



July 18, 2002

CERTIFIED MAIL

Mr. Christopher C. Hall
Attorney at Law
333-B West Portal Avenue
San Francisco, CA 94127

Dear Mr. Hall:

SUBJECT: NOTICE OF DECISION
Application for Massage Technician License
Ms. Van Cam Vo

On July 11, 2002, the San Mateo County License Board (Board) considered your client's (Ms. Vo) application for a Massage Technician License at Serenity Spas (formally Orchid Spas), 93 Fifth Avenue in the unincorporated North Fair Oaks area of San Mateo County.

Based on information provided by Detective Barry Coyle and evidence presented at the public hearing, the San Mateo County License Board has denied your client's application and made the following finding:

Finding

That Section 5.04.210 states that "[T]he License Board shall deny any application for a license if, after a public hearing, it finds:

"Section 5.04.210(2) – That such applicant . . . has done one or more of the following:

"Section 5.04.210(2)(d) – Has knowingly made a false statement in a material matter either in his application or in his testimony before the Board."

Section 5.04.230 states that within five (5) days after receiving notice of denial of license by the License Board, your client may appeal the decision of the License Board by filing a notice of appeal with the Board of Supervisors.

PLANNING AND BUILDING

Attachment A

**ENVIRONMENTAL
SERVICES
AGENCY**

Agricultural
Commissioner/ Sealer of
Weights & Measures

Animal Control

Cooperative Extension

Fire Protection

LAFCo

Library

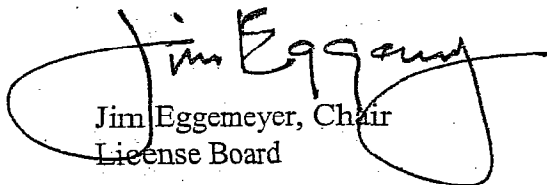
Parks & Recreation

Planning & Building

Mr. Christopher C. Hall
July 18, 2002
Page 2

If you have any questions, please contact me at 650/363-1930.

Sincerely,



Jim Eggemeyer, Chair
License Board

JE:fc -- JKEM1102_WFN.DOC

cc: Detective Barry Coyle, Sheriff's Office
Dean Peterson, Director, Environmental Health Services Division
Mary Ash, Deputy County Counsel
Mary Moreno, Secretary, Licensing Board
Ms. Van Cam Vo

1 **CHRISTOPHER C. HALL**
2 **ATTORNEY AT LAW**
3 **333 WEST PORTAL AVE. SUITE B**
4 **SAN FRANCISCO, CA 94127-1411**
5 **TEL: (415) 661-9148**
6 **FAX: (415) 664-4280**

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13 Attorney for Appellant,
14 **VAN CAM VO**

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17 **NOTICE OF APPEAL TO REDWOOD CITY**
18 **BOARD OF SUPERVISORS**
19 **OF SAN MATEO COUNTY**
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Case No.

VAN CAM VO,

Appellant,

**NOTICE OF APPEAL OF DENIAL OF
APPLICATION FOR A
MASSAGE TECHNICIAN LICENSE**

vs.

SAN MATEO COUNTY LICENSE BOARD,

Respondent.

**SERVED
IN THE OFFICE OF**

JUL 23 2002

NOTICE IS HREBY GIVEN THAT Van Cam Vo **CLERK OF THE** **BOARD OF SUPERVISORS**

of Redwood City, San Mateo County from the decision of the License Board of San Mateo County, of July 18, 2002, denying her Application for a Massage Technician License at Serenity Spas located at 93 5th Avenue, San Mateo County, California. A copy of said decision is attached hereto as EXHIBIT "A" and incorporated by reference herein.

The grounds for appeal include the following:

1. Decision of denial is not supported by substantial evidence in light of the whole record;
2. Decision and penalty to deny application is excessive, arbitrary and amounts to an

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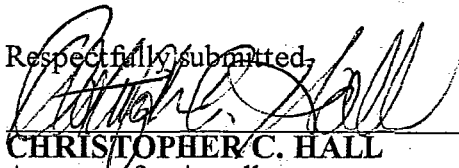
abuse of discretion.

3. Appellant will submit further arguments in support of the appeal, including declarations in support thereof, prior to or at the time of the scheduled hearing on the appeal.

You are further put on notice and requested to provide the undersigned counsel with any and all discovery prior to the hearing date in this matter, including any convictions, arrests, police reports, memorandum, documents, transcripts, exhibits and names of witnesses relative to the alleged violations and/or grounds governing the denial of Appellant's Application for Massage Technician License.

Please direct all correspondence and notice of date of hearing to the undersigned counsel for Appellant.

Dated: July 22, 2002

Respectfully submitted,

CHRISTOPHER C. HALL
Attorney for Appellant
VAN CAM VO



July 18, 2002

CERTIFIED MAIL

Mr. Christopher C. Hall
Attorney at Law
333-B West Portal Avenue
San Francisco, CA 94127

Dear Mr. Hall:

SUBJECT: NOTICE OF DECISION
Application for Massage Technician License
Ms. Van Cam Vo

On July 11, 2002, the San Mateo County License Board (Board) considered your client's (Ms. Vo) application for a Massage Technician License at Serenity Spas (formally Orchid Spas), 93 Fifth Avenue in the unincorporated North Fair Oaks area of San Mateo County.

Based on information provided by Detective Barry Coyle and evidence presented at the public hearing, the San Mateo County License Board has denied your client's application and made the following finding:

Finding

That Section 5.04.210 states that "[T]he License Board shall deny any application for a license if, after a public hearing, it finds:

"Section 5.04.210(2) - That such applicant . . . has done one or more of the following:

"Section 5.04.210(2)(d) - Has knowingly made a false statement in a material matter either in his application or in his testimony before the Board."

