

SOUTH DAKOTA COSMETOLOGY COMMISSION MEETING MINUTES

October 17, 2011

Call Meeting to Order

A special meeting of the Cosmetology Commission was called to order by President Nora Slykhuis on Monday, October 17, 2011 at 1:00 p.m. by President Nora Slykhuis in Conference Room #1 of the Kneip Building, 700 Governors Drive, Pierre, SD.

The following members were present: Pat Clark, Ila Davis, Kory McKay, Lois Porch, and Nora Slykhuis. Staff present: Attorney Nathan Lukkes and Executive Director Kate Boyd. Others in attendance included Hillary Brady of the Office of Hearing Examiners and Kent Hagg, Nicole Tran and Tyler Huynh.

1. Violations Hearing - Case 2011-J - Paris Nails, Rapid City, Nicole Tran, Owner and Tyler Huynh, Manager

The meeting began with a Violations Hearing of Case 2011-J - Paris Nails, Rapid City. Nicole Tran, Owner, Tyler Huynh, Manager, together with their attorney Kent Hagg were present for the hearing.

It was noted that the facts of the case had been stipulated through a signed Stipulations of Fact signed by Nicole Tran, Tyler Huynh, and Kent Hagg, attorney for Paris Nails, LLC, Nicole Tran and Tyler Huynh, and by Nathan D Lukkes, Attorney for the SD Cosmetology Commission. Three individuals who were not licensed by the South Dakota Cosmetology Commission were engaged in the practice of nail technology on the premises of Paris Nails on or about July 13, 2011 when Commission President Nora Slykhuis entered the salon. Further, the authorized representative of Paris Nails, Nicole Tran and Tyler Huynh were aware of, and allowed, three unlicensed individuals, Kim Ly Do, Hang Nguyen and Khahh Bui, to engage in the practice of nail technology on the premises of Paris Nails.

Attorney Kent Hagg and Tyler Huynh addressed the Commission regarding the fact that Paris Nails has been owned and operated for the past five years without any previous violations and the owners have supported a number of charitable causes in the Rapid City community.

Following their address to the Commission, IT WAS MOVED BY KORY MCKAY, SECONDED BY PAT CLARK TO GO INTO EXECUTIVE SESSION FOR DELIBERATIVE PURPOSES IN THIS CASE. THE MOTION PREVAILED ON A VOICE VOTE.

At this time, Attorney Nathan Lukkes, Commission President Nora Slykhuis, Executive Director Kate Boyd, Attorney Kent Hagg, Nicole Tran, Tyler Huynh, and Hearing Judge Hillary Brady exited the room. Commission members Lois Porch, Pat Clark, Kory McKay and Ila Davis remained in the room to deliberate the case.

IT WAS MOVED BY ILA DAVIS, SECONDED BY KORY MCKAY, TO GO OUT OF EXECUTIVE SESSION. THE MOTION PREVAILED ON A VOICE VOTE.

At this time, the individuals who had exited the room during Executive Session re-entered the meeting.

IT WAS MOVED BY KORY MCKAY, SECONDED BY ILA DAVIS, TO ADOPT AN ORDER THAT INCLUDES THE DETAILS OF THE CONSENT AGREEMENT FOR FIRST-TIME OFFENDERS THAT HAD BEEN OFFERED TO PARIS NAILS:

- (1) ONE WEEK SUSPENSION OF SALON LICENSE AND THE NAIL TECHNICIAN LICENSES OF NICOLE TRAN AND TYLER HUYNH;
- (2) NICOLE TRAN AND TYLER HUYNH TO EACH PAY \$50 TO TAKE THE COMMISSION'S SAFETY/SANITATION/STATE LAWS COURSE AND PASS THE STATE LAWS TEST WITHIN TWO MONTHS OF THE DATE OF THE ORDER;
- (3) PAY A ONE-TIME COST OF \$350 WITHIN TWO MONTHS OF THE ORDER FOR EXTRA RANDOM INSPECTIONS FOR A PERIOD OF ONE YEAR FROM THE DATE OF THE ORDER;
- (4) PARIS NAILS SALON TO PAY THE COSTS OF THE HEARING.

Attorney Hagg asked the Commission to consider holding 4 or 5 days of the suspension in abeyance since this is a first violation. The response of the Commission was that the proposed order is the same as offered to other first-time offenders. On a second violation, a proposed consent agreement or Commission order would normally include 88 days of suspension with a portion of the days being held in abeyance, with no further violations.

THE MOTION TO ADOPT THE ABOVE ORDER PREVAILED ON A VOICE VOTE WITH PRESIDENT NORA SLYKHUIS ABSTAINING.

2. Disciplinary Action - Case 2011-B - VIP Nails, Sioux Falls, Lien Hinrichs, Owner.

VIP Nails, Sioux Falls, Lien Hinrichs had been offered a Consent Agreement because an unlicensed individual was performing nail technology services on or about February 23, 2011 when inspector Noreen Johnson entered the salon to perform a routine inspection. At that time Lien Hinrichs claimed that the unidentified individual was her daughter, Hanh Kim Hinrichs, a licensed nail technician in South Dakota, but Inspector Noreen Johnson is familiar with Hanh Kim Hinrichs and knew that the unidentified individual was not Hanh Kim Hinrichs.

This was a second violation for this salon; therefore, the proposed Consent Agreement included 88 days of suspension, with 60 days being held in abeyance and the other 28 days of suspension being split into two 14-day segments -- the first segment of closure being November 20 - December 3, 2011 and the second segment of closure being February 5 - 18, 2012. Additionally, the Consent Agreement included a one-time payment of \$350 for additional random inspections for twelve months and that Lien Hinrichs pay \$50 to take the Commission's Safety/Sanitation/State Laws course and pass the State Laws test.

Lien Hinrichs accepted and signed the proposed Consent Agreement on October 12, 2011.

IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY, TO ACCEPT THE CONSENT AGREEMENT FOR VIP NAILS. THE MOTION PREVAILED ON A VOICE VOTE WITH VIOLATIONS COMMITTEE LOIS PORCH ABSTAINING.

Adjournment

IT WAS MOVED BY PAT CLARK, SECONDED BY KORY MCKAY, TO ADJOURN. THE MOTION PREVAILED ON A VOICE VOTE.

The meeting adjourned at 2:52 p.m.

Respectfully submitted by:

Kate Boyd, Recording Secretary

and _____
Pat Clark, Secretary-Treasurer