

Minutes of Meeting

BOARD FOR BARBERS AND COSMOTOLOGY INFORMAL FACT-FINDING CONFERENCES APRIL 28, 2003 (10:00 A.M.)

The Board for Barbers and Cosmetology convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act

Marian Lacy Alderson, Board member, presided No other Board members were present

Douglas W Schroder, Staff member, appeared for the Department of Professional and Occupational Regulation

The conferences were recorded by Inge Snead & Associates, LTD , and the Summanes are attached unless no decision was made

Disc=Disciplinary Case

C=Complainant

R=Respondent

W=Witness

Participants

- 1 Trung Thi Arai
File Number 2002-02305 (Disc)
File Number 2003-02783

Jesse Narron - Atty for
Arai
June Bishop - C
Reginald Smith - W

- 2 Nails Pizazz
File Number 2002-03349 (Disc)

Huynh Le - R
Selena Carriger - C
Phuong-Dung Nguyen -- W
Kevin Na - W

- 3 Nails Pizazz
File Number 2002-03764 (Disc)

Huynh Le - R
Selena Carriger - C
Phuong-Dung Nguyen -- W
Kevin Na - W

The meeting adjourned at 12 45 p m

BOARD FOR BARBERS AND COSMOTOLOGY


Marian Lacy Alderson, Chairperson


Louise Fontaine Ware, Secretary

COPY TEST:

Custodian of Records

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR BARBERS AND COSMETOLOGY

**IN RE: TRUNG THI ARAI
LICENSE NUMBER: 1201046982 Cosmetologist**

FILE NUMBER: 2002-02305

Summary of the Reconvened Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on December 2, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of IFF Conference sent by certified mail to Trung Thi Arai on September 3, 2002, and by reschedule notice on November 5, 2002

On February 3, 2003, the Board for Barbers and Cosmetology met, and referred this case back to Adjudication to reconvene the IFF.

An IFF was reconvened on April 28, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Trung Thi Arai on March 25, 2003

The following individuals participated at the conference Jesse Narron, Attorney for Respondent, June Bishop, Complainant, Reginald Smith, Witness, Douglas Schroder, Staff member, and Marian Lacy Alderson, presiding IFF Board member

Summation of Facts

- 1 On September 21, 2000, June Bishop (Bishop), received a facial waxing while at Nail Expert Salon located at 2615 Columbia Pike, Arlington, Virginia 22204 The waxing procedure, which was performed by Trung Thi Arai (Cosmetology Instructor License Number 12 04 016692 and Cosmetologist License Number 12 01 046982), caused skin burns to Bishop's face Bishop paid \$40 00 for the service, of which \$20.00 was refunded.
- 2 On or about September 24, 2000, Bishop visited a medical doctor and received treatments for skin abrasions
- 3 Ms. Bishop reiterated the injuries she received during the services performed by Arai During the IFF, color prints of the photos presented clearly demonstrate injury
- 4 Arai received notice of the IFF conference on December 2, 2002, the Board meeting on February 3, 2003, and the IFF conference on April 28, 2003 Arai did not appear at any of these meetings to address the regulatory issues

Conclusion and Recommendation

Count 1 18 VAC 55-22-350(2) – (Effective November 1, 1999)

Trung Thi Arai's actions of causing burns and physical injury to Bishop's skin while performing waxing services constitutes incompetence and negligence in the practice of cosmetology services I recommend a monetary penalty of \$2,500 00 be imposed for the violation of the regulation, along with permanent revocation of her license Number 1201046982

By: 

**Marian Lacy Alderson
Presiding IFF Board Member
Board for Barbers and Cosmetology**

Date: April 28, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NO 1201046982 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR BARBERS AND COSMETOLOGY

**IN RE: TRUNG THI ARAI
LICENSE NUMBER: 1204016692 Cosmetology Instructor**

FILE NUMBER: 2003-02783

Summary of the Reconvened Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on December 2, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of IFF Conference sent by certified mail to Trung Thi Arai on September 3, 2002, and by reschedule notice on November 5, 2002.

On February 3, 2003, the Board for Barbers and Cosmetology met, and referred this case back to Adjudication to reconvene the IFF.

An IFF was reconvened on April 28, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Trung Thi Arai on March 25, 2003.

The following individuals participated at the conference: Jesse Narron, Attorney for Respondent; June Bishop, Complainant; Reginald Smith, Witness; Douglas Schroder, Staff member; and Marian Lacy Alderson, presiding IFF Board member.

