdressing and manicuring" license and cosmetology establishment license pursuant to § 329.140.2(15), RSMo.

18. Cause exists for the Board to take disciplinary action against Licensee's "Class CA-hairdressing and manicuring" license and cosmetology establishment license under § 329.140.2(6), (12), and (15), RSMo; which states in pertinent part:

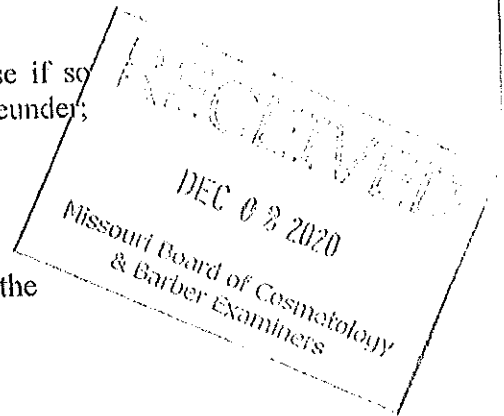
The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

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(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;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(15) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.



Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045, RSMo:

11. The terms of discipline shall include that Licensee's cosmetology establishment license, license number 2018001340, and "Class CA-hairdressing and manicuring" license, license number 2012018484, be placed on **PROBATION** for a period of three (3) years. During Licensee's probation, Licensee and her establishment shall be entitled to offer and engage in the practice of cosmetology under Chapter 329, RSMo, provided Licensee adhere to all of the terms of this Settlement Agreement.

I. SPECIFIC REQUIREMENTS

A. Licensee shall correct all violations within thirty (30) days of the effective date of this Order.

II. GENERAL REQUIREMENTS

A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.

B. Licensee shall keep the Board apprised of Licensee's current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.

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- C. Licensee shall comply with all provisions of Chapter 329, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- D. During the disciplinary period, Licensee shall timely renew Licensee's licenses and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's licenses in a current and active state.
- E. If at any time during the disciplinary period, Licensee moves from the state of Missouri, ceases to be currently licensed under provisions of Chapter 329, RSMo, or fails to advise the Board of Licensee's current place of business and residence, the time of Licensee's absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 329.140.3, RSMo.
- F. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor her compliance with the terms and conditions of this Settlement Agreement.
- G. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate (including imposition of the revocation).
- H. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 329, RSMo, by Licensee not specifically mentioned in this document.

12. The parties to this Agreement understand that the Missouri Board of Cosmetology and Barber Examiners will maintain this Agreement as an open record of the Board as provided in Chapters 329, 610 and 324, RSMo.

13. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

14. Licensee, together with Licensee's heirs and assigns, and attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees,

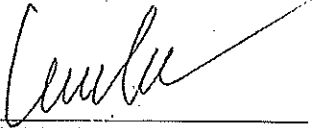
agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

15. If no contested case has been filed against Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the licenses of the licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to: **Administrative Hearing Commission, United States Post Office Building, 131 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102-1557.**

16. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's licenses and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's licenses. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's licenses, the agreed upon discipline set forth herein shall go into effect.

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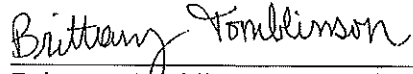
LICENSEE



Bich Le, Individually and as
Owner/Operator of Excelsior Nail Spa

Date 12/01/20

BOARD



Brittany Tomblinson, Executive Director
Board of Cosmetology & Barber Examiners

Date 12/4/2020

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