

MINUTES OF MEETING

BOARD FOR BARBERS AND COSMETOLOGY INFORMAL FACT-FINDING CONFERENCES MARCH 2, 2004 (1:00 P.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.

Joyce L. Wilson-Clemmons, Board member, presided. No other Board members were present.

Douglas W. Schroder appeared for the Department of Professional and Occupational Regulation.

The conference was recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case
Lic=Licensing Application
RF=Recovery Fund Claim
Trades=Tradesmen Application

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
W=Witness
Atty = Attorney

Participants

Sulley Barber Shop
File Number 2003-02503 (Discp)

Carolyn Wright, Invest.

Special Nails
File Number 2003-01679 (Discp)

Ly T. Nguyen, Owner – R
Frances Grubbs – C
Duyen Hoang Nguyen, Manager – W
Nathan Matthews, Invest.

K T Nails
File Number 2004-00484 (Discp)
No Decision Made


Sang Huynh, Owner – R
David Dorner, Invest.

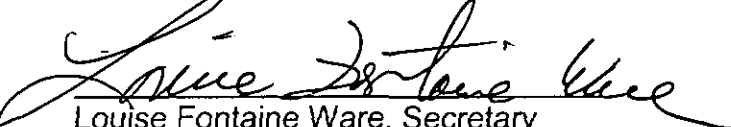
Top Nails
t/a Nails Service
File Number 2003-03025 (Discp)
No Decision Made

Bryan Nguyen, Owner – R
Catherine Bennett – C
David Dorner, Invest.

The meeting adjourned at 5:55 pm

BOARD FOR BARBERS AND COSMETOLOGY


Joyce L. Wilson-Clemmons, Vice-Chair


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

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

**IN RE: SULLY BARBER SHOP
LICENSE NUMBER: 1304002662**

FILE NUMBER: 2003-02503

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on March 2, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Tony Quoc Tong, Owner of Sully Barber Shop, on January 14, 2004. The following individuals participated at the conference: Caroline Wright, Investigator; Douglas W. Schroder, Staff Member; Joyce L. Wilson-Clemmons, Presiding Board Member. No one appeared on behalf of Sully Barber Shop.

Background

On or about March 13, 2003, the Department of Professional and Occupational Regulation received a written complaint from an anonymous person regarding unsanitary conditions he observed while receiving a haircut at Sully Barber Shop, located at 13881-D Metrotech Drive, Chantilly, Virginia. Tony Quoc Tong is the owner of Sully Barber Shop.

Summation of Facts

1. On May 1, 2003, Investigator Carolyn D. Wright, the Board's agent, conducted an inspection of Sully Barber Shop. The Board's agent observed a woman, who later identified herself as Carol Nguyen, cutting a man's hair for compensation. Ms. Nguyen had no license displayed at her station. Investigator Wright was told by Ms. Nguyen that she would contact Wright about her license. There was no follow up.

2. The records for the Board for Barbers and Cosmetology dated June 6, 2003, revealed no license, certification, or registration found for Ms. Nguyen.

Conclusion and Recommendation

Count 1: 18 VAC 41-20-280(C)(2) (Effective July 2002)

Tong, owner of Sully Barber Shop, allowed a person who had not obtained a license to practice as a barber, which is a violation of Board Regulation 18 VAC 41-20-280(C)(2). Therefore, I recommend that a monetary penalty of \$600.00 be imposed.

By: 

Joyce L. Wilson-Clemmons
Presiding IFF Board Member
Board for Barbers and Cosmetology

Date: March 2, 2004

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. 1304002662) 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: SPECIAL NAILS
LICENSE NUMBER: 1208001363**

FILE NUMBER: 2003-01679

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on March 2, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Ly T. Nguyen, Special Nails on January 14, 2004. The following individuals participated at the conference: Ly T. Nguyen, Respondent; Duyen Nguyen, Manager of Special Nails; Frances Grubbs, Complainant; Duyen Hoang Nguyen, Witness; Nathan Matthews, Investigator; Douglas Schroder, Staff Member; Joyce L. Wilson-Clemmons, Presiding Board Member.

Background

On December 9, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Frances Grubbs ("Grubbs") regarding an eyebrow waxing she received from Special Nails. On or about December 7, 2002, Grubbs went to Special Nails, located at 13205 River Bends Blvd., Chester, Virginia, and received a manicure, pedicure, and eyebrow waxing for a total of \$38.00.