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**ENVIRONMENTAL
SERVICES
AGENCY**

Agricultural
Commissioner/ Sealer of
Weights & Measures

Animal Control

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Library

Parks & Recreation

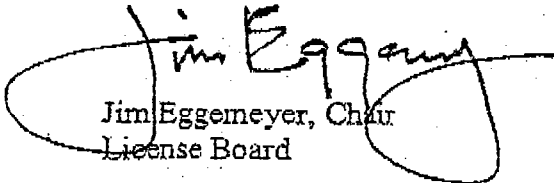
Planning & Building

EXHIBIT "A"

Mr. Christopher C. Hall
July 18, 2002
Page 2

If you have any questions, please contact me at 650/363-1930.

Sincerely,



Jim Eggemeyer, Chair
License Board

JE:fc -- JKEM1102_WFN.DOC

cc: Detective Barry Coyle, Sheriff's Office
Dean Peterson, Director, Environmental Health Services Division
Mary Ash, Deputy County Counsel
Mary Moreno, Secretary, Licensing Board
✓ Ms. Van Cam Vo

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PROOF OF SERVICE

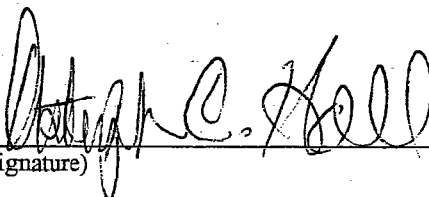
I the undersigned, declare:

That my business address is: **333-B West Portal Ave., San Francisco, CA 94127.**

That I served the original/copy of the attached: **Notice Of Appeal Of Denial Of Application For A Massage Technician License** in the matter of **Van Cam Vo**, in person/by placing said original/copy in an envelope, which was then sealed, with postage fully paid thereon, and was this day addressed as follows:

400 COUNTY CENTER
Redwood City, CA 94063
COUNTY MANAGER'S OFFICE

Executed this **23rd** day of **July**, 2002, at San Francisco, California.



(Signature)

Business License Application: Massage

Name of Applicant: VEN. CHA VO

7 Have you ever had a criminal conviction, other than misdemeanor traffic violations? NO If Yes, please list the nature of each offense and the punishment or penalty assessed: _____

Questions 8 and 9 are to be completed by Technician and Trainee Applicants only.

8 Information regarding the Massage establishment where you are to be employed.

Business Name: ORCHID SPAS Address: 93 5TH AVE.
Street
 Telephone #: (650) 363-1628 REDWOOD CITY CA
City State
 Owner's Name: DANNY HUYNH 94063
Zip

9 Name and Address of all previous Establishments where the Applicant has been employed as a Massage Technician or Trainee: _____

I hereby declare under penalty of perjury that the above statements and information are true. I am fully aware that if this application is denied by the License Board for any reason then all of the fee paid with my application will be forfeited as stipulated by County Ordinance.

[Signature]
 Signature of Applicant

Dated this 24 day of 9
2002 at _____
 California.

For Staff Use Only. Received by: [Signature]

All Applicants:
 License Fee of \$ 65 - Paid
 Proof of age over 18
 Medical certificate provided/30 Days

Massage Technicians:
 Certificate of graduation or proof of at least one year experience
 Massage Tech Trainee:
 Letter of school enrollment
 Acceptance letter from Owner/Operator

License Board Recommendations:	Approval	Denial
Planning/Zoning Date: _____	_____	_____
Sheriff Date: _____	_____	_____
Building Inspector Date: _____	_____	_____
Fire Protection Date: _____	_____	_____
Health Officer Date: _____	_____	_____

TO: Tax Collector of San Mateo County
 The above application for a Business License is hereby _____ Granted _____ Denied.
 FROM: Chair of the County License Board _____

California School of Massage

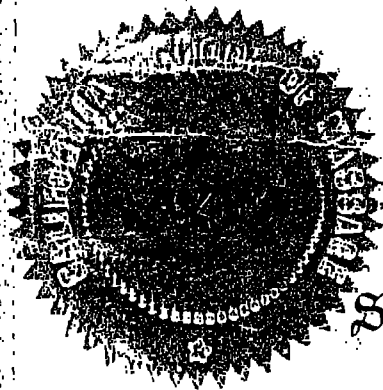
San Francisco, California

Certificate of Completion

This is to Certify that

Van Cam Vo

has satisfactorily completed the Scientific Swedish Massage Course,
and is hereby awarded this Certificate



May 19, 1982
Date

Catherine Willis
Director

School approved by Department of Public Instruction

CASH RECEIPT

AUDIT COPY

Account No. _____ Date: 4/9/2002
Received From: Van VO
M: _____
Address: 1353 Thistlewood Ct
City: San Jose State: CA 95121

THE AMOUNT OF

Five hundred / 100 DOLLARS

AMOUNT OF ACCOUNT	ACCOUNT	HOW PAID		
		CASH	CHECK	MONEY ORDER
			<input checked="" type="checkbox"/>	

