

STATE OF NEW YORK
DEPARTMENT OF STATE
OFFICE OF ADMINISTRATIVE HEARINGS
-----X

In the Matter of the Complaint of

**DEPARTMENT OF STATE
DIVISION OF LICENSING SERVICES,**

Complainant,

DECISION

-against-

THANH TRAN a/k/a TRAN THANH,

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on May 25, 1999 at the office of the Department of State located at 270 Broadway, New York, New York.

The respondent did not appear. An additional respondent on the original complaint, Mei Qiong Li, was present, but the charges in the complaint relating to her were resolved in a settlement, and those charges were withdrawn.

The complainant was represented by Litigation Counsel Laurence Soronen, Esq.

COMPLAINT

The complaint alleges that the respondent obtained his license as a nail technician by submitting an application which contained a false social security number, and thereby committed the crime of Offering a False Instrument For Filing in the 1st degree.

FINDINGS OF FACT

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered at his last known business address on March 22, 1999 (State's Ex. 1).

2) The respondent is a licensed nail technician for the license period ending March 27, 2000 (State's Ex. 1). That license was issued to him in response to an application submitted by him on November 26, 1996 which contained the purported social security number 101-82-0417 (State's Ex. 3). That number does not belong to the respondent (State's Ex. 4).

OPINION AND CONCLUSIONS OF LAW

I- The holding of an ex parte quasi-judicial administrative hearing was permissible, inasmuch as there is evidence that notice of the place, time and purpose of the hearing was properly served. General Business Law (GBL) §411[2]; *Patterson v Department of State*, 36 AD2d 616, 312 NYS2d 300 (1970); *Matter of the Application of Rose Ann Weis*, 118 DOS 93.

II- The respondent obtained his license under false pretenses, and in so doing violated Penal Law §175.35, Offering A False Instrument For Filing in the 1st degree, a class E felony. His conduct constituted the making of a false statement as to a material matter in his application, GBL §410[1][b], and was a demonstration of untrustworthiness, GBL §410[1][c].

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT Thanh Tran a/k/a Tran Than has made a false statement as to a material matter in his application and has demonstrated untrustworthiness, and accordingly, pursuant to General Business Law §410 his license as a nail technician is revoked effective June 5, 1999. He is directed to send his license certificate to Usha Barat, Customer Service Unit, Department of State, Division of Licensing Services, 84 Holland Avenue, Albany, NY 12208.

Roger Schneier
Administrative Law Judge

Dated: May 26, 1999