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: 971353

IN THE MATTER OF:	)	
	)	**FINAL ORDER**
National Fitness & Racquet Club,	)	
Tanning Facility	)	
	)	Agency Case No. RPS 2011-T1353 CP

Mr. Jim Johnston
2524 Crosby Avenue
Klamath Falls, OR 97603

On July 13, 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) 333-103-0025, 333-119-0020, 333-119-0140, and 333-124-0010 proposing to impose a civil penalty against National Fitness & Racquet Club in the amount of **$720** for violations of OAR listed in the Notice. The Notice offered Mr. Jim Johnston, the owner of National Fitness & Racquet Club, 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. Jim Johnston, as the record for purposes of default. Mr. Jim 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 tanning facility at 2524 Crosby Avenue, Klamath falls, and has a total of 3 tanning devices.

2. On January 1, 2011, National Fitness & Racquet Club was required to pay RPS a $100 registration fee per tanning device, for a total of $300 in registration fees. OAR 333-119-0020; 333-103-0025.

3. Mr. Jim Johnston was sent, to his address of record, two payment notices regarding unpaid registration fees. In addition, the Department of Justice (DOJ) sent Mr. Jim Johnston a letter advising him of potential civil penalties for failure to pay the outstanding registration fees within 10 days of the dated DOJ letter.

4. To date, RPS has not received any registration fees.

ULTIMATE FINDINGS OF FACT

National Fitness & Racquet Club has not paid its 2011 registration fees.

CONCLUSION OF LAW

National Fitness & Racquet Club violated OAR 333-103-0025 by failing to pay its 2011 registration fees.

ORDER

1. As authorized by ORS 431.950, National Fitness & Racquet Club shall pay a civil penalty of **$720**, calculated as follows for violations of OAR 333-103-0025:

   3 devices x $100 registration fees = $300

Start Date	End Date	Fees				
March 26, 2011	April 26, 2011	$300	3%	= $9	x 30 Days	$270
April 27, 2011	May 27, 2011	$300	5%	= $15	x 30 Days	$450

   Proposed Civil Penalty Amount: **$720**

2. In addition to paying a civil penalty, National Fitness & Racquet Club shall pay the 2011 registration fees of $300.

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

DATED this 15 day of August 2011.

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

Date of Service: August 15, 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 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 & Preparedness Manager, Radiation Protection Services