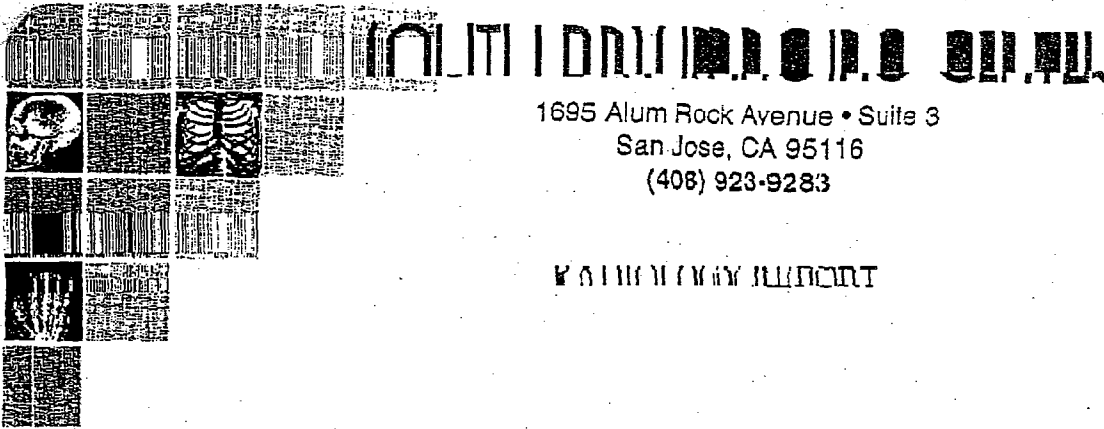
For: Message Technician License
THANK YOU RECEIVED BY: Hoda
76274

BR 873 Rediform



CALIFORNIA DRIVER LICENSE CLASS: C
U8010550
EXPIRES 10-10-03
This license is issued as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits.
VAN CAM VO
1353 THISTLEWOOD CT
SAN JOSE CA 95121
SEX: F HAIR: BLK EYES: BLK
HT: 5-05 WT: 120 DOB: 10-10-57
VAN CAM VO
09/01/98 235 / FD/03 R3709





1695 Alum Rock Avenue • Suite 3
 San Jose, CA 95116
 (408) 923-9283

W A T H E R S O N I M A G E

Film#: 38705
 Name: Van Vo
 DOB: 10/10/57
 DOE: 04/09/02
 Dr. Thai V. Tran

EXAM: CHEST - PA AND LATERAL

CLINICAL HISTORY: Physical.

FINDINGS: Lungs are clear. No infiltrate, effusion or nodular density. The cardiac silhouette and bony structures are within normal limits.

IMPRESSION: No acute disease.



FILM NO. _____

77


HEALTH CERTIFICATION FOR MASSAGE THERAPISTS/TRAINEES

APPLICANT'S NAME VO, CAM VAN
APPLICANT'S ADDRESS 1353 THISTLE WOOD CT
SAN JOSE, CA 95121
APPLICANT'S TELEPHONE (408) 887-2257

This is to certify that VO, CAM VAN has been examined.
(Name of Applicant)

There is no evidence of contagious or communicable disease capable of being transmitted to the public or fellow employees by the type of conduct and interaction with the public and fellow employees involved in the performance of conducting massage.

PPD (04/09/02) → 10 mm
Chest X Ray (04/09/04) → Negative


(Signature of Physician)

04-12-02
(Date)

A052959
(License #)

PHYSICIAN'S NAME THAI VINH TRAN, M.D.
(Please Print)

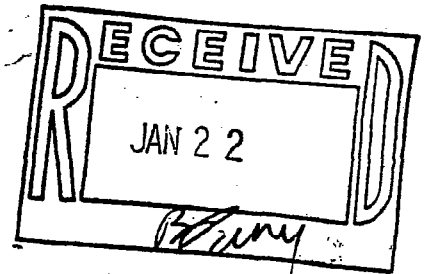
PHYSICIAN'S ADDRESS 652 E. SANTA CLARA ST
SAN JOSE, CA 95112

PHYSICIAN'S TELEPHONE (408) 294-2868

MASSAGE CODE

THAI VINH TRAN, M.D.
652 E. Santa Clara St.
San Jose, CA 95112
Tel.: (408) 294-2868

FILED
MUNICIPAL COURT OF BERKELEY
ALBANY JUDICIAL DISTRICT
FEB - 2 1996



1 CHRISTOPHER C. HALL
2 855 Bryant Street
3 Second Floor
4 San Francisco, CA 94103

DAVID COLEMAN, Clerk
B. Kelly

(415) 552-6525

5 Attorney for Defendant
6 VAN C. VO

7 MUNICIPAL COURT FOR THE BERKELEY-ALBANY JUDICIAL DISTRICT
8 COUNTY OF ALAMEDA, STATE OF CALIFORNIA

9
10 PEOPLE OF THE STATE OF CALIFORNIA,

Case No. 133531-B

11 Plaintiff,

12 vs.

13 VAN C. VO

14 Defendant.

15
16 ORDER OF THE COURT

17
18 GOOD CAUSE APPEARING THEREFORE:

19 IT IS THE ORDER OF THIS COURT that the plea or verdict
20 of guilty heretofore entered be set aside and a plea of not
21 guilty be entered, and that the information or complaint be
22 dismissed, and the defendant is released from all penalties
23 and disabilities resulting from said offense pursuant to
24 1203.4 of the Penal Code.

