



**BUREAU OF LABOR AND INDUSTRIES**

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

In the Matter of:

**J. GABRIEL LOPEZ aka GABRIEL  
LOPEZ, AND GENERAL LABOR  
SERVICES LLC,**

Respondents.

Case No. **90-20**

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
OPINION  
ORDER

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**SYNOPSIS**

Respondents, an individual and a limited liability company, acted jointly as farm labor contractors without a license on 26 separate occasions in violation of ORS 658.410(1), OAR 839-015-0125, OAR 839-015-0135(1)(c) and (d), and (2). Respondents were assessed \$50,500 in civil penalties for the violations. ORS 658.453(1), OAR 839-015-0508(1).

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The above-entitled case was assigned to Cynthia L. Domas designated as Administrative Law Judge ("ALJ") by Val Hoyle, Commissioner of the Bureau of Labor and Industries for the State of Oregon. A hearing was held on February 9, 2021, by video conferencing using the GoToMeeting App. The hearing was reconvened on February 12, 2021, also using the GoToMeeting App.

1 The Bureau of Labor and Industries ("BOLI" or "the Agency") was represented by  
2 Administrative Prosecutor Adam Jeffries, an employee of the Agency. Respondent J.  
3 Gabriel Lopez aka Gabriel Lopez ("Respondent Lopez") represented himself. An  
4 authorized representative form was completed and submitted with Respondents' answer  
5 authorizing Alma Casarez ("Alma Lopez") to be the authorized representative for  
6 Respondent General Labor Services LLC. ("GLS").

7 The Agency called Hannah Wood, BOLI Compliance Specialist, and K. Paige  
8 Shell-Spurling, a bilingual (Spanish and English) BOLI Compliance Specialist, as  
9 witnesses.

10 Respondent Lopez called himself as a witness and Alma Lopez testified as a  
11 witness for Respondent GLS.

12 The forum received the following into evidence:

13 a) Administrative exhibits X1 through X13 prior to the hearing on February 9,  
14 2021; Ex. X14 and X15 prior to the hearing on February 12, 2021; and Exs. X16 and X17  
15 after the conclusion of the hearing.<sup>1</sup>

16 b) Agency exhibits: A5, A6, A8, A9, A11, and A12.

17 After the Agency issued a Notice of Intent ("NOI") and an Amended Notice of Intent  
18 (ANOI), the Agency moved for partial summary judgment. (Ex. X8) The ALJ granted the  
19 motion for partial summary judgment which is set out below.

20  
21 \_\_\_\_\_  
22 <sup>1</sup> The Interim Order Requiring Case Summaries to be Filed and Setting Case Filing Deadlines dated  
23 September 24, 2020, was inadvertently omitted from the administrative exhibits. Also inadvertently omitted  
24 from the administrative exhibits was an interim order regarding temporary procedures dated September 24,  
2020.

1 Having fully considered the entire record in this matter, I Val Hoyle, Commissioner  
2 of the Bureau of Labor and Industries, hereby make the following Findings of Fact  
3 (Procedural and on the Merits), Conclusions of Law, Opinion, and Order.<sup>2</sup>

4 **FIDINGS OF FACT – PROCEDURAL**

5 1) On June 9, 2020, the Wage and Hour Division (“WHD”) issued a NOI to  
6 assess civil penalties against Respondents in the amount of \$52,000 for 26 violations of  
7 ORS 658.410(1) and (2) and OAR 839-015-0125, acting as a farm labor contractor  
8 without a license. (Ex. X2b)

9 2) On June 19, 2020, Respondent Lopez timely filed an Answer & Request for  
10 Hearing. In the answer, Respondent Lopez admitted that he was performing farm labor  
11 contractor work without the required license. (Answer; X1a)

12 3) On September 10, 2020, the forum issued a Notice of Hearing to  
13 Respondents and to the Agency, setting the hearing for February 9, 2021. Along with the  
14 Notice of Hearing, the forum sent a copy of the NOI, a multi-language warning notice, a  
15 document entitled “Summary of Contested Case Rights and Procedures” containing the  
16 information required for ORS 183.413, a document entitled “Servicemembers Civil Relief  
17 Act (SCRA) Notification, and a copy of the forum’s contested case hearing rules, OAR  
18 839-050-0000 to 839-050-0445. (Exs. X2; X2a through X2f)

19 4) On September 24, 2020, the forum issued an interim order requiring that  
20 case summaries be filed and setting case filing deadlines. (Ex. X16) The forum issued a  
21 second interim order on September 24, 2020. The second order outlined the temporary  
22

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23 <sup>2</sup> The Ultimate Findings of Fact required by OAR 839-050-0370(1)(b)(B) are subsumed within the Proposed  
24 Findings of Fact – The Merits.

