

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. 27-16

**SANG IN NAM dba
CORNERSTONE JANITORIAL
SERVICES,**

**AMENDED FINAL ORDER
INCORPORATING INFORMAL
DISPOSITION**

Respondents.

On February 8, 2016, the Commissioner of the Bureau of Labor and Industries ("Commissioner" or the "Agency") issued a Notice of Intent ("NOI") against Sang In Nam dba Cornerstone Janitorial Services ("Respondent").

The NOI assessed civil penalties against Respondent in the amount of \$296,831.22 for violations of prevailing wage rate laws; specifically, ORS 279C.840, OAR 839-025-0035 and OAR 839-025-0040 pertaining to the payment of the prevailing rate of wage and fringe benefits on a public works; ORS 279C.845 and OAR 839-025-0010 pertaining to preparing and filing timely, accurate and complete payroll and certified statement forms; ORS 653.045, ORS 279C.850, OAR 839-020-0083 and OAR 839-025-0030 pertaining to records employers are required to make available for inspection; ORS 279C.840(4) and OAR 839-025-0033 pertaining to prevailing wage rate posting requirements; and ORS 279C.865 and OAR 839-025-0510, OAR 839-025-0520, OAR 839-025-0530, and OAR 839-025-0540 pertaining to civil penalties. The

1 NOI also assessed liquidated damages against Respondent in the amount of
2 \$205,969.60, pursuant to the provisions of ORS 279C.855 and OAR 839-025-0080.

3 The NOI also sought to place Respondent on the list of contractors ineligible to
4 receive any contract or subcontract for public works for a period of three (3) years from
5 the date of publication of its name on the ineligible list pursuant to ORS 279C.860 and
6 OAR 839-025-0085. The name of any firm, corporation, partnership or association in
7 which Respondent has a financial interest would also be published on the list of persons
8 ineligible to receive such contracts or subcontracts.

9 Respondent was duly served with the NOI, along with information about the
10 contested case process. Respondent timely submitted an answer and request for
11 hearing. The case was set for hearing beginning September 21, 2016. On September
12 14, 2016, prior to the commencement of the hearing, the Agency notified the ALJ the
13 Agency and Respondent had reached a settlement agreement and filed a fully-executed
14 settlement ("Agreed Settlement") that fully resolved the issues in this case.

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

21 The terms of the Agreed Settlement are hereby adopted by the Commissioner
22 and incorporated into this Amended Final Order in their entirety. Under ORS
23 183.417(3), Respondent and the Agency having fully executed the attached Agreed
24 Settlement, the record of this matter is hereby closed.

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

In the Matter of:

Case No. 27-16

**SANG IN NAM
dba
CORNERSTONE JANITORIAL
SERVICES**

AGREED SETTLEMENT

Respondent.

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I. RECITALS:

1. On February 8, 2016, the Commissioner of the Bureau of Labor and Industries ("Commissioner" or the "Agency") issued a Notice of Intent ("NOI") against Sang In Nam dba Cornerstone Janitorial Services ("Respondent").

2. The NOI assessed civil penalties against Respondent in the amount of \$296,831.22 for violations of prevailing wage rate laws; specifically, ORS 279C.840, OAR 839-025-0035 and OAR 839-025-0040 pertaining to the payment of the prevailing rate of wage and fringe benefits on a public works; ORS 279C.845 and OAR 839-025-0010 pertaining to preparing and filing timely, accurate and complete payroll and certified statement forms; ORS 653.045, ORS 279C.850, OAR 839-020-0083 and OAR 839-025-0030 pertaining to records employers are required to make available for inspection; ORS 279C.840(4) and OAR 839-025-0033 pertaining to prevailing rate of wage posting requirements; and ORS 279C.865 and OAR 839-025-0510, OAR 839-025-0520, OAR 839-025-0530, and 839-025-0540 pertaining to civil penalties not to exceed \$5,000 for each violation of any provision of ORS 279C.800 to 279C.870 or any rule of the commissioner adopted thereunder.

1 3. The NOI also assessed liquidated damages against Respondent in the
2 amount of \$205,969.60, pursuant to the provisions of ORS 279C.855 and OAR 839-
3 025-0080.

4 4. The NOI also sought to place Sang In Nam and Cornerstone Janitorial
5 Services on the list of contractors ineligible to receive any contract or subcontract for
6 public works for a period of three (3) years from the date of publication of its name on
7 the ineligible list pursuant to ORS 279C.860 and OAR 839-025-0085. The name of any
8 firm, corporation, partnership or association in which Respondent has a financial
9 interest would also be published on the list of persons ineligible to receive such
10 contracts or subcontracts.