On December 10, 2002, the licensing records of the Board for Barbers and Cosmetology revealed that on June 11, 2001, Special Nails, located at 13205 Rivers Bend Blvd, Chester, Virginia, was issued nail salon license number 12081363. Ly T. Nguyen is listed as owner of the salon.

Summation of Facts

1. On or about December 7, 2002, Grubbs went to Special Nails, located at 13205 Rivers Bend Blvd, Chester, Virginia, and received a manicure, pedicure, and eyebrow waxing. Grubbs paid Special Nails a total of \$38.00 for the services.
2. After Grubbs left the salon, Grubbs checked her eyes in the car mirror and saw that her eyelids were beginning to bubble. Grubbs went back inside the salon and spoke with Jimmy, the manager. Jimmy refused to refund any money and told

Grubbs that her eyelids would be okay in about three days. At Grubbs' request, Jimmy provided a receipt for the manicure, pedicure, and eyebrow waxing.

3. On December 8, 2002, Grubbs' eyes were swollen, and there were visible burns on the eyelids. Grubbs's husband took photographs and video taped Grubbs' eyes.

4. On December 8, 2002, Grubbs went to Bon Secours Memorial Regional Medical Center, located at 8260 Atlee Road, Mechanicsville, Virginia, and received medical treatment for the burns on her eyelids. Grubbs was referred to Dr. Lewis T. Ladocsi, for a follow-up visit.

5. On December 10, 2002, Grubbs was examined by Dr. Lewis T. Ladocsi, who reported his impression that there were two mild burns, most likely second degree.

6. On or about January 6, 2003, Duyen Hoang Nguyen, a licensed nail technician employed at Special Nails, who uses the nickname, "Jimmy", told the Board's agent, Investigator E. Nathan Matthews, that he recalls that Grubbs came back into the salon and complained about her burnt eyelids. Nguyen offered a refund to Grubbs for the eyebrow waxing service; however, Grubbs would not accept a refund.

7. Ly T. Nguyen, the owner of Special Nails, and Duyen Hoang Nguyen, the salon manager, told the Board's agent, Investigator E. Nathan Matthews, that Vi Nguyen, a licensed cosmetologist, who is no longer working at the salon, was the person who performed the eyebrow waxing service on Grubbs. Neither Ly T. Nguyen nor Duyen Hoang Nguyen could provide a forwarding address for Vi Nguyen, or any additional information that would be useful in verifying Vi Nguyen's license status in Virginia.

8. On January 6, 2003, the Board's agent, Investigator E. Nathan Matthews went to Special Nails, located at 13205 Rivers Bend Blvd., Chester, Virginia, and took photographs of materials and solutions, located inside the salon, that are associated with hot waxing. During the IFF, Duyen Nguyen stated that the equipment was there when Ly Nguyen purchased the business.

9. On January 6, 2003, Duyen Hoang Nguyen, Manager of Special Nails, told the Board's agent, Investigator E. Nathan Matthews, that Special Nails previously offered eyebrow waxing services for \$8.00; however, Special Nails is not licensed as a cosmetology salon. Nguyen stated that the eyebrow waxing services were provided by Vi Nguyen, a licensed cosmetologist in California, who is no longer employed by Special Nails. During the IFF, Nguyen stated that he did not know the whereabouts of Vi Nguyen.

10. On January 15, 2003, Ly T. Nguyen, the owner of Special Nails, told the Board's agent, Investigator E. Nathan Matthews, that Duyen Hoang Nguyen, the

salon manager, hired Vi Nguyen to do eyebrow waxing at Special Nails. Ly T. Nguyen stated that she thought that Vi Nguyen was a licensed cosmetologist.

11. Special Nails, a licensed nail salon, owned by Ly T. Nguyen, offered waxing services without a cosmetology salon license.

12. During the IFF, Duyen Nguyen stated that he currently has a waxing license.

Conclusion and Recommendation

Count 1: 18 VAC 41-20-280(A)(1) (Effective July 2, 2002)

Special Nails' negligence in the practice of waxing causing second degree burns to Grubbs is a violation of Board Regulation Section 18 VAC 41-20-280(A)(1). Therefore, I recommend that a monetary penalty of \$1,200.00 be imposed.

Count 2: §54.1-704.1 (Effective until July 1, 2004)

Special Nails' actions of offering waxing services without a valid cosmetology license issued by the Board, is a violation of §54.1-704.1 of the Code of Virginia. Therefore, I recommend that a monetary penalty of \$600.00 be imposed.

By: 

Joyce L. Wilson-Clemmons
Presiding IFF Board Member
Board for Barbers and Cosmetology

Date: March 2, 2004

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. 1208001363) UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.