

BRAD AVAKIAN
COMMISSIONER



CHRISTIE HAMMOND
DEPUTY COMMISSIONER

BUREAU OF LABOR AND INDUSTRIES

**BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON**

In the Matter of:

Case No. 55-16

**THE UNDERGROUND, LLC DBA
ENCORE CLUB DBA PDX POKER
CLUB and KING OF CLUBS
DEALERS GROUP,**

**FINAL ORDER INCORPORATING
INFORMAL DISPOSITION**

Respondents.

On June 17, 2016, the Commissioner of the Bureau of Labor and Industries ("Agency") issued an Notice of Intent ("NOI") against The Underground, LLC dba Encore Club dba PDX Poker Club and King Of Clubs Dealers Group, ("Respondents"), assessing civil penalties against Respondents in the amount of \$59,000.00 for violations of ORS 653.025, ORS 653.045(1) ORS 653.256, OAR 839-020-1000; OAR 839-020-1010(1)(a), (e) and OAR 839-020-1020.

Respondents were duly served with the NOI, along with information about the contested case process and timely filed an answer and request for hearing.

The matter was referred to the Administrative Prosecution Unit and assigned the case number 55-16. On June 16, 2017, the Agency submitted a fully executed settlement document with the forum entitled "Consent Order" that fully resolved the issues in this case.

1 By signing the Consent Order, the participants waived their rights to a contested
2 case hearing. This Final Order is not subject to ORS 183.470, is not subject to judicial
3 review under ORS 183.480, and may be set aside only as follows: "Within 60 days after
4 such final order is issued, a participant may petition the agency to set aside the order on
5 the ground that the informal disposition was obtained by fraud or duress." OAR 839-
6 050-0220(9)(d).

7 The terms of the Consent Order are hereby adopted by the Commissioner and
8 incorporated into this Final Order in their entirety. Under ORS 183.417(3), Respondents
9 and the Agency having fully executed the attached Consent Order, the record of this
10 matter is hereby closed.

11 **IT IS SO ORDERED**

12 Entered at Portland, Oregon.

13
14 
15 _____
16 Kari Furnanz, Administrative Law Judge
17 Bureau of Labor and Industries

18 Issued On _____

19 June 20, 2017
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9

**BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON**

In the Matter of:

Case No. 55-16

**THE UNDERGROUND, LLC DBA
ENCORE CLUB DBA PDX POKER
CLUB and KING OF CLUBS DEALERS
GROUP,**

CONSENT ORDER

Respondents.

10 **I. RECITALS:**

11 1. On June 17, 2016, the Commissioner of the Bureau of Labor and
12 Industries ("Agency") issued an Notice of Intent ("NOI") against THE UNDERGROUND,
13 LLC DBA ENCORE CLUB DBA PDX POKER CLUB and KING OF CLUBS DEALERS
14 GROUP, ("Respondents"), assessing civil penalties against Respondents in the amount
15 of \$59,000.00 for violations of ORS 653.025, ORS 653.045(1) ORS 653.256, OAR 839-
16 020-1000; OAR 839-020-1010(1)(a), (e) and OAR 839-020-1020.

17 2. Respondents were duly served with the NOI, along with information about
18 the contested case process and timely filed an answer and request for hearing.

19 4. Pursuant to ORS 183.417(3), and Oregon Administrative Rule 839-050-
20 0220, the Agency and Respondent wish to compromise and settle this matter by the
21 terms contained in this Consent Order.

22 **II. AGREEMENT**

23 **NOW, THEREFORE,** in consideration of the mutual covenants and agreements
24 contained herein, each of the participants hereto stipulates and agrees as follows:

25 1. Respondents admit the violations.

1 2. The parties agree that Respondents were employers pursuant to ORS
2 653.010(3) and employed individuals pursuant to ORS 653.010 (2) as alleged in the
3 NOI. The parties agree that if this case had proceeded to hearing it would have been
4 determined that these individuals were employees under the economic realities test.

5 3. Respondents waive any and all objections they may have as to the form,
6 manner or sufficiency of service and timeliness of the NOI and accept responsibility for
7 these violations.

8 4. By signing this Consent Order, Respondents waive their right to a
9 contested case hearing for the matters alleged in this case. This Consent Order, when
10 fully executed, will be incorporated into a Final Order Incorporating Informal Disposition
11 ("Final Order") by an administrative law judge.

12 5. The Final Order is not subject to ORS 183.470 or judicial review. Within
13 sixty (60) days of the issuance of the Final Order, any adversely affected or aggrieved
14 party may petition the Agency to have the Final Order set aside on the ground that it
15 was obtained by fraud or duress, as provided by OAR 839-050-0220(9)(d).

16 6. The parties waive any and all jurisdictional, procedural, and evidentiary
17 objections and agree that they are not aware of any fraud or duress involved in the
18 execution of this agreement or the events surrounding it.