11 5. Respondent was duly served with the NOI, along with information about
12 the contested case process. Respondent timely submitted an answer and request for
13 hearing.

14 6. The matter was given the case number 27-16.

15 7. Pursuant to ORS 183.417(3), and Oregon Administrative Rule 839-050-
16 0220, the Agency and Respondent wish to compromise and settle this matter by the
17 terms contained in this Agreed settlement. Parties stipulate that this settlement
18 agreement is not an admission of liability.

19 **II. NOW, THEREFORE,** in consideration of the mutual covenants and agreements
20 contained herein, each of the parties hereto stipulates and agrees that:

21 1. Respondent waives any and all objections it may have as to the form,
22 manner, or sufficiency of service and timeliness of the NOI.

23 2. By signing this Agreed settlement, Respondent waives his right to a
24 hearing for the matters alleged in case number 27-16. This Agreed settlement, when
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1 fully executed, will be incorporated into a Final Order Incorporating Informal Disposition
2 ("Final Order") by an administrative law judge.

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

7 4. The parties waive any and all jurisdictional, procedural, and evidentiary
8 objections and agree that none of them are aware of any fraud or duress herein to date.

9 5. Respondent agrees to pay a total of \$144,000.00 (one hundred forty-four
10 thousand and 00/100 dollars) in liquidated damages to the Agency at the rate of
11 \$3,000.00 (three thousand and 00/100 dollars) per month for 36 months, and then at a
12 rate of \$1,500.00 (one thousand five hundred and 00/100 dollars) per month for an
13 additional 24 months. Payments will be made by check payable to BOLI. The checks
14 shall be delivered to the Oregon Bureau of Labor and Industries, Fiscal Services, 1045
15 State Office Building, 800 NE Oregon St., Portland, Oregon 97232-2180. Each
16 payment must be received by 5:00 p.m. on the 25th day of the month, with the first
17 payment due no later than November 25, 2016, at 5:00 p.m. If the 25th of a month falls
18 on a weekend, holiday, or any other day on which the Agency's offices are closed, the
19 payment is due by 5:00 p.m. on the following business day.

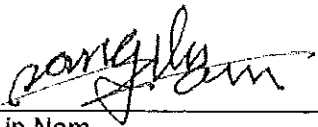
20 6. Time is of the essence with the payments described in paragraph II.5. If
21 Respondent fails to make a payment within 5 days of the due date as provided in
22 paragraph II.5, then the Agency may immediately file the Final Order as a judgment
23 against Respondent for the full amount of the assessed civil penalties and liquidated
24 damages as stated in paragraphs I.2 and I.3 of this agreement, less any payments
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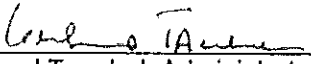
1 made, plus interest from the date the judgment is filed, and without necessity of a
2 hearing.

3 7. Respondent agrees to be permanently placed on the list of contractors
4 ineligible to receive public works contracts, pursuant to ORS 279C.860, from the date of
5 issuance of the Final Order. The name of any firm, corporation, partnership or
6 association in which Respondent has a financial interest will also be published on the
7 list of persons ineligible to ever receive such contracts or subcontracts.

8 8. Based upon Respondent's full compliance with this Agreed settlement, the
9 Agency agrees to forego any further or additional action in this matter based on the
10 violations alleged in Charges.

11 9. The Agreed settlement may be executed in counterpart, each of which
12 shall be deemed an original, and all of which, taken together, shall constitute one and
13 the same instrument. In addition, the Agreed settlement may be executed and
14 transmitted via email or facsimile device, which transmission shall be as valid and
15 enforceable as an original.

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17 By:  Date: 9/14/2016
18 Sang in Nam
19 dba Cornerstone Janitorial Services

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21 By:  Date: 9-14-16
22 Gerhard Taeubel, Administrator
23 Wage and Hour Division

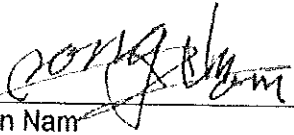
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1 APPROVED AS TO FORM AND CONTENT

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By: 
Sang In Nam
dba Cornerstone Janitorial Services


Date: 9/14/2016

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By: 
Rafael Colln
Administrative Prosecutor

Date: 9/14/2016

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