1 procedures in place due to Covid-19, including that the parties agreed to filing documents  
2 by email. (Ex. X17)

3 5) On December 4, 2020, the forum issued an interim order regarding the  
4 status of the hearing and updated and outlined the hearing procedures in place due to  
5 the pandemic. (Ex. X6)

6 6) On December 23, 2020, the Agency issued an Amended NOI (ANOI) to  
7 correct and add various citations and to add additional information. The Agency alleged,  
8 among other things, that Respondent Lopez and Respondent GLS were jointly and  
9 severally liable pursuant to ORS 658.410(2)(c) and (d) and OAR 835-015-0135(c). (ANOI,  
10 Ex. X7)

11 7) On December 29, 2020, the Agency filed a motion for partial summary  
12 judgment. (Ex. X8)

13 8) On December 29, 2020, the forum issued an interim order setting the  
14 timeline for Respondents to file a response to the Agency's motion. Respondents did not  
15 file a response. (Ex. X9)

16 9) On January 8, 2021, the forum issued an interim ruling granting the  
17 Agency's motion for partial summary judgment and stating that the hearing scheduled for  
18 February 9, 2021, would be held to determine the amount of civil penalties only. The  
19 interim order granting the Agency's request for partial summary judgment is set forth  
20 below: (Ex. X10)

21 **"INTRODUCTION**

22 "The Wage and Hour Division ('WHD') issued a Notice of Intent to Assess  
23 Civil Penalties ('NOI') against Respondents on June 9, 2020. On June 19, 2020,  
24 Respondents filed an Answer and Request for Hearing. (Agency Ex. 2) On  
December 23, 2020, the Agency filed an Amended NOI ('ANOI'). (Agency Ex. 10)

1 The ANOI corrected and added various citations and provided additional  
2 information.

3 "The ANOI alleged that Respondent GLS acted as a farm labor contractor  
4 without a valid license in its possession in violation of ORS 658.410(1) and OAR  
5 839-015-0125. The Agency further alleged that the violations occurred on 26  
6 separate occasions between April 1, 2019, and September 8, 2019. The violations  
7 occurred during the following 26 week periods ending on 4/06/19, 4/13/19, 4/20/19,  
8 4/27/19, 5/04/19, 5/11/19, 5/18/19, 5/25/19, 6/01/19, 6/08/19, 6/15/19, 6/22/19,  
9 6/29/19, 7/06/19, 7/13/19, 7/20/19, 7/27/19, 8/03/19, 8/10/19, 8/17/19, 8/24/19,  
10 8/31/19, 9/07/19, 9/14/19, 9/21/19, and 9/28/19.

11 "The Agency alleged that Respondents GLS and Lopez were jointly and  
12 severally liable for civil penalties for the 26 alleged violations of ORS 658.410(1)  
13 pursuant to ORS 658.453(1)(a); OAR 839-015-0507; OAR 839-015-0508(1)(a)  
14 and OAR 839-015-0135(1)(c). The Agency sought a civil penalty of \$2,000 per  
15 violation for a total civil penalty of \$52,000. The ANOI also alleged aggravating  
16 factors in regard to the civil penalties sought. OAR 839-015-0510(1) through (4)  
17 However, the Agency requested that the amount of civil penalties be determined  
18 at hearing.

### 19 "SUMMARY JUDGMENT STANDARD"

20 "A motion for summary judgment may be granted where no genuine issue  
21 as to any material fact exists and a participant is entitled to a judgment as a matter  
22 of law, as to all or any part of the proceedings. OAR 839-050-0150(4)(a)(B) The  
23 standard for determining if a genuine issue of material fact exists and the  
24 evidentiary burden on the participants is as follows:

" \* \* \* No genuine issue as to a material fact exists if, based upon the  
record before the court viewed in a manner most favorable to the adverse  
party, no objectively reasonable juror could return a verdict for the adverse  
party on the matter that is the subject of the motion for summary judgment.  
The adverse party has the burden of producing evidence on any issue  
raised in the motion as to which the adverse party would have the burden  
of persuasion at [hearing]."