19 7. Respondents agree to pay \$10,000.00 to the Agency as civil penalties for
20 the violations. Payment shall be made by check payable to Bureau of Labor and
21 Industries and shall be delivered to the Oregon Bureau of Labor and Industries, Fiscal
22 Services, 1045 State Office Building, 800 NE Oregon Street, Portland, Oregon 97232-
23 2180. Payment shall be made to the Agency by Respondent The Underground LLC
24
25

1 within 10 (ten) business days of the probate court entering an order in probate case
2 number 17PB02437 that releases settlement funds from the estate of Evgeny Ogai.

3 8. Time is of the essence in the performance of the obligations described in
4 this agreement. If Respondent fails to make timely payment as provided or violates any
5 of the terms of this agreement, BOLI may immediately file the Final Order as a judgment
6 against Respondent for the full remaining amount due, plus interest from the date of
7 judgment and without need of a hearing.

8 9. Based upon Respondents' full compliance with this Consent Order, the
9 Agency agrees to forego further or additional action in this matter based on the
10 violations alleged in the NOI.

11 10. This Consent Order may be executed in counterpart, each of which shall
12 be deemed an original, and all of which, taken together, shall constitute one and the
13 same instrument. In addition, this Consent Order may be executed and transmitted via
14 facsimile device, which transmission shall be as valid and enforceable as an original.

15 11. This Consent Order, including its Recitals, contains the entire agreement
16 among the parties with respect to the subject matter contained herein, fully supersedes
17 any and all prior agreements and/or understandings, oral or written, between the parties
18 pertaining to the subject matter of this Consent Order, and there is no agreement on the
19 part of any party to do any act or thing other than as expressly stated in this Consent
20 Order. This Consent Order may be amended or modified only by a written document
21 that is signed by all the parties. The parties acknowledge that, in executing this
22 Consent Order, they do not rely on any inducements, promises, or representations other
23 than those expressly set forth in this Consent Order.
24

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

By: [Signature]
The Underground, LLC dba Encore Club dba
PDX Poker Club

Date: 06.07.2017

By: _____
King of Clubs Dealers Group

Date: _____

By: _____
Gerhard Taeubel, Administrator
Wage and Hour Division

Date: _____

APPROVED AS TO FORM AND CONTENT

By: [Signature]
Laura Salerno Owens, Attorney for The Underground,
LLC dba Encore Club dba PDX Poker Club

Date: 6.12.17

By: _____
Renee Starr, Attorney for King of Clubs
Dealers Group

Date: _____

By: _____
Adriana Ortega, Administrative Prosecutor

Date: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

By: _____
The Underground, LLC dba Encore Club dba
PDX Poker Club

Date: _____

By: *[Signature]*
King of Clubs Dealers Group

Date: 6/6/17

By: _____
Gerhard Taeubel, Administrator
Wage and Hour Division

Date: _____

APPROVED AS TO FORM AND CONTENT

By: _____
Laura Salerno-Owens, Attorney for The Underground,
LLC dba Encore Club dba PDX Poker Club

Date: _____

By: *[Signature]*
Renee Starr, Attorney for King of Clubs
Dealers Group

Date: 6/8/17

By: _____
Adriana Ortega, Administrative Prosecutor

Date: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

By: _____
The Underground, LLC dba Encore Club dba
PDX Poker Club

Date: _____

By: _____
King of Clubs Dealers Group

Date: _____

By: Gerhard Taeubel
Gerhard Taeubel, Administrator
Wage and Hour Division

Date: 6/8/17

APPROVED AS TO FORM AND CONTENT

By: _____
Laura Salerno-Owens, Attorney for The Underground,
LLC dba Encore Club dba PDX Poker Club

Date: _____

By: _____
Renee Starr, Attorney for King of Clubs
Dealers Group

Date: _____

By: AO
Adriana Ortega, Administrative Prosecutor

Date: 6/8/17

BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I SERVED A COPY OF THE ATTACHED:

FINAL ORDER INCORPORATING INFORMAL DISPOSITION

In the Matter of:

**THE UNDERGROUND, LLC dba ENCORE CLUB dba PDX POKER CLUB and
KING OF CLUBS DEALERS GROUP**
Case #55-16

BY HAND DELIVERING OR PLACING IT IN INTERNAL STATE MAIL SERVICES TO EACH PERSON AT THE
ADDRESS LISTED BELOW:


.....

Adriana Ortega Administrative Prosecutor Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232	Judgment Unit Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232	Gerhard Taeubel, Administrator Wage and Hour Division Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232
---	---	--

AND BY PREPARING AND PLACING IT IN THE OUTGOING BUREAU OF LABOR AND
INDUSTRIES MAIL TO EACH PERSON OR ENTITY AT THE ADDRESSES LISTED BELOW:

Renee E. Starr, LLC 7128 SW Gonzaga Ste 230 Portland, OR 97223 via Regular Mail	Laura Salerno Owens Markowitz Herbold PC 1211 SW Fifth Avenue, Ste 3000 Portland, OR 97204 via Regular Mail
--	---

On Tuesday, June 20, 2017



Diane M. Anicker, Contested Case Coordinator, Bureau of Labor and Industries, 971-673-0865