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

Oregon Health Authority

800 NE Oregon Street, Suite 640
Portland, OR 97232
Voice 971-673-0490
FAX 971-673-0553
TTY 971-673-0372

STATE OF OREGON
OREGON HEALTH AUTHORITY

Ref File: 972731

IN THE MATTER OF:	)
	) FINAL ORDER
Tan Republic-SW Barnes,	)
Tanning Facility	)
	) Agency Case No. RPS 2011-T2731 CP

James Plumlee
2160 W. Burnside
Portland, OR 97210

On July 25, 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 Tan Republic-SW Barnes in the amount of **$1,100** for violations of Oregon Administrative Rules (OARs) listed in the Notice. The Notice offered James Plumlee, 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. Plumlee, as the record for purposes of default. Mr. Plumlee 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. Tan Republic-SW Barnes consists of a tanning facility at, 7545 SW Barnes Rd. Suite 115, and has a total of 6 tanning devices.

2. On May 17, 2011, Tan Republic-SW Barnes was inspected by an RPS staff member. During the inspection Tan Republic-SW Barnes 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 May 17, 2011, that is incorporated by reference.

3. Tan Republic-SW Barnes or a member of its staff was instructed to respond in writing within 30 days of the inspection with corrective action.

4. Tan Republic-SW Barnes 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

Tan Republic-SW Barnes is operating as a tanning facility in violation of ORS 431.940 and OAR 333, Divisions 119 and 124.

CONCLUSION OF LAW

1. Tan Republic-SW Barnes violated rules governing tanning facilities as documented in the May 17, 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 Tan Republic-SW Barnes totaling **$1,100**.

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

Rule Violation	Severity Level	CP amount		Instances		Totals
333-119-0040(2)(d)	4	$75	x	1	=	$75
333-119-0080(1)	1	$200	x	1	=	$200
333-119-0100(11)	4	$75	x	2	=	$150
333-119-0110(1)	4	$75	x	1	=	$75
333-119-0110(6)	2	$150	x	1	=	$150
333-119-0110(7)(a)	4	$75	x	6	=	$450

Proposed civil penalty amount = **$1,100**

4. Failure to comply with this Order may subject Tan Republic-SW Barnes, to further civil penalties.

ORDER

Tan Republic-SW Barnes is ordered to pay a civil penalty in the amount of **$1,100**.

DATED this 22 day of September 2011.

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

Date of Service: September 23, 2011

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