ORCP 47C. In reviewing a motion for summary judgment, this forum draws  
all inferences of fact from the record against the participant filing the motion for  
summary judgment and in favor of the participant opposing the motion. *In The  
Matter of Derrick's Custom Painting, Inc.*, 37 BOLI 271, 275 (2020).

"The record considered by the forum in deciding this motion consists of: (1)  
the ANOI, argument made in support of the Agency's motion for summary  
judgment, and the exhibits submitted with the Agency's motion; and (2)  
Respondents' Answer to the NOI. Respondents did not file a Response to the

1 Agency's Motion for Partial Summary Judgment nor did they file an answer to the  
2 ANOI.

3 **"ANALYSIS"**

4 "Respondent GLS had a farm labor contractor license that expired on March  
5 31, 2019. (Ex. A-3) The Agency is seeking partial summary judgment on the issue  
6 that GLS committed 26 violations of ORS 658.410(1) between April 1, 2019, and  
7 September 23, 2019,<sup>3</sup> while unlicensed. The Agency further seeks partial  
8 summary judgment on the issue that Respondents Lopez and GLS are jointly and  
9 severally liable for the 26 violations. ORS 658.453(1)(a), OAR 839-015-  
10 0135(1)(c), OAR 839-015-0507, and OAR 839-015-0508(1)(a).

11 "In order for a person to act as a labor contractor, they must obtain a license  
12 from the Commissioner of the Bureau of Labor and Industries. ORS 658.410(1) A  
13 labor contractor license may only be issued to certain specified individuals,  
14 corporations, and limited liability companies (LLC). ORS 658.410(2) GLS was  
15 registered with the Oregon Secretary of State as an LLC from 2014 through  
16 November 14, 2019. (Ex. A-11) OAR 839-015-0135 further provides for licensure  
17 and at subsection (1)(c) states in pertinent part:

18 " \* \* \* [T]he licensed majority shareholder or majority shareholders  
19 and the licensed corporation or the majority member(s) of a limited  
20 liability company and the licensed limited liability company are  
21 jointly and severally liable for all violations of the corporation or  
22 limited liability company and its agents when acting as a labor  
23 contractor.'

24 "Respondents provided an Answer and Request for Hearing. (Ex. A-1) In  
the Answer, Respondent Lopez requested a hearing regarding civil penalties. He  
admitted that he was performing contract work with an expired license. Lopez  
stated that he attempted to renew his license but was unable to do so because of  
issues with the IRS. In order for licensure, an applicant must be in compliance with  
the provisions of OAR 839-015-0140(1) which considers the character,  
competence and reliability of the applicant. OAR 839-015-0145 sets out factors to  
be considered in regard to character, competence and reliability and in particular  
the timeliness of paying all debts (subsection 3) and failing to comply with federal,  
state, or local laws including those related to income taxes (subsection 10).  
Respondent Lopez stated that due to his family situation, he decided to continue  
working with his only client.

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<sup>3</sup> Although the Agency states in its argument that the time period is from April 1, 2019, through September 23, 2019, in its ANOI, the Agency alleges an ending date of September 28, 2019. The Agency assessed one violation per week and the end of the week for September 23, 2019, a Tuesday, is September 28, 2019. Pursuant to OAR 839-050-0320, the forum takes official notice of the calendar year 2019.

1 "The Agency provided the license application for Respondents showing that  
2 they were applying for a farm labor license. The applicant was Respondent Lopez  
3 and the business name was GLS, a domestic limited liability company. (Ex. A-2  
4 pps. 2-5) Respondent GLS was licensed from March 8, 2017, through March 31,  
2018, (License #35486). Respondent GLS was also licensed from March 27, 2018,  
through March 31, 2019, (License #41017). (Ex. A-2 p.1)

5 "On January 15, 2019, WHD sent Respondents a letter advising them that  
License #41017 was expiring on March 31, 2019, and that Respondents must apply  
6 for renewal of the license at least 30 days before the license expired. The letter  
7 also advised Respondents that they could be liable for civil penalties if they  
8 continued to operate without a valid license. (Ex. A-5) WHD sent another letter to  
Respondents dated April 1, 2019, telling them that their license had expired on  
March 31, 2019, and that it was no longer lawful for them to act as a farm/forest  
labor contractor. The letter further stated that Respondents could be liable for civil  
penalties if they continued acting as a farm labor contractor. (Ex. A-6)

