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Attorney General of Hawaii

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HAWAII LABOR
RELATIONS BOARD

Attorneys for Complainant Director
of Labor and Industrial Relations

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of) CASE NO. OSH 2012-9
) (Inspection No. 313084527)
DIRECTOR, DEPARTMENT OF LABOR)
AND INDUSTRIAL RELATIONS,) STIPULATION AND SETTLEMENT
) AGREEMENT; EXHIBIT A; APPROVAL
Complainant,) AND ORDER
)
vs.)
)
HILTON HAWAIIAN VILLAGE LLC,)
)
Respondent.)

STIPULATION AND SETTLEMENT AGREEMENT

Complainant Director of Labor and Industrial Relations ("Director") and
Respondent HILTON HAWAIIAN VILLAGE LLC ("Respondent") having reached a full and
complete settlement of the above-captioned contested case presently pending before the Hawaii
Labor Relations Board ("Board") stipulate and agree as follows:

On or about February 16, 2012 through February 22, 2012, the Director, by and through the State of Hawaii's Occupational Safety and Health Division ("HIOSH"), inspected Respondent's workplace located at 2005 Kalia Road, Honolulu, Hawaii 96815.

As a consequence of said inspection, the Director, through HIOSH's Administrator, issued a Citation and Notification of Penalty on May 7, 2012 ("Citation") to Respondent alleging violations of the Hawaii Occupational Safety and Health Standards and assessed an aggregate penalty of \$2,062.50. See Exhibit A.

Respondent timely contested the Citation.

THEREFORE, to avoid the expense of litigation and to compromise and settle the above-captioned case, the parties, by and through their respective representatives, stipulate and agree as follows:

1. The Board has jurisdiction over this contested case pursuant to section 396-11, Hawaii Revised Statutes ("HRS").
2. At all relevant times, Respondent maintained a workplace at 2005 Kalia Road, Honolulu, Hawaii 96815.
3. At all relevant times, Respondent was an employer, as defined in HRS § 396-3, and employed employees, as defined in HRS § 396-3, and was therefore subject to the requirements of HRS chapter 396, the Hawaii Occupational Safety and Health Law.
4. Respondent agrees that it has abated each violation listed in the Citation in compliance with the abatement requirements under Hawaii Administrative Rule § 12-51-22.
5. The Citation is amended as follows:
 - a. Regarding Citation 1, Item 1 – the characterization is changed from Serious to Other and the penalty remains \$2,062.50.

b. Regarding Citation 2, Item 1 – it is affirmed in all respects.

6. The aggregate penalty of \$2,062.50 shall be paid in full to the Director of Budget and Finance upon the execution of this Agreement.

7. Except for the stipulated amendments described above, the Citation is confirmed in all other respects and upon approval by the Board, this Agreement and the Citation, as amended, shall become a final order of the Director.

8. As consideration for this Agreement, Respondent agrees that it will request a visit from HIOSH's Consultation and Training Branch within six months following the filing of this Agreement.

9. As further consideration for this Agreement, Respondent agrees that if it has not done emergency response training for day and night shift personnel within the year prior to the filing of this Agreement, that Respondent will do such training for all its employees.

10. Respondent shall post a copy of this Agreement and Order in a prominent place at or near the location of the posting of the Citation, and the Agreement and Order shall remain posted for three working days (excluding weekends and State holidays).

11. Respondent shall continue to comply with HRS chapter 396, the Hawaii Occupational Safety and Health Law, and the related rules.

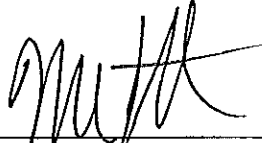
12. Nothing in this Agreement shall bar the Director from taking any action regarding future acts or practices by Respondent which may be alleged to violate HRS chapter 396, the Hawaii Occupational Safety and Health Law, or the related rules.

13. Upon approval of this Agreement, all proceedings before the Board shall be dismissed.


DATED: Honolulu, Hawaii, November 1, 2012

APPROVED AS TO FORM:

HILTON HAWAIIAN VILLAGE LLC




MARK J. BENNETT
Attorney for Respondent



By: Tracy R. Walker
Title: General manager

APPROVED AS TO FORM:

DIRECTOR OF LABOR AND
INDUSTRIAL RELATIONS



ROBYN M. KUWABE
Deputy Attorney General
Attorney for Director of Labor and
Industrial Relations, State of Hawaii



DWIGHT TAKAMINE

APPROVED AND SO ORDERED BY
HAWAII LABOR RELATIONS BOARD:

ORDER NO. 488

DATED: November 1, 2012



JAMES B. NICHOLSON, Chair



SESNITA A.D. MOEPONO, Member



ROCK LEY, Member

Director, Department of Labor and Industrial Relations v. Hilton Hawaiian Village LLC, OSH 2012-9 (Insp. No. 313084527) – Stipulation and Settlement Agreement

State of Hawaii

Department of Labor and Industrial Relations
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION
830 PUNCHBOWL STREET, ROOM 423
HONOLULU, HI 96813
Phone: (808)586-9110 FAX: (808)586-9104



Certified Number: 7006 2150 0000 0119 8806

Citation and Notification of Penalty

To:
Hilton Hawaiian Village LLC
and its successors
2005 Kalia Rd
Honolulu, HI 96815

Inspection Number: 313084527
Inspection Date(s): 02/16/2012- 02/22/2012
Issuance Date: 05/07/2012