Summation of Facts

1. On September 21, 2000, June Bishop (Bishop), received a facial waxing while at Nail Expert Salon located at 2615 Columbia Pike, Arlington, Virginia 22204. The waxing procedure, which was performed by Trung Thi Arai (Cosmetology Instructor License Number 12 04 016692 and Cosmetologist License Number 12 01 046982), caused skin burns to Bishop's face. Bishop paid \$40.00 for the service, of which \$20.00 was refunded.
2. On or about September 24, 2000, Bishop visited a medical doctor and received treatments for skin abrasions.
3. Ms. Bishop reiterated the injuries she received during the services performed by Arai. During the IFF, color prints of the photos presented clearly demonstrate injury.
4. Arai received notice of the IFF conference on December 2, 2002, the Board meeting on February 3, 2003, and the IFF conference on April 28, 2003. Arai did not appear at any of these meetings to address the regulatory issues.

Conclusion and Recommendation

Count 1: 18 VAC 55-22-350(2) – (Effective November 1, 1999)

Trung Thi Arai's actions of causing burns and physical injury to Bishop's skin while performing waxing services constitutes incompetence and negligence in the practice of cosmetology services. I recommend a monetary penalty of \$2,500.00 be imposed for the violation of the regulation, along with permanent revocation of her license Number 1204016692.

By: Marian Lacy Alderson

**Marian Lacy Alderson
Presiding IFF Board Member
Board for Barbers and Cosmetology**

Date: April 28, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NO 1204016692 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR BARBERS AND COSMETOLOGY**

**IN RE: HUYNH LE
LICENSE NUMBER:12 02 014508**

FILE NUMBER: 2002-03349

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on April 28, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Huynh Le on March 31, 2003. The following individuals participated at the conference: Huynh Le, Respondent; Phuong-Dung Nguyen, Witness; Kevin Na, Witness; Selena Carriger, Complainant; Douglas Schroder, Staff Member; and Manan Lacy Alderson, presiding Board Member.

Summation of Facts

1 On May 12, 2002, Selena Carriger (Carriger) received a pedicure from "Jen" at Nails Pizazz located at 455 Spotsylvania Mall in Fredericksburg, Virginia, for monetary compensation. During the pedicure, Carriger was cut on her left heel with a razor resulting in her heel bleeding. Photographs were provided by Carriger during the IFF. Infalab liquid antiseptic was poured on her heel several times and then a bandage was placed on the cut. Neosporin antibiotic ointment was put on the bandage before applying it to Carriger's heel.

2. On May 13, 2002, Carriger returned to Nails Pizazz, talked with the manager, and requested a refund, at which time the manager offered her a gift certificate for a pedicure, which she declined. Money paid for the pedicure was refunded to Carriger. The manager also requested she return each week to have medicine put on her heel. Carriger declined, advising him if the cut became infected, she would go to her doctor, and send him the bill. Carriger advised the manager agreed to this.

3. On May 20, 2002, Carriger went to her physician. The results of her blood work came back normal.

4. On May 29, 2002, the Board's Agent, Investigator Renee H. Popielarz, conducted a salon inspection of Nails Pizazz, located at 455 Spotsylvania Mall in Fredericksburg, Virginia, at which time it was noted that the Certificate of Occupancy was not posted. Nails Pizazz is owned by Huynh Le.

5. On May 29, 2002, the Board's Agent, Investigator Renee H. Popielarz, conducted a salon inspection of Nails Pizazz, located at 455 Spotsylvania Mall in Fredericksburg, Virginia, owned by Huynh Le. Investigator Popielarz observed, at several work stations in the front of the salon, clippers, nippers and tweezers which were dirty with dust and debris, and were hanging over open containers. Investigator Popielarz also observed instruments in the wax room that were dirty with dust and debris.

6. On May 29, 2002, during the inspection, Investigator Popielarz discovered that Jen was not licensed when she performed the pedicure on Carriger. Jen's actual name is Phuong-Dung Nguyen.

Conclusion and Recommendation

Count 1: 18 VAC 55-22-340(2)(g) (Effective November 1, 1999)

Nails Pizazz's failure to post a Certificate of Occupancy is a violation of the Board's 1999 Regulation 18 VAC 55-22-340(2)(g). I recommend a monetary penalty of \$50.00 be imposed for the violation of this regulation.

Count 2: 18 VAC 55-22-340(1)(a) (Effective November 1, 1999)

Nails Pizazz's failure to store clippers, nippers, and tweezers free from contamination, and to clean the instruments is a violation of the Board's 1999

Regulation 18 VAC 55-22-340(1)(a) I recommend a monetary penalty of \$500 00 be imposed for the violation of this regulation.

Count 3 18 VAC 55-22-350(6) (Effective November 1, 1999)

Nails Pizazz's actions of allowing Phuong-Dung Nguyen to practice nail care without obtaining a license or temporary permit issued by the Board is in violation of the Board's 1999 Regulation 18 VAC 55-22-350(6) I recommend a monetary penalty of \$2500 00 be imposed for the violation of this regulation.

