BEFORE THE STATE OF NEW MEXICO
BOARD OF BARBERS AND COSMETOLOGISTS

IN THE MATTER OF:

DAVID TRAN AND NANCY HUYNH d/b/a USA Nails License #11014	)	Case No. BC 2013-83
Respondent.	)	

SETTLEMENT AGREEMENT

WHEREAS, the State of New Mexico Board of Barbers and Cosmetologists (hereafter the "Board") has issued a Notice of Contemplated Action (hereafter "NCA") in this matter to Respondent David Tran and Nancy Huynh d/b/a USA Nails; and

WHEREAS, the parties wish to resolve this matter without the time and expense of a formal hearing.

IT IS AGREED AS FOLLOWS:

1. The Respondent is licensed under the Barbers and Cosmetologist Act, Section 61-17A-1 *et seq,* NMSA 1978, and is subject to the jurisdiction of the Board.

2. Respondent acknowledges that he/she is subject to disciplinary action pursuant to NMSA 1978, § 61-17A-21.

3. Respondent does not wish to contest the allegations contained in the NCA.

4. The Respondent enters into this Settlement Agreement voluntarily and waives the right to have this matter heard in the manner described in the New Mexico Uniform Licensing Act, 1978 NMSA § 61-1-1 *et seq.* (Repl. Pamp. 2003), including the right to a full evidentiary hearing, the right to confront and cross examine witnesses, and the right to an appellate process.

5. This Settlement Agreement is subject to Board approval. If the Board rejects this agreement, the Board may proceed with a full evidentiary hearing on a date scheduled by the Board and the terms of this agreement or statements made by the Respondent in support of this agreement shall **not** be used against the Respondent in such hearing.

6. The Respondent waives all rights to have this matter heard within the time frame set by the Uniform Licensing Act, § 61-1-1 *et seq.* NMSA 1978, in order for the Board to consider this Settlement Agreement.

7. The Respondent waives her right to assert a claim of bias or move to excuse any Board member based upon the Board member's consideration of this Settlement Agreement.

8. As a means of amicably resolving this matter, Respondent agrees to the following:

a. Respondent will not engage in any future conduct, which is contrary to, and/or in violation of the Barbers and Cosmetologist Act, NMSA 1978, § 61-17A-1, et seq., or the New Mexico Uniform Licensing Act, NMSA 1978, § 61-1-1, et seq.

b. Pursuant to Board Rule NMAC 16.34.15.8 Respondent shall pay a nine hundred and ninety-nine dollar ($999.00) fine for violating the Barbers and Cosmetologist Act, NMSA 1987, §61-17A-21 and sanitary and safety Board Rule NMAC 16.34.7.9(A)(16), (24), (28), and (29) in that it was observed during inspections conducted on July 28, 2012, that foam pedicure pads and buffers were being reused, credo blades and cheese graters were being used and the foot tubs had standing water and were not clean. The fine shall be paid in full to the Board within thirty (30) days of the Board's acceptance of this Settlement Agreement.

c. Respondent shall pay a one thousand dollar ($1,000).00 fine for engaging in unlicensed activity in violation of NMSA 1979, § 61-1-3.2 and said fine shall be paid in full to the Board within thirty (30) days of the Board's acceptance of this Settlement Agreement.

9. The NCA and this Agreement are public records within the meaning of the Inspection of Public Records Act, NMSA 1978, § 14-2-6(E) (1993). Other data, communications, and information acquired by the Board relating to this matter shall be public as provided by the Barber and Cosmetologist Act and promulgated Board regulations.

10. Respondent understands and acknowledges that any violation(s) by Respondent of this Settlement Agreement will immediately result in the filing of an Order to Show Cause as to why the Board should not find the Respondent in violation of the agreement and impose lawful sanctions including but not limited to the imposition of the remainder of the civil penalty, additional fines or penalties and/or take any other disciplinary action described in the Uniform Licensing Act.

11. This Agreement is a settlement of Board case number BC 2013-83 and only the specific allegations contained therein. The Board reserves the right to initiate proceedings for any other violations of the Barbers and Cosmetologist Act or the Rules and Regulations of the Board adopted pursuant to that Act.

David Tran or Nancy Huynh
For USA Nails

9/22/14
Date

FOR THE NEW MEXICO BOARD OF BARBERS AND COSMETOLOGISTS:

J. David Stull
Board Chair

11/17/14
Date