9 "With its motion, the Agency provided a copy of an "offer" to supply  
10 temporary workers for vineyard work at a rate of at least \$12 per hour. The contract  
11 was between GLS and Stirling Wine Grapes, Inc. (Stirling) and signed by  
Respondent Lopez and Fox Stirling, a representative of Stirling. The contract was  
dated April 6, 2018. (Ex. A-7)

12 "ORS 658.405(4)(B) provides:

13 "Farm labor contractor" includes any person that: . . .

14 \* \* \*

15 "For an agreed remuneration or rate of pay, recruits, solicits,  
16 supplies or employs workers to perform labor for another person in  
the production or harvesting of farm products; \* \* \*"

17 "Along with the contract, the Agency provided invoices from GLS to Stirling  
18 Fox of Stirling. The first set of invoices produced by the Agency cover the pay  
period of January 2019 through April 5, 2019. (Ex. A-8 pps. 1-13). The Agency  
19 submitted a second set of invoices involving the same parties that covered the pay  
period of March 31, 2019, through September 23, 2019. (Ex. A-9, pps. 1-30).  
20 Respondent GLS filed articles of dissolution on November 4, 2019, after the date  
of the violations. (Ex. A-11 p. 2)

21 "Under OAR 839-015-0507 each violation is a separate offense and each  
22 day's continuing violation is a separate and distinct violation. The Agency has  
alleged one violation per week for a total of 26 separate violations.

23 "The uncontroverted evidence is that Respondents provided farm labor  
24 contractor services on 26 separate occasions while unlicensed.

1 "GLS was formed as a limited liability company with the Oregon Secretary  
2 of State although Respondent Lopez stated in his answer that he was "previous  
3 owner" and "sole proprietor". (Ex A-2) On the License Application submitted by  
4 Respondent Lopez dated March 22, 2018, he stated that he owned 100% of the  
company and that no other person had a financial interest in the company. (Ex. A-  
2 p. 3) OAR 839-0135(1)(c) provides that a license may only be issued to:

5 '\* \* \* [T]he majority shareholder or majority shareholders of a  
6 corporation or member(s) owning a majority of a limited liability  
7 company that is authorized to do business in Oregon by the Office of  
8 the Secretary of State and to the corporation or limited liability  
9 company. Under this form of licensing, except as provided in  
10 subsection (3), the licensed majority shareholder or majority  
shareholders and the licensed corporation or the majority member(s)  
of a limited liability company and the licensed limited liability  
company are jointly and severally liable for all violations of the  
corporation or limited liability company and its agents when acting as  
a labor contractor\* \* \*.'

11 "Respondent Lopez stated in the Answer that he continued to provide farm  
12 labor contractor services to his one client, Stirling, after Farm Labor License  
13 #41017 had expired. (Ex. A-1) The Agency produced evidence that Respondent  
14 GLS continued to provide farm labor contractor services to Stirling continuously  
15 from at least January of 2019 through September 23, 2019, and that a large portion  
of the services were provided without the requisite license. (Exs. A-8 and A-9) The  
Agency has provided sufficient evidence that Respondent Lopez should be held  
jointly and severally liable with Respondent GLS for the 26 violations of ORS  
658.410(1).

16 "Therefore, the Agency's motion for partial summary judgment is  
17 GRANTED. The hearing scheduled for February 9, 2021, will be held to establish  
the amount of civil penalties only.

18 **"IT IS SO ORDERED."**

19 (Ex. X10) The ALJ's ruling on the Agency's motion for summary judgment is hereby  
20 CONFIRMED.

