PUBLIC HEALTH DIVISION
Radiation Protection Services
John A. Kitzhaber, MD, Governor

Oregon Health Authority

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STATE OF OREGON
OREGON HEALTH AUTHORITY

Ref File: 971687

IN THE MATTER OF:	)
	) FINAL ORDER
Sun West II,	)
Tanning Facility	)
	) Agency Case No. RPS 2011-T1687 CP

Susette McDonald
27329 South Highway 170
Canby, OR 97013

On February 10, 2012, 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 Sun West II in the amount of **$1,800** for violations of Oregon Administrative Rules (OARs) listed in the Notice. The Notice offered Susette McDonald, 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 Ms. McDonald, as the record for purposes of default. Ms. McDonald 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. Sun West II consists of a tanning facility at, 19739 Highway 213, Oregon City, and has a total of 12 tanning devices.

2. On November 15, 2011, Sun West II was inspected by an RPS staff member. During the inspection Sun West II 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 November 15, 2011, that is incorporated by reference.

3. Sun West II or a member of its staff was instructed to respond in writing within 30 days of the inspection with corrective action.

4. Sun West II 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 received a partial response to the inspection on December 21, 2011. A letter was sent to the owner on January 6, 2012 requesting the missing information. To date, no response has been received by RPS.

ULTIMATE FINDINGS OF FACT

Sun West II is operating as a tanning facility in violation of ORS 431.940 and OAR 333, Divisions 119 and 124.

CONCLUSION OF LAW

1. Sun West II violated rules governing tanning facilities as documented in the November 15, 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 Sun West II totaling **$1,800**.

3. The civil penalties are calculated as follows for violations of OAR 333-119:

Rule Violation	Severity Level	CP amount		Instances		Totals
333-119-0100(17)	2	$150	x	12	=	$1,800

Proposed civil penalty amount = **$1,800**

4. Failure to comply with this Order may subject Sun West II, to further civil penalties.

ORDER

Sun West II is ordered to pay a civil penalty in the amount of **$1,800**.

DATED this 10th day of April 2012.

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

Date of Service: April 10, 2012

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