

BRAD AVAKIAN
COMMISSIONER



CHRISTIE HAMMOND
DEPUTY COMMISSIONER

BUREAU OF LABOR AND INDUSTRIES

BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON

In the Matter of:

Burgerville LLC,

Respondent.

Case No. 55-17

**FINAL ORDER INCORPORATING
INFORMAL DISPOSITION**

On June 2, 2017, the Commissioner of the Bureau of Labor and Industries ("Commissioner" of the "Agency") issued a Notice of Intent to Assess Civil Penalties ("NOI") against Burgerville LLC ("Respondent").

The NOI assessed civil penalties against Respondent in the amount of \$11,750 for violations of wage and hour laws; specifically, ORS 653.261(1) and OAR 839-020-0050(1), (2) pertaining to meal and rest period requirements; and ORS 653.261(1) and OAR 839-021-0104(1), (2) pertaining to occupation of a minor in a hazardous and prohibited occupation.

Respondent was duly served with the NOI, along with information about the contested case process.

The matter was referred to the Administrative Prosecution Unit and assigned the case number 55-17. On June 23, 2017, the Agency submitted a fully executed settlement document with the forum entitled "Agreed Settlement" that fully resolved the issues in this case.

1 By signing the Agreed Settlement, the participants waived their rights to a
2 contested case hearing. This Final Order is not subject to ORS 183.470, is not subject
3 to judicial review under ORS 183.480, and may be set aside only as follows: "Within 60
4 days after such final order is issued, a participant may petition the agency to set aside
5 the order on the ground that the informal disposition was obtained by fraud or duress."
6 OAR 839-050-0220(9)(d).

7 The terms of the Agreed Settlement are hereby adopted by the Commissioner
8 and incorporated into this Final Order in their entirety. Under ORS 183.417(3),
9 Respondents and the Agency having fully executed the attached Agreed Settlement,
10 the record of this matter is hereby closed.

11 **IT IS SO ORDERED**

12 Entered at Portland, Oregon.

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15 _____
16 Kari Furnanz, Administrative Law Judge
17 Bureau of Labor and Industries

18 Issued On _____

19 June 27, 17
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BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON

In the Matter of:

Case No. 55-17

Burgerville LLC,

AGREED SETTLEMENT

Respondents.

I. RECITALS:

1. On June 2, 2017, the Commissioner of the Bureau of Labor and Industries ("Commissioner" of the "Agency") issued a Notice of Intent to Assess Civil Penalties ("NOI") against Burgerville LLC ("Respondent").

2. The NOI assessed civil penalties against Respondent in the amount of \$11,750 for violations of wage and hour laws; specifically, ORS 653.261(1) and OAR 839-020-0050(1), (2), (6) pertaining to meal and rest period requirements; and ORS 653.261(1) and OAR 839-021-0104(1), (2) pertaining to occupation of a minor in a hazardous and prohibited occupation.

3. Respondent was duly served with the NOI along with information about the contested case process.

4. The NOI was assigned case number 55-17.

5. Pursuant to ORS 183.417(3), and Oregon Administrative Rule 839-050-0220, the Agency and Respondent wish to compromise and settle this matter by the terms contained in this Settlement Agreement.

1 II. NOW, THEREFORE, in consideration of the mutual covenants and
2 agreements contained herein, each of the participants hereto stipulates and
3 agrees as follows:

4 1. Respondents waive any and all objections they may have as to the form,
5 manner or sufficiency of service and timeliness of the NOI.

6 2. By signing this Settlement Agreement, Respondents and the Agency
7 waive their rights to a contested case hearing for the matters alleged in case number
8 55-17. This Settlement Agreement, when fully executed, will be incorporated into a
9 Final Order Incorporating Informal Disposition ("Final Order") by an administrative law
10 judge.
11

12 3. The Final Order is not subject to ORS 183.470 or judicial review. Within
13 sixty (60) days of the issuance of the Final Order, any adversely affected or aggrieved
14 party may petition the Agency to have the Final Order set aside on the ground that it
15 was obtained by fraud or duress as is provided by OAR 839-050-0220(9)(d).