21 10) At the outset of the hearing, pursuant to ORS 183.415(7), the ALJ verbally  
22 advised the Agency and Respondents of the issues to be addressed, the matters to be  
23 proved, and the procedures governing the conduct of the hearing. (Statement of ALJ)



11) The Agency objected to Alma Lopez being allowed to testify at the hearing held on February 9, 2021. The Agency objected because Respondent Lopez did not file a case summary and, therefore, Alma Lopez was not listed as a witness. The ALJ sustained the Agency's objection and Alma Lopez was not allowed to testify. (Hearing Record)

12) The hearing was reconvened on February 12, 2021, to have Respondent Lopez affirm his previous testimony as he was not previously under oath at that time. The ALJ revised her ruling regarding the Agency's objection to the testimony of Alma Lopez and allowed her to testify. The objection was overruled because Alma Lopez was the duly appointed authorized representative for Respondent GLS and because the ALJ had discretion to allow testimony not disclosed in the case summary pursuant to OAR 839-050-0210(5). As such, she was allowed to testify even though Respondent GLS did not file a case summary. See *In the Matter of Hey Beautiful Enterprises, Ltd.*, 33 BOLI 189, 193-194 (2014).

13) On July 27, 2021, the ALJ issued a Proposed Order that notified the participants that they were entitled to file exceptions of the Proposed Order within 10 days of its issuance. The Agency filed exceptions on July 30, 2021. Respondent did not file exceptions.

## FINDINGS OF FACT – THE MERITS

1) At all times material herein, GLS was an active domestic limited liability company registered with the Oregon Secretary of Business Registry. (Ex. X8)

2) On January 15, 2019, the Agency sent a letter to Respondent Lopez and Respondent GLS advising them that their farm labor contractor license was going to

1 expire on March 31, 2019. The letter advised Respondents that if a timely application for  
2 license renewal was not received, that they could not operate as a farm labor contractor  
3 after March 31, 2019. The Agency also advised Respondents that if they did operate as  
4 a farm labor contractor while unlicensed that they could be subject to civil penalties. (Ex.  
5 A5; Testimony of Wood)

6 3) On April 1, 2019, the Agency sent Respondents Lopez and GLS a letter  
7 advising them that their farm labor contractor license had expired on March 31, 2019, and  
8 that if they continued to operate as farm labor contractors, they could be subject to  
9 criminal and civil penalties. (Ex. A6; Testimony of Wood).

10 4) Between April and September of 2019, Respondents continued to operate  
11 as a farm labor contractor by providing workers to Stirling on 26 separate occasions.  
12 Respondents were unlicensed during this time period. (Testimony of Wood; Ex. A9)

13 5) Respondents received approximately \$325,000 from Stirling for providing  
14 workers to Stirling while unlicensed. (Testimony of Wood; Ex. A9)

15 6) On June 30, 2015, Respondent Lopez signed a compliance agreement  
16 with the Agency when it was discovered that Respondents were assisting an unlicensed  
17 farm labor contractor. (Testimony of Shell-Spurling; Ex. A11)

18 7) On August 3, 2018, Respondent Lopez signed a compliance agreement  
19 with the Agency for a lapse in worker's compensation coverage. Under the agreement,  
20 Respondent Lopez agreed to comply with all labor contractor requirements prescribed by  
21 Oregon law. (Testimony of Shell-Spurling; Ex. A12)

22 8) Respondent Lopez worked without a labor contractor's license because he  
23 had no money and had no other option available to him. On September 1, 2018, Alma  
24

1 Lopez, the wife of Respondent Lopez, suffered a home accident that resulted in her being  
2 in a wheelchair for two years. Mrs. Lopez was on daily dialysis. The couple have a  
3 disabled, 10-year old son. (Testimony of Respondent Lopez)

4 9) The invoices are correct that Respondent made over \$300,000 but that  
5 most of the money went to pay his employees. Lopez kept insurance to protect his  
6 employees even though he did not have a current license. (Testimony of Lopez)

7 10) Respondent Lopez admitted that the violations were true and he took full  
8 responsibility for what happened. (Testimony of Lopez)

#### 9 **CONCLUSIONS OF LAW**

10 1) The Commissioner of the Bureau of Labor and Industries has jurisdiction  
11 over the subject matter and Respondents Lopez and GLS herein. ORS 658.405 to  
12 658.503.

13 2) Respondents committed 26 violations of ORS 658.410(1) and OAR 839-  
14 015-0125 by supplying workers to Stirling during the time period of April 1, 2019, through  
15 September 23, 2019, while they did not have a valid farm labor contractor's license.

16 3) Under the facts and circumstances of this record, and according to the  
17 applicable law, the Commissioner of the Bureau of Labor and Industries is authorized to  
18 assess a civil penalty, not to exceed \$2,000 per violation, against Respondents for their  
19 violations of ORS 658.410, ORS 658.453(1)(a) and OAR 839-015-00508(1)(a).