25 DATED: 2 Feb 1996

26
27
28 
JUDGE OF THE MUNICIPAL COURT
Attachment D

MUNICIPAL COURT FOR THE

BERKELEY-ALBANY

JUDICIAL DISTRICT

PROB: COND SENT (CRT PRO) COUNTY OF ALAMEDA, STATE OF CALIFORNIA
CLERKS DOCKET AND MINUTES

DOCKET NAME: VO, VAN CAM DEPT: 03 CRT. DATE/TIME: 2/02/96 09

EVENT NAME: VO, VAN CAM RPT. NO: 90-64132 DOCK NO: 13353

PROC: PTDSM CEN: 0319588 PFN: AUL195 A DAY: 12/20/90 SJ DATE: 8/12

COUNTS

JURIS BE

4. CHARGES:)M647(A) PC DISM-VIEW OF PLEA
)M647(B) PC AMEND-LESS INCL OFFN
)M415 PC CONVICTED-NOLO CONTRE

STAT BAIL TOTAL DAYS IN CUSTODY: 2

5. BAIL STAT BOND DT BOND CD DOB: 10/10

6. FINE/REST DATE PAID REC. NO. TIME WAIVED TW

PROCEEDING

7. JUDGE: JENNIE RHINE

DEP. D.A. *Lockyer*

8. DEP. CLERK: R. NEELEY

DEF. ATTY: HALL, CHRISTOPHER

9. REPORTER: R. RUSSAH-MORRIS
IN CUSTODY

OTHERS

10. DEF. PRESENT YES NO EXCUSED ATTY. PRESENT YES NO PRO PER TIME NOT WAIVED TIME WAIVER WITHDRAWN
(circle one) (circle one)

11. WAIVER OF RIGHTS SIGNED AND FILED () YES () NO () ORAL Ref. to P.D. FIN INELIGIBLE FOR P.D. PLEA OF () NOT GUILTY () GUILTY
() SLO/SRRO CHARGE () PURSUANT 23103.5 V.C. () ADMITS PRIORS
() PRIOR(S) STRICKEN/SPO () ADMITS CLAUSES

MOTIONS MADE

2. () ORAL () WRITTEN
3. BY PEOPLE DEFENSE STIPULATION PRO-PER

BENCH WARRANT

ORDERED FOR: _____
BAIL \$: _____
ISSUED BY: _____
DATED: _____
BW RETURN OR W/D: _____
HOLD UNTIL: _____

BAIL STATUS

() BF () CONT. TO SJ DATE
BF OF: _____ SET ASIDE
BAIL EXONERATED: _____
BAIL REINSTATED: _____
SJ ENTERED: _____
SURRENDERED: YES NO

4. () BAIL REDUCTION () DISMISS () OR
10/9 - to 1/03 4 PC
5. _____
6. _____
7. _____
8. () GRANTED () DENIED () DROPPED
9. () SUBMITTED () CONT'D () WITHDRAWN

0. () DULY ARRAIGNED/ADVISED ON CONSTITUTIONAL RIGHTS () WAIVES ARRAIGNMENT () HANDED COPY OF COMPLAINT () DISCOVERY () AMENDED ()
1. () REF TO PROB: REST ONLY/DIV/PRE PLEA () COND SENT () FORM PROB () REV () HG WAIVED () VIOLATION ADMIT / FOUND
() REINSTATED SAME T & C () MODIFIED () TERMINATED

() ADVISED 987.8 PC () O.R. ADVISEMENT () DEFENDANT EXCUSED () MUST APPEAR AT NEXT COURT DATE
() REFER TO FHO () ADVISED 1016.5 (a) PC () SEARCH & SEIZURE () 4 WAY () 3 WAY () SEE ORDER

CONTINUATION RECORD

2. DATE: _____
3. TIME: _____
4. DEPT.: _____
5. PROC: _____

AA DB TQ QU CR
DA DU QA VW QH
EP FF QC WG UG
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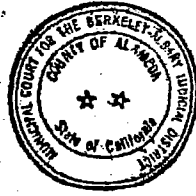
DISPOSITION

DOCKET NAME: VO, VAN CAM CRT. DATE: 2/02/96 DOCK NO: 133531

The foregoing is a correct copy of the original
on file in this office.

Dated FEB 14 1996 David Coleman, Clerk
of Municipal Court, Berkeley-Albany Judicial
District, County of Alameda, State of California.

By J. [Signature] Deputy Clerk



**MUNICIPAL COURT OF CALIFORNIA
SAN MATEO COUNTY**

SOUTHERN BRANCH
750 Middlefield Road
Redwood City, CA 94063

CENTRAL BRANCH
800 No. Humboldt St.
San Mateo, CA 94401

NORTHERN BRANCH
1050 Mission Road
So. San Francisco, CA 94080

PLAINTIFF:
THE PEOPLE OF THE STATE OF CALIFORNIA

VS

DEFENDANT:
VAN CAM VO

COPY

**PETITION AND ORDER UNDER
P.C. 12034 OR P.C. 1203.4a**

FOR COURT USE ONLY

FILED

MUNICIPAL COURT
NORTHERN BRANCH

JAN 24 1996

PEGGY THOMPSON, Court Admin.

By *[Signature]* Deputy

CASE NUMBER
CrNM245416

PETITION

I, the undersigned, say: that I am the defendant in the above entitled criminal action, and I was convicted of the misdemeanor offense of violation of Section 5.441030 of San Mateo Muni. Code on 7-18-94 DATE

(applicable items checked)

That probation was granted on the terms and conditions set forth in the docket of the above-named court; that the defendant has

fulfilled the conditions of probation for the entire period thereof;

Probationary Sentence (P.C. 1203.4)

(or has been discharged from probation prior to the termination of the period thereof)

and

is not serving a sentence for any offense, nor on probation for any offense, not charged with the commission of any offense.

