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**STATE OF OREGON
OREGON HEALTH AUTHORITY**

Ref File: 972791

IN THE MATTER OF:

)

) **FINAL ORDER**

**Anytime Fitness,
Tanning Facility**

)

)

) Agency Case No. RPS 2013-T2791 CP

**David & Tana Adair
P.O. Box 1233
Philomath, OR 97370**

On March 18, 2013, the Oregon Health Authority, Center for Health Protection, 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 **Anytime Fitness** in the amount of **\$273** for violations of Oregon Administrative Rules (OARs) listed in the Notice. The Notice offered **David & Tana Adair**, the owners of Anytime Fitness, an opportunity for a 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 David & Tana Adair, as the record for purposes of default. David & Tana Adair 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. Anytime Fitness consists of a tanning facility at 1313 Main Street, Philomath, and has a total of 1 tanning device(s).

2. On January 1, 2013, Anytime Fitness was required to pay to RPS a \$100 registration fee per tanning device, for a total of \$100 in registration fees. OAR 333-119-0020; and 333-103-0025.
3. Mr. & Mrs. Adair were sent, to their address of record, two payment notices regarding unpaid registration fees and on March 18, 2013 an Enforcement Bulletin advised them of potential civil penalties for failure to pay the outstanding registration fees within 10 days of the dated Enforcement Bulletin.
4. To date, RPS has not received any registration fees.

ULTIMATE FINDINGS OF FACT

Anytime Fitness has not paid its 2013 registration fees.

CONCLUSION OF LAW

Anytime Fitness violated OAR 333-103-0025 by failing to pay its 2013 registration fees.

ORDER

As authorized by ORS 431.950, Anytime Fitness shall pay a civil penalty of **\$273**, calculated as follows for violations of OAR 333-103-0025 & OAR 333-142-0010(8):

1 devices x \$100 registration fees = \$100

<u>Start Date</u>	<u>End Date</u>	<u>Fees</u>					<u>Total</u>
Jan. 10, 2013	Feb. 10, 2013	\$100	3%	\$3	x	31 Days	\$93
Feb. 11, 2013	Mar. 12, 2013	\$100	5%	\$5	x	30 Days	\$150
Mar. 13, 2013	Mar. 15, 2013	\$100	10%	\$10	x	3 Days	\$30
Proposed Civil Penalty Amount:							\$273

In addition to paying a civil penalty, Anytime Fitness shall pay the 2013 registration fees of \$100.

1. Failure to comply with this Order may subject Anytime Fitness to further civil penalties.

DATED this 6 day of May, 2013



Dave Leland
Interim Administrator, Center for Health Protection
Public Health Division
Oregon Health Authority

Date of Mailing: May 7, 2013

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.

Make check payable to:

**Oregon Health Authority
ATTN: 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, RPS Licensing & Preparedness Manager