20 4) Respondents committed prior violations of the farm labor laws and entered  
21 into compliance agreements with the Agency. The Agency advised Respondents of the  
22 ramifications if they continued to operate as a farm labor contractor without a farm labor  
23  
24

1 license. However, Respondents continued to operate as a farm labor contractor after  
2 their license expired. These factors support assessing a higher civil penalty.

### 3 **OPINION**

4 The summary judgment order issued on January 8, 2021, determined that  
5 Respondents violated ORS 658.410(1) when respondents acted as farm labor contractors  
6 without a license. The remaining issue to be determined is the amount of civil penalties.

7 In regard to the magnitude of the penalties for violations of ORS 658.410(1) OAR  
8 839-015-0512 provides in pertinent part:

9 “(1) The civil penalty for any one violation shall not exceed \$2,000.  
10 The actual amount of the civil penalty will depend on all the facts and  
on any mitigating and aggravating circumstances.

11 “(2) For purposes of this rule, ‘repeated violations’ means  
12 violations of a provision of law or rule which have been violated on  
more than one contract within two years of the date of the most  
13 recent violation.

14 “(3) When the Commissioner determines to impose a civil penalty  
for acting as a labor contractor without a valid license the minimum  
15 civil penalty shall be as follows:

16 (a) \$500 for the first violation;

17 (b) \$1,000 for the first repeated violation;

18 (c) \$2,000 for the second and each subsequent repeated violation.”

19 The criteria to be considered in determining an appropriate civil penalty are  
20 found at OAR 839-015-0510 and are:

21 “(1) The commissioner may consider the following mitigating and  
22 aggravating circumstances when determining the amount of any civil  
penalty to be imposed, and shall cite those the commissioner finds  
to be appropriate:

23 “(a) The history of the contractor or other person in taking all  
24 necessary measures to prevent or correct violations of statutes or  
rules;

1           "(b) Prior violations, if any, of statutes or rules;

2           "(c) The magnitude and seriousness of the violation;

3           "(d) Whether the contractor or other person knew or should have  
4 known of the violation.

5           "(2) It shall be the responsibility of the contractor or other person  
6 to provide the commissioner any mitigating evidence concerning the  
7 amount of the civil penalty to be imposed.

8           "(3) In arriving at the actual amount of the civil penalty, the  
9 commissioner shall consider the amount of money or valuables, if  
10 any, taken from employees or subcontractors by the contractor or  
11 other person in violation of any statute or rule.

12           "(4) Notwithstanding any other section of this rule, the  
13 commissioner shall consider all mitigating and aggravating  
14 circumstances presented by the contractor or other person for the  
15 purpose of determining the amount of the civil penalty to be  
16 imposed."

17           Respondent Lopez had been a licensed farm labor contractor for several years  
18 and had entered into two consent orders for violations of the farm labor contracting laws.  
19 (Ex. A11; A12)

20           Respondent Lopez was aware of the violations. Prior to the expiration of his farm  
21 labor contractor license, Respondent Lopez was given notice of the consequences of  
22 continuing to provide farm labor contractor services. (Ex. A5; A6).

23           Under OAR 839-015-0520(1)(i) acting as a farm labor contractor without a license  
24 is consider such a serious violation that it is grounds for suspending, revoking or refusing  
to renew a license. It provides;

"The following violations are considered to be of such magnitude and seriousness  
that the Commissioner may propose to deny or refuse to renew a license  
application or to suspend or revoke a license: \* \* \*

(i) Acting as a labor contractor without a license;"

Respondent Lopez testified that he knew that his farm labor license was expiring but made the choice to continue working as a farm labor contractor after the license expired.

Respondents failed to take any measures to prevent or correct the violations but continued to work without the requisite license for 26 weeks.

No evidence was presented that any person suffered a monetary loss as the results of Respondents' violations. The forum considers this to be a mitigating factor. In prior cases the forum has assessed a lesser civil penalty when no prior violations existed.<sup>4</sup>

In this matter there were two prior violations of the farm labor contractor law. Prior violations are considered to be one of several aggravating factors, and, therefore, a higher civil penalty is warranted.