Other Sentence (P.C. 1203.4a)

That probation was not granted; that more than one year has elapsed since the date of pronouncement of judgment; that defendant has complied with the sentence of the court; that defendant is not serving a sentence for any offense, nor under charge of commission of any crime, and has since said pronouncement of judgment lived an honest and upright life, and conformed to and obeyed the laws of the land.

Wherefore petitioner hereby requests that defendant be permitted to withdraw his plea of guilty, or that the verdict or finding of guilt be set aside and that a plea of not guilty be entered and that the court dismiss this action pursuant to Section _____ of the Penal Code. I have read and I understand the following proposed order.

Executed on January 11, 1996 at San Francisco California.

DATE PLACE

I declare under penalty of perjury that the foregoing is true and correct.

[Signature]
VAN CAM VO DEFENDANT

ORDER

It appearing to the court from the records on file in this case, and from the foregoing petition, that the defendant herein is eligible for the relief requested.

It is hereby ordered that the plea, verdict, or finding of guilt in the above-entitled action be set aside and vacated and a plea of not guilty be entered, and that the complaint be, and is hereby dismissed. This order does not relieve defendant of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office or for licensure by any state or local agency.

Dated JAN 22 1996



[Signature]
Attachment E
JUDGE

ge
oni
sens

Office of the Sheriff

DON HORSLEY
SHERIFF

GREGORY MUNKS
UNDERSHERIFF



PERSONNEL SERVICES BUREAU

COUNTY OF SAN MATEO

400 COUNTY CENTER • REDWOOD CITY • CALIFORNIA 94063 TELEPHONE (650) 363-435

ADDRESS ALL COMMUNICATIONS TO THE SHERIFF

June 10, 2002

To: Heather Oda, Treasurer's Office/Pony TXT 138
From: Detective Barry G. Coyle, Sheriff's Services Bureau
Subject: Massage Technician License
Applicant: Van Cam Vo

The records check with the California Department of Justice reveals that Ms. Vo has a prior criminal history. As a result of this information, I cannot recommend Ms. Vo for a Massage Technician License.

Sincerely,

Barry G. Coyle
Barry G. Coyle/Detective
Sheriff's Services Bureau

VO HEARING TAPE
7/17/02

JE: JIM EGGEMEYER
CH: CHRISTOPHER HALL, ATTORNEY FOR VO
KV: KAM VO
MA: MARY ASH
MM: MARY MORENO
BC: BARRY COYLE, DETECTIVE
DP: DEAN PETERSON

JE: Okay we're going to get started in a few minutes if that's okay with everybody.
Are you expecting anybody else? Are you Mr. Hall?

CH: I'm Mr. Hall.

JE: Hi. I'm Jim Eggemeyer. Pleased to meet you.

MA: Mary Ash.

JE: And Mary Moreno from the Treasurer's office. Okay, you want to start the tape?

MM: It's started.

JE: Oh, okay great. I would like to welcome everybody to today's public hearing to consider a massage technician's license for Ms. Vo and my name is Jim Eggemeyer and I'm the chair of the Licensing Committee, Licensing Board and other board members are Dean Peterson and Barry Coyle and our County Counsel for our board is Mary Ash and our assistant with our board is Mary Moreno. I'd like to try and stay an informal meeting I'm going to first ask that Barry provide some background information on what we have. I believe he's done some investigation work relevant to the application and then we'll see if any of the other board members have questions on his research and then I'll ask you for your presentation information and anything else you have to add in regards to this

application we that have today. Okay? Good. Okay, Barry do you want to provide us with some background facts?

BC: Okay, I don't recall the exact date she came into my office but she came in for a live scan which is the DOJ fingerprinting criminal history check. We do that on every massage tech that comes in. The day that she came in I remember asking her if she had ever been arrested for any offense. On her application, she had checked "no" but later told me that she was arrested in San Francisco 12 to 15 years ago and arrested in San Mateo approximately 10 years ago. She said that neither one were ever taken to court. I ran the DOJ check and I got the return that showed there was also another arrest date of 12/20/1990 by the Berkeley Police Dept. for a 647(b) which is prostitution, 647(a) solicit a lewd act. This is something she did not tell me at the time I filled out the live scan form. I contacted Berkeley Police Department and obtained a copy of the report and I have a copy of that, it is case number, there's a couple of cases connected to it, one is case 90-64133 and the next one is case number 90-064169 and apparently Ms. Vo had owned a salon named "Faces" in the city of Berkeley and a her and another individual were eventually arrested for both those violations of 647(a) and 647(b). Ms. Vo, apparently this is a comment out of the report, um and one of the Berkeley officers knocked on the door and an Asian female opened it.

CH: I'm going to have to object to the admissibility of statements as that of heresay.

BC: These are actual reports from the Berkeley Police Dept.

CH: Well I'm sure they're actual reports but what's in those reports are statements made not only more than 12 years ago but they're utter multiple heresay and to

admit them without the officers who made those statements is to subject those officers or the inability to subject those officers to cross examination under the due process clause and that's utter heresy. You're trying to mitigate a case that was resolved and you're not putting it in full context of what really happened.

That's hearsay, you have no personal knowledge as well as _____. The grounds for reclusion for is number one, it's multiple hearsay and two, its lack of foundation and personal knowledge. You don't know what happened there. You're relying on comments that were basically from a third person.

MA: Per the chair, may I suggest that maybe it might be a good time to read into the record that _____ statements were the basis on which the board had proposed to deny the license. The ordinance code section, there was a letter sent to Mrs. Vo and it referenced the sections which I believe were also provided to the applicant, yeah.

