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**STATE OF OREGON
OREGON HEALTH AUTHORITY**

Ref File: 971353

IN THE MATTER OF:

**National Fitness & Racquet Club,
Tanning Facility**

)
) FINAL ORDER
)
)
) Agency Case No. RPS 2011-T1353 CP

**Jim Johnston
2524 Crosby Ave
Klamath Falls, OR 97603**

On December 29, 2011, the Oregon Health Authority, Public Health Division, Office of Environmental Public Health, Radiation Protection Services (RPS) issued a Notice of Violation and Proposed Imposition of Civil Penalty pursuant to Oregon Revised Statute ORS 431.950; Oregon Administrative Rules (OAR) 333-119-0020 and 333-124-0010 proposing to impose a civil penalty against National Fitness & Racquet Club in the amount of **\$2,325** for violations of Oregon Administrative Rules (OARs) listed in the Notice. The Notice offered Jim Johnston, an opportunity for hearing, if requested within 20 days of service of the Notice. The Notice designated the relevant portions of RPS' file on this matter, including all materials submitted by Mr. Johnston, as the record for purposes of default. Mr. Johnston did not request a hearing.

NOW THEREFORE, after considering the relevant portions of RPS' file relating to this matter, RPS enters the following Order.

FINDINGS OF FACT

1. National Fitness & Racquet Club consists of a tanning facility at, 2524 Crosby Ave, Klamath Falls, and has a total of 3 tanning devices.
2. On October 26, 2011, National Fitness & Racquet Club was inspected by an RPS staff member. During the inspection National Fitness & Racquet Club was found to be in violation of a number of administrative rules governing tanning devices and facilities. The violations were cited in the inspection report form dated October 26, 2011, that is incorporated by reference.

3. National Fitness & Racquet Club or a member of its staff was instructed to respond in writing within 30 days of the inspection with corrective action.
4. National Fitness & Racquet Club or a member of its staff was informed that if no response was received within 30 days civil penalties would be assessed as authorized by ORS 431.950 and OAR 333-124-0010.
5. To date, RPS has not received a response to the inspection.

ULTIMATE FINDINGS OF FACT

National Fitness & Racquet Club is operating as a tanning facility in violation of ORS 431.940 and OAR 333, Divisions 119 and 124.

CONCLUSION OF LAW

1. National Fitness & Racquet Club violated rules governing tanning facilities as documented in the October 26, 2011 Inspection Report which has been incorporated by reference, has not corrected such violations, and is subject to civil penalties.
2. Pursuant to ORS 431.950 and OAR 333-124-0010, a civil penalty shall be imposed against National Fitness & Racquet Club totaling **\$2,325**.
3. The civil penalties are calculated as follows for violations of OAR 333-119:

Rule Violation	Severity Level	CP amount	Instances	Totals
333-119-0020(6)	5	\$50	x 3	= \$150
333-119-0040(2)(c)	2	\$150	x 1	= \$150
333-119-0040(2)(d)	4	\$75	x 1	= \$75
333-119-0090(6)	1	\$200	x 1	= \$200
333-119-0100(5)	4	\$75	x 1	= \$75
333-119-0100(6)	4	\$75	x 1	= \$75
333-119-0100(11)	4	\$75	x 3	= \$225
333-119-0100(17)	2	\$150	x 3	= \$450
333-119-0100(18)	3	\$100	x 4	= \$400
333-119-0110(7)(a)	4	\$75	x 3	= \$225
333-119-0110(7)(c)	3	\$100	x 3	= \$300

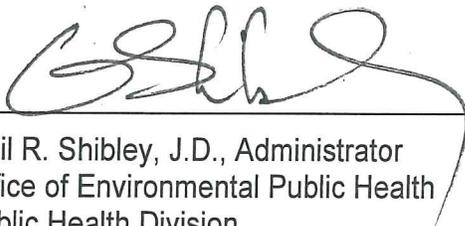
Proposed civil penalty amount = **\$2,325**

4. Failure to comply with this Order may subject National Fitness & Racquet Club, to further civil penalties.

ORDER

National Fitness & Racquet Club is ordered to pay a civil penalty in the amount of \$2,325.

DATED this 7th day of February 2012.



Gail R. Shibley, J.D., Administrator
Office of Environmental Public Health
Public Health Division

Date of Service: 2/8/12

Notice: Civil Penalty amounts are established in ORS 431.950. Civil penalties are due and payable 10 days after the date of this Order. If unpaid, civil penalties may be recorded and filed with county clerks as liens against property 10 days after the expiration of the statutory appeals period and sent to the Department of Revenue or a private collection firm for further collection efforts. If you have any questions about payment or wish to make payment arrangements, please call Todd S. Carpenter, Licensing Manager at 971-673-0500 and make checks payable to: "OHA-Radiation Protection Services" and send to Radiation Protection Services, 800 NE Oregon St., Suite 640, Portland, OR 97232.

Appeal Rights: You are entitled to judicial review of this order in accordance with ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the date of this order.

Copy to: Shannon O'Fallon, Senior Assistant Attorney General, Oregon Department of Justice
Todd S. Carpenter, Licensing Manager, Radiation Protection Services