A civil penalty of \$1,000 is assessed for the first violation of ORS 658.410(1) that occurred on or about April 6, 2019. A civil penalty of \$1,500 is assessed for the first repeated violation of ORS 658.410(1) that occurred on or about April 13, 2019. A civil penalty of \$2,000 is assessed for the 24 remaining repeated violations thereafter for a total civil penalty of \$50,500.

Respondents are jointly and severally liable for these violations. ORS 658.410(2)(c) and (d) and OAR 839-015-135(1)(c).

### EXCEPTIONS TO THE PROPOSED ORDER

#### Agency's Exceptions

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<sup>4</sup> See *In the Matter of Tomas Benitez*, 19 BOLI 142,160 (1999) for a discussion of prior cases involving the assessment of civil penalties. The forum notes that there have been few reported farm labor cases since *In the Matter of Mountain Forestry, Inc.*, 29 BOLI 11 (2007). The last reported case was *In the Matter of Erick Espinoza Farm Labor Contractor, LLC and Erick Espinoza-Juarez, Individually*, 35, BOLI 2 (2016). The Espinoza case dealt with license revocation and did not assess civil penalties.

1 Agency exceptions 1 through 4 concern the placement of punctuation marks in  
2 Respondent GLS's name. The Agency's exceptions 1-4 are GRANTED as is reflected  
3 throughout.

4 The Agency's 5<sup>th</sup> exception concerns a correction to an OAR cite in Procedural  
5 Proposed Finding of Fact #12. The Agency's exception is GRANTED and the cite has  
6 been corrected. The Agency's 6<sup>th</sup> exception concerns a correction to a case cite in  
7 Procedural Finding of Fact #12. The Agency's exception is GRANTED and the cite has  
8 been corrected.

9 The Agency's 7<sup>th</sup> and 8<sup>th</sup> exceptions concern corrections to ORS and OAR cites in  
10 the Proposed Opinion. The Agency's exceptions are GRANTED and the cites have been  
11 corrected.

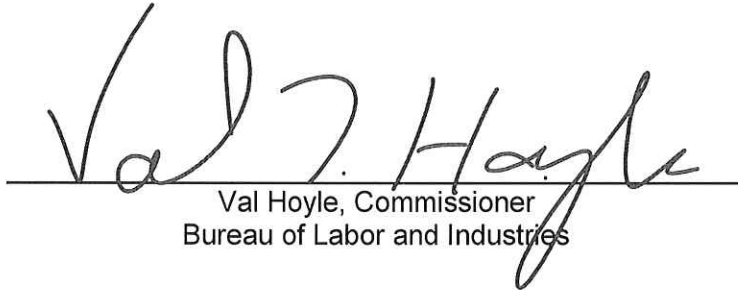
12 The Agency's 9<sup>th</sup> exception regards the wording in #4 of the Proposed Conclusions  
13 of Law. The Agency's exception is GRANTED and the wording has been changed to  
14 address the Agency's concerns.

15 The Agency's 10<sup>th</sup> exception concerned the reference to Proposed Finding of Fact  
16 #4 in the Exceptions Notice portion of the proposed order. The Agency's exception is  
17 GRANTED. Proposed Finding of Fact #4 has been changed to reference the second  
18 interim order issued on September 24, 2020, regarding the implementation of temporary  
19 procedures due to COVID-19 that included allowing the parties to file documents by email.

## 20 ORDER

21 NOW, THEREFORE, as authorized by ORS 658.453 and as payment of the  
22 penalties assessed for violations of ORS 658.410(1) the Commissioner of the Bureau of  
23 Labor and Industries hereby orders Respondents **J. Gabriel Lopez aka Gabriel Lopez**  
24

1 **and General Labor Services LLC.**, jointly and severally, to deliver to the Administrative  
2 Prosecution Unit of the Bureau of Labor and Industries, 1045 State Office Building, 800  
3 NE Oregon Street, Portland, Oregon 97232-2180, a certified check payable to the Bureau  
4 of Labor and Industries in the amount of FIFTY THOUSAND FIVE HUNDRED DOLLARS  
5 (\$50,500), plus any interest thereon that accrues at the legal rate of interest thereon  
6 between the date ten days after the issuance of the Final Order and the date Respondents  
7 comply with the Final Order.

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11 Val Hoyle, Commissioner  
Bureau of Labor and Industries  
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