CH: You are quite, quite right, another objection is that it is irrelevant because one of the sections that has been cited for the denial or the notice of intent to deny her application was based upon a conviction in a court of law involving misconduct. There's no conviction for 647(a) and 647(b) of the Penal Code.

BC: Actually I believe on the application, it states at question number seven, "Have you ever have a criminal conviction other than a misdemeanor traffic violation?" and she listed "no".

CH: But, that is a separate a separate matter upon which Ms. Moreno, in her notice of intent to deny, that section comes under 5.04.200 subsection d, "A person who

knowingly, knowingly makes a false statement in a material matter in his or her application.”

___ That I reported.

CH: Excuse me for interrupting here but I'd like to go back to Ms. Ash in which she's requested here that we read into the record both of the associated...

MA: Yeah, in other words, the letter that was sent, the basis for the proposed denial were two violations of two sections of ordinance codes and they were set forth in the letter dated June 13, to Ms. Vo from Mary Moreno and they cited 5.04.210 sub (d) and 5.44.120 of the ordinance code and those sections were I believe sent to Ms. Vo on June 13.

CH: That's right

MA: Okay and the um two ten point, 5.040.210(d) says it has “knowingly made a false statement in a material matter either in his application or in his testimony before the board,” that's one section, the issue is, “knowingly made a false statement in a material matter.”

CH: Okay.

MA: The second section 5.44.120 which um which states, “the application in addition to the grounds set in 5.04.210, the following may constitute the basis for denial of a license: The applicant has been convicted in a court of competent jurisdiction of (A) an offense involving lewd conduct or an offense involving use or force and violence on the person of another.” A crime requiring registration under section 290 of the Penal Code for any violation under sections 311.7, and I would ask Mr. Coyle, Detective Coyle, I take it that the what you, the basis for the rejection was

that she had falsely stated that she had not been arrested when she had been arrested, that was one...

BC: Right.

MA: And the second was that she had, would be, "(A) an offense involving lewd conduct," is that correct?

BC: Right.

MA: And what evidence do you have that she was convicted of an offense involving lewd conduct?

BC: Well actually on this DOJ printout on her fingerprints it showed she had been arrested for 647(a) and 647(b) of the Penal Code and in court eventually pled to a 415 PC Night Noise and Offensive Words, it says in lieu of a plea to another charge, the other cases were dismissed.

MA: Is that the case, is that the same case in which she was arrested?

BC: Yes.

MA: I think that that – we want to clarify the record – that this is the basis for this and I'm assuming now that you wouldn't want to challenge that, that there is the evidence of that, is that correct?

CH: That's correct, in fact I handled the case of Ms. Vo back in 1990 and it was dispo'd I think in 1991 on a 415.

JE: I'm sorry I didn't understand you.

CH: It was dispo'd on a nolo contendere plea of 415 of the Penal Code which was disturbing the peace .

MA: Right.

CH: And there was no conviction of a 647(a) or 647(b) of the Penal Code and my objection is this section 5.44.120 deals with a conviction in court for lewd conduct, okay, and this is not a conviction for lewd conduct, and for Mr. Coyle, Detective Coyle to read a police report pertaining to conduct that was ultimately dismissed is another ground for objection, it's irrelevant.

MA: Okay, is this your position then, because it was a 415 plea that that does not involve lewd conduct, is that what your argument is?

CH: Well, that, and put it in full context, that 415 conviction was ultimately expunged back on January.

BC: 1996

CH: Yeah, February 2, 1996, a motion was brought in Berkeley, Alameda County, to withdraw the plea and have it dismissed and I have documents here which support that...

MA: Is there an order?

CH: Yeah there's an order here. The order is on top and the minute order from the court is attached and is marked in yellow.

MA: Are you putting that in as an exhibit?

CH: Yes.._____.

CH. So that particular offense of 415 I submit does not fall within the parameters of section 5.44.120 of the San Mateo County Ordinance. I will deal with the other issues as we go along.

MA: Okay, is there...

JE: Barry, did you have anything else you wish to add?

BC: Actually, I just had this police report, and the fact that there was issues talked about, money for sex, and I can't bring it in the record so no sense in repeating everything that was in the report.

MA: Well...

BC: She was arrested for it then as Hall said she was eventually, she eventually pled to the 415 in lieu of the other cases were dismissed in lieu of that plea.

JE: Okay, Dean, do you have any questions to Barry on his research? I don't either, so...

CH: May I question him or do you want

JE: Yes, anybody... This isn't a court of law, this is an informal board and we're just here to understand the facts and make a decision or we have the option of postponing our decision.

CH: Okay.

JE: So.

CH: Um, may I cross-examine him and then want to hear it from _____ on a statement and I'd like to cross-examine him if I may, is that alright?

JE: Um, why don't we have a discussion, I don't work in a court of law.

CH: Okay.

JE: I'm a planner, okay,

CH: I appreciate that.

JE: I don't go to court, I've been subpoenaed once in my term here at the County and that's been almost ten years and so it would be easier for me just to have a discussion.

CH: Alright, may I just ask that other than the offenses that you found out at Berkeley, yeah, I think you mentioned that Ms. Vo mentioned she had some problems in San Francisco, is that right?

BC: She had a problem in San Francisco and a problem in San Mateo.

CH: Okay.

BC: It took quite awhile for me to get that out of her...

CH: Okay, when you met with Ms. Vo she was by herself, I take it, she didn't have anyone _____ her?

BC: No.

CH: Okay, um, the question here that you're zeroing in on this question number seven and...

JE: You're referring to her application.

CH: Her application.

JE: Can I just get my copy of that? Okay, it's the back page, the second page, okay.