16 4. The parties waive any and all jurisdictional, procedural, and evidentiary
17 objections and agree that none of them is aware of any fraud or duress herein to date.

18 5. Respondent agrees to pay civil penalties of \$10,000 in four (4) equal
19 payments of \$2,500 each. Payment will be made by check to the Oregon Bureau of
20 Labor and Industries. The check shall be delivered to:

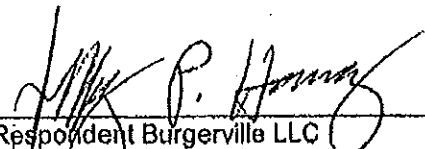
21
22 Oregon Bureau of Labor and Industries
23 Fiscal Services
24 1045 State Office Building
25 800 NE Oregon St.
Portland, Oregon 97232-2180.

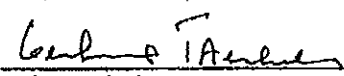
1 Payment must be received no later than 5:00 pm on the 5th day of each month,
2 beginning July 2017 and continuing through October 2017. If the payment due date
3 falls on a weekend or holiday, payment is due on the next business day.

4 6. Time is of the essence with the payment described in paragraph II.5. If
5 Respondent fails to make their payment within 10 days of the due date as provided in
6 paragraph II.5, then the Agency may immediately file the Final Order as a judgment
7 against Respondent for the full amount assessed in the NOI, less any payments made,
8 plus interest from the date the judgment is filed and without necessity of a hearing.

9 7. Based upon Respondent's full compliance with this Settlement
10 Agreement, the Agency agrees to forego any further or additional action in this matter
11 based on the violations alleged in the NOI.

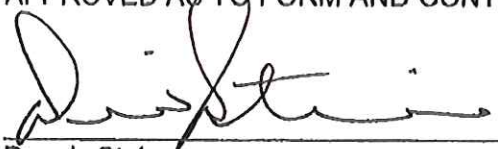
12 8. The Settlement Agreement may be executed in counterpart, each of
13 which shall be deemed an original, and all of which, taken together, shall constitute one
14 and the same instrument. In addition, the Settlement Agreement may be executed and
15 transmitted via facsimile device, which transmission shall be as valid and enforceable
16 as an original.

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20  Date: 6/22/17
21 Respondent Burgerville LLC

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23  Date: 6-23-17
24 Gerhard Taeubel
25 Administrator, Wage and Hour Division

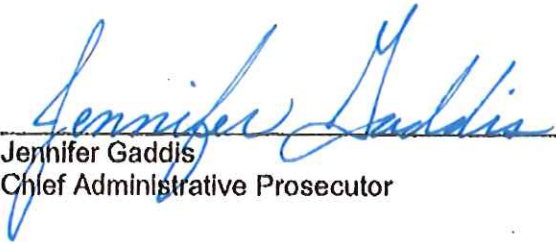
1 APPROVED AS TO FORM AND CONTENT:

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Dennis Steinman
Respondent Attorney

Date: 6/22/17



Jennifer Gaddis
Chief Administrative Prosecutor

Date: 6/23/17

BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I SERVED A COPY OF THE ATTACHED:

FINAL ORDER INCORPORATING INFORMAL DISPOSITION

In the Matter of:

BURGERVILLE LLC,
#55-17

BY HAND DELIVERING OR PLACING IT IN INTERNAL STATE MAIL SERVICES TO EACH PERSON AT THE ADDRESS LISTED BELOW:

.....

Jennifer Gaddis Chief Prosecutor Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232	Judgment Unit Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232	Gerhard Taeubel, Administrator Wage and Hour Division Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232
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AND BY PREPARING AND PLACING IT IN THE OUTGOING BUREAU OF LABOR AND INDUSTRIES MAIL TO EACH PERSON OR ENTITY AT THE ADDRESSES LISTED BELOW:

Dennis Steinman
Kell, Alterman & Runstein, L.L.P.
520 SW Yamhill Street, Suite 600
Portland, OR 97204-1329

via Regular Mail

On Tuesday, June 27, 2017

Diane M. Anicker, Contested Case Coordinator, Bureau of Labor and Industries, 971-673-0865