Count 4 18 VAC 55-22-350(2) (Effective November 1, 1999)

Nails Pizazz's actions of allowing an unlicensed nail technician to perform a pedicure, which resulted in an injury to Camger, constitutes incompetence or negligence in the practice of nail technician services in violation of the Board's 1999 Regulation 18 VAC 55-22-350(2). I recommend a monetary penalty of \$2500 00 be imposed for the violation of this regulation.

By: 

**Marian Lacy Alderson
Presiding IFF Board Member
Board for Barbers and Cosmetology**

Date: April 28, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE (LICENSE NO. 12 02 014508) UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR BARBERS AND COSMETOLOGY

IN RE: HUYNH LE

LICENSE NUMBER: 12 08 000256

FILE NUMBER: 2002-03764

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on April 28, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Huynh Le on March 31, 2003. The following individuals participated at the conference: Huynh Le, Respondent, Phuong-Dung Nguyen, Witness, Kevin Na, Witness, Selena Carriger, Complainant, Douglas Schroder, Staff Member, and Manan Lacy Alderson, presiding Board Member.

Summation of Facts

1. On May 12, 2002, Selena Carriger (Carriger) received a pedicure from "Jen" at Nails Pizazz located at 455 Spotsylvania Mall in Fredericksburg, Virginia, for monetary compensation. During the pedicure, Carriger was cut on her left heel with a razor resulting in her heel bleeding. Photographs were provided by Carriger during the IFF. Infalab liquid antiseptic was poured on her heel several times and then a bandage was placed on the cut. Neosporin antibiotic ointment was put on the bandage before applying it to Carriger's heel.
2. On May 13, 2002, Carriger returned to Nails Pizazz, talked with the manager, and requested a refund, at which time the manager offered her a gift certificate for a pedicure, which she declined. Money paid for the pedicure was refunded to Carriger. The manager also requested she return each week to have medicine put on her heel. Carriger declined, advising him if the cut became infected, she would go to her doctor, and send him the bill. Carriger advised the manager agreed to this.
3. On May 20, 2002, Carriger went to her physician. The results of her blood work came back normal.

4 On May 29, 2002, the Board's Agent, Investigator Renee H Popielarz, conducted a salon inspection of Nails Pizazz, located at 455 Spotsylvania Mall in Fredericksburg, Virginia, at which time it was noted that the Certificate of Occupancy was not posted Nails Pizazz is owned by Huynh Le

5 On May 29, 2002, the Board's Agent, Investigator Renee H Popielarz, conducted a salon inspection of Nails Pizazz, located at 455 Spotsylvania Mall in Fredericksburg, Virginia, owned by Huynh Le Investigator Popielarz observed, at several work stations in the front of the salon, clippers, nippers and tweezers which were dirty with dust and debris, and were hanging over open containers Investigator Popielarz also observed instruments in the wax room that were dirty with dust and debris

6 On May 29, 2002, during the inspection, Investigator Popielarz discovered that Jen was not licensed when she performed the pedicure on Carriger Jen's actual name is Phuong-Dung Nguyen

Conclusion and Recommendation

Count 1 18 VAC 55-22-340(2)(g) (Effective November 1, 1999)

Nails Pizazz's failure to post a Certificate of Occupancy is a violation of the Board's 1999 Regulation 18 VAC 55-22-340(2)(g) I recommend a monetary penalty of \$50 00 be imposed for the violation of this regulation

Count 2 18 VAC 55-22-340(1)(a) (Effective November 1, 1999)

Nails Pizazz's failure to store clippers, nippers, and tweezers free from contamination, and to clean the instruments is a violation of the Board's 1999 Regulation 18 VAC 55-22-340(1)(a) I recommend a monetary penalty of \$500 00 be imposed for the violation of this regulation

Count 3 18 VAC 55-22-350(6) (Effective November 1, 1999)

Nails Pizazz's actions of allowing Phuong-Dung Nguyen to practice nail care without obtaining a license or temporary permit issued by the Board is in violation of the Board's 1999 Regulation 18 VAC 55-22-350(6) I recommend a monetary penalty of \$2500 00 be imposed for the violation of this regulation.

Count 4 18 VAC 55-22-350(2) (Effective November 1, 1999)

Nails Pizazz's actions of allowing an unlicensed nail technician to perform a pedicure, which resulted in an injury to Carriger, constitutes incompetence or

negligence in the practice of nail technician services in violation of the Board's 1999 Regulation 18 VAC 55-22-350(2). I recommend a monetary penalty of \$2500 00 be imposed for the violation of this regulation

By: Marian Lacy Alderson

**Marian Lacy Alderson
Presiding IFF Board Member
Board for Barbers and Cosmetology**

Date: April 28, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE (LICENSE NO 12 08 000256) UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.