CH: Did you go over the questionnaire with her?

BC: Yes.

CH: Okay, and did you discuss with her at the time before she filled this out and made representations to you about her past that the any criminal conviction includes any convictions that may have been expunged?

BC: The application, when she came to me the application was already filled out, but I did explain that to her that any convictions _____

CH: Okay, did you talk to her about an expungement?

BC: No I didn't.

CH: Okay. And you didn't tell her that, you understand that if you had an offense expunged under 1203.4 of the Penal Code you've heard of that...

BC: Yes I have.

CH: You've heard of that, that's the expungement section where you go in and withdraw the plea after you've completed probation and have the case dismissed that it's still your obligation to disclose that conviction?

BC: I told her that if she ever had any conviction whatsoever that she needed to tell me about it.

CH: Okay, again, there was no discussion about you know, on some forms you fill out, you've seen other questionnaires, they mention expungements, and they mention if you had a record clearance, you still have to disclose it, that was never discussed with her.

BC: No it was not.

CH: Okay, that's all I'm getting at, you know, I, she came to me back in 1996 and we expunged the case on the 415 over in Berkeley, you have a copy of that and the docket reflects that. There was another offense that she happened to have committed in 1994 that was out of South San Francisco. That offense, correct me if I'm wrong, was a, that's where she pled nolo contendere to giving a massage without having obtained a permit.

BC: I have no knowledge of that one, she just told me that she was arrested in San Francisco and in San Mateo for prostitution however no charges were ever brought.

CH: Well, the one in South San Francisco, there never was a charge of prostitution. What is was, was 5.44.030, which is a ordinance down there that requires an individual before they engage in massages to get a permit and she didn't have it. In fact she was working for an establishment down there in San Mateo at the time. What was the name of that place you worked at?

KV: The Bella.

CH: The Bella, and she'd been there one day and the owner asked her to see if she liked giving massage she engaged in and she got caught and she went to court and she pled on it and got a year's probation and went and expunged it, and that was the expungement, the order is here as well as that one. The point I'd like to make is that when she filled out the application, she did it herself, she didn't have an attorney with her, I didn't know, I'd been her attorney for years. When she filled this out, she put "no." I questioned her about it, if she were to testify she'd tell you that in her mind she believed that because these two matters, not old matters, the one was a 94 the licensing one in South San Francisco and the other one was a 1990, which is very old. She thought since they were expunged, that she was free of a conviction, and I say that only because two years ago, well, actually in 1998 or 99, she applied for citizenship, and she received her naturalization pursuant to an interview in San Jose and these matters were brought to the attention, the expungements, and she got her citizenship. So I don't think under section 5.04.200 subsection (d) that she specifically entered, went in here with the intent to lie, and that as you know, knowingly make a false statement, knowingly is a specific intent element and I don't think that she did that with the specific purpose

to mislead them. I think she made a mistake or if she was under the good faith belief since these matters were expunged since her pleas were withdrawn and dismissed that she didn't have to disclose that for she didn't have a conviction. And the only other thing I'd like to point out is the questionnaire at number seven thereon page two of the application, I think it's a little vague, if it if, you know, I've seen other questionnaires where the government would say the convictions include expungements. And this is somewhat ambiguous, what's a conviction, if it in fact has been dismissed, what is a conviction if it's dismissed?

BC: Can I ask one question of you? As her attorney, did you ever talk to her about 1203.4 and the expungement and the fact that if the questionnaire of an application asked have you ever been convicted whether she had to put "yes" or "no" on that because of the 1203.4?

CH: Well, if I'd been asked, if she had brought this to me you betcha it would have been put here.

BC: But I don't believe that's what I'm asking.

JE: I'm sorry, as in put, what would have been put in

CH: If I were her attorney I would have clarified this and put "convicted 415, convicted 1990 dismissed, plea withdrawn," I would have clarified it, she didn't come to me before she filled this out.

BC: My question is when you went through and went to court and got it expunged for 1203.4, did you explain to her that she still had to mark "yes" as her attorney, and you were her attorney at that time, wouldn't it be your obligation to tell her that

on any application where it asked if she ever was convicted of any misdemeanor or felony offense?

CH: Well, I'm not the applicant here.

BC: No, you're not.

CH: I don't think I have to, but I'll answer it and if, when I have ladies that apply for massage licenses in this county and other counties, I tell them look if you can get an application bring it to me and I'll fill it out. She didn't bring it to me and I didn't know she went and filled it out. Had she, I would have enlightened her on it, but she did it on her own and again, she received her citizenship two years ago and these documents were presented to the INS and Department of Justice at the time and all we're trying to get at is what her state of mind was when she appeared with you.

BC: What I'm asking is when you were did all this paperwork with her to get this case dismissed, is it your duty to tell her that she needs to still mark "yes" on an application where it says...

CH: Again, every application...

BC: I mean you asked me if I discussed it with her, I did not. That's not my job to ask her about it.

CH: Well, what we're looking at was what her state of mind was. She disclosed, she told you she had some problems.

BC: And that nothing ever came of it, correct?

CH: Okay, but she at least she disclosed it, maybe she disclosed the half truth, I don't know, but she told you and you went back and looked at her record anyway. So,

but knowingly is the key here and did she really come in here with the intent to lie to you? Why would she disclose, say yeah, I've had problems in the past, and not disclose these, and I'm saying, maybe just maybe she acted under the mistaken belief that she had no conviction because of the expungements.

BC: I guess, going back to that, she told me about San Francisco, she told me about San Mateo, if she wasn't worried about it why didn't she tell me about Berkeley?

CH: You know, Berkeley goes back to 12 years now, I don't know why she didn't, a 415 she probably thought since it was so old and it was of the minimalist offense, a 415 is probably the lowest one on the totem pole on criminal convictions and since it was dismissed, expunged, she thought, well...

BC: But my question to her question was not, "have you every been convicted, have you ever been arrested..."

CH: Now she _____

BC: Exactly, but I also since she marked "no", I asked her, "have you ever been arrested, not have you ever been convicted?" And she told me about the two, San Mateo and San Francisco, and did not tell me about the Berkeley arrest.

CH: Well, let me ask her this: "When you filled this out, did you intend to mislead Mr. Coyle, Detective Coyle, did you intend to lie to him?"

KV: No, I don't have anything to lie to because I know already that everything is 19.... I had a problem a long time ago about eleven years ago but 1996 I pay you to clean my record so I thought everything would be finished and done.

CH: I can't tell you Detective as I sit here whether in 96 after I got the one out of Berkeley that I sat down and said "now look, you are under an obligation here to

disclose this if you fill out a questionnaire....” I can’t tell you. But if I didn’t, maybe it was my fault, I just can’t remember that far back, you know? But she’s the one that filled it out and I don’t think this questionnaire cuts you know due process here I don’t think it – it is somewhat ambiguous. It would have been proper if you were looking for to see if she was telling the truth to ask, to put on this, “have you ever been arrested or convicted,” or and if you have been convicted and its been expunged, you still have to disclose it. That would save us all a lot of trouble, then you would catch them with their pants down but that is somewhat ambiguous here. And I don’t think that section is met here that she did it with the specific intent to mislead. And the other thing is, boy they’re old, are you gonna really, as you sit there, you’re not going to deny it because of her past, you’re going to deny it because you felt she lied to you.

BC: I just felt that if she could remember something ten to fifteen years ago in San Francisco that she could certainly remember something that happened twelve years ago in Berkeley where she actually was arrested and pled to a misdemeanor.

CH: Did you find anything in San Francisco?

BC: She told me there was nothing ever..

CH: But you ran a DOJ, a rap.

BC: Yes I did.

CH: And you came up with Berkeley and South City.

BC: I came up with Berkeley.

CH: Okay, well we disclosed something that you didn’t have which was the South City one.

BC: But she told me, that's actually South San Francisco.

CH: Right, right, right.

BC: Which is the San Mateo offense.

CH: Right.

KV: Can I tell you on question because I uh the day that I filled out the application I come and I really, really like you and um because I'm not um like I came into you I didn't know why you had to investigate me I feel like I just keep the application like normally so when you asked me I really don't know so ...

CH: I can tell you Detective looking back at her immigration file that I brought in when we filled that out, I filled it out because I did her INS application and we disclosed that and we disclosed the expungements but here she did it on her own and I'm not saying she's not sophisticated, but she's not educated in filling out applications as maybe I or you are, because she did this on her own there she was negligent, she was negligent in not putting that but I don't think negligence meets reaches the level of knowingly making a false statement, did she really intend to mislead, I just don't think it's clear and convincing that she intended to do that under that section.

JE: Okay, Mr. Hall, do you or your client have any information other than to share with us?

CH: She, I'd like to submit her California School of Massage diploma which dates back to 1982 in which she receives her diploma from the California School of Massage in San Francisco and she's a fully, well, she's got a degree in massage therapy and she comes into this county because there's an establishment here that

would like to hire her and she'd like to work there and that's work at Spa located here in Redwood City and they've offered her the job and if the application is approved then she can go to work there. Apparently, she I think I'm not sure from my discussion with Ms. Vo is that there had to be a doctor's report that they've got to fill out as well. I don't know what is that true?

KV: Yes.

CH: And I think she's submitted that already, I don't think, I don't know if there's any physical or mental problems, I don't think there's any mental problems and I hope the letter doesn't indicate that there's any physical problems but if the application's approved then she gets to go to work there. She likes doing this type of work and she's been doing it

Tape ends.

Kam Vo License doc.

COUNTY COUNSEL

THOMAS F. CASEY III

CHIEF DEPUTIES

CHRISTINE E. MOTLEY
MICHAEL P. MURPHY



COUNTY COUNSEL

COUNTY OF SAN MATEO

HALL OF JUSTICE AND RECORDS • 6TH FLOOR
400 COUNTY CENTER • REDWOOD CITY, CA 94063-1662
TELEPHONE: (650) 363-4250 • FACSIMILE: (650) 363-4034

Please respond to: (650) 363-4762

July 31, 2002

DEPUTIES

MARY M. ASH
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Mr. Christopher C. Hall
Attorney at Law
333-B West Portal Avenue
San Francisco, CA 94127

Re: Appeal of Denial of Application for Massage Technician License - Ms. Van Cam Vo

Dear Mr. Hall:

This is to confirm our telephone conversation earlier today. The hearing on the appeal will be held on August 20, 2002, in the Chambers of the Board of Supervisors, located on the first floor of the Hall of Justice and Records, 400 County Center, Redwood City. The hearing will be set to commence sometime between 9:00 a.m. and 12:00 noon. As soon as we have confirmed the time, we will notify you. A staff report and supporting material will be provided to you at least a week in advance of the hearing, along with a description of the hearing procedures.

Please contact the undersigned if you have any immediate questions. We will inform you when and if the matter is assigned to another attorney in the office.

Very truly yours,

THOMAS F. CASEY III, COUNTY COUNSEL

By

Michael P. Murphy, Chief Deputy