Inspection Site:
2005 Kalia Rd
Honolulu, HI 96815

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty describes violations of the Hawaii Occupational Safety and Health Law. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation and Notification of Penalty, you mail a notice of contest to the State of Hawaii Occupational Safety and Health Division (HIOSH) at the address shown above. Please refer to the enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Law has occurred unless there is a failure to contest as provided for in the Law or, if contested, unless this Citation is affirmed by the Hawaii Labor Relations Board (HLRB) or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer. The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Administrator during the 20 calendar day contest period. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Administrator within 20 calendar days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 5, Notice to Employees, next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

Employers' Right to Contest - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Administrator in writing that you intend to contest the citation(s) and/or penalty(ies) within 20 calendar days after receipt, the citation(s) and the penalty(ies) will become a final order of the Department of Labor and Industrial Relations and may not be reviewed by any court or agency. Once a letter of contest is received, it becomes the jurisdiction of the HLRB.

Penalty Payment - Penalties are due within 20 calendar days of receipt of this notification unless contested. Make your check or money order payable to "Director of Budget and Finance." Please indicate the Inspection Number on the remittance.

HIOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Notification of Corrective Action - For each violations which you do not contest, you are required by Section 12-51-22 to submit an Abatement Certification to HIOSH. The certification must be sent by you within 5 calendar days of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by Section 12-51-22 to be sent to HIOSH, also be posted at the location where the violation appeared and the corrective action took place.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the Hawaii Occupational Safety and Health Division at the address shown above.

Employer Rights and Responsibilities - The enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Employees' Right to Contest - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Hawaii Occupational Safety and Health Division at the address shown above and postmarked within 20 calendar days of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data - You should be aware that OSHA publishes information on inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at WWW.OSHA.GOV. If you have any dispute with the accuracy of the information displayed, please contact this office.

ABATEMENT CERTIFICATION

DIANTHA GOO, ADMINISTRATOR
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION
830 PUNCHBOWL STREET, ROOM 423
HONOLULU, HI 96813

Hilton Hawaiian Village LLC
2005 Kalia Rd
Honolulu, HI 96815

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____

I attest that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement activities described in this certification.

Signature

Typed or Printed Name



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with HIOSH to discuss the citation(s) issued on 05/07/2012. The conference will be held at the HIOSH office located at 830 PUNCHBOWL STREET, ROOM 423, HONOLULU, HI, 96813 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.

State of Hawaii
Department of Labor and Industrial Relations
Hawaii Occupational Safety And Health Division

Inspection Number: 313084527
Inspection Dates: 02/16/2012 - 02/22/2012
Issuance Date: 05/07/2012



Citation and Notification of Penalty

Company Name: Hilton Hawaiian Village LLC
Inspection Site: 2005 Kalia Rd, Honolulu, HI 96815

Citation 1 Item 1 Type of Violation: **Serious**

29 CFR 1910.305(b)(1) [Refer to Chapter 12-89.1, HAR] was violated because:

An opening on the circuit breaker panel was not effectively closed, potentially exposing employees to electrical shock.

29 CFR 1910.305(b)(1) states "Conductors entering boxes, cabinets, or fittings. Conductors entering boxes, cabinets, or fittings shall also be protected from abrasion, and openings through which conductors enter shall be effectively closed. Unused openings in cabinets, boxes, and fittings shall be effectively closed."

Location: Rainbow Tower kitchen

Date By Which Violation Must be Abated:
Penalty:

Corrected
\$ 2,062.50

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of Hawaii
Department of Labor and Industrial Relations
Hawaii Occupational Safety And Health Division

Inspection Number: 313084527
Inspection Dates: 02/16/2012-02/22/2012
Issuance Date: 05/07/2012



Citation and Notification of Penalty

Company Name: Hilton Hawaiian Village LLC
Inspection Site: 2005 Kalia Rd, Honolulu, HI 96815

Citation 2 Item 1 Type of Violation: Other

29 CFR 1910.303(g)(1)(ii) [Refer to Chapter 12-89.1, HAR] was violated because:

Space around electrical panels was used as storage space potentially exposing employees to electrical shock.

29 CFR 1910.303(g)(1)(ii) states "Clear spaces. Working space required by this subpart may not be used for storage. When normally enclosed live parts are exposed for inspection or servicing, the working space, if in a passageway or general open space, shall be suitably guarded."

Location: Maintenance Shop nearby the East side of the wall

Date By Which Violation Must be Abated:
Penalty:

Corrected
\$ 0.00


DIANTHA GOO
Administrator

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of Hawaii

Department of Labor and Industrial Relations
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION
830 PUNCHBOWL STREET, ROOM 423
HONOLULU, HI 96813

SUMMARY OF PENALTIES

Company Name: Hilton Hawaiian Village LLC
Inspection Site: 2005 Kalia Rd, Honolulu, HI 96815
Issuance Date: 05/07/2012

Summary of Penalties for Inspection Number 313084527

Citation 1, Serious	= \$	2,062.50
Citation 2, Other	= \$	0.00
TOTAL PENALTIES	= \$	2,062.50

Make check or money order payable to the "Director of Budget and Finance." Please indicate the inspection number and dba, if company name is different, on the remittance. A fee of \$15.00 will be charged for any returned checks.

If receipt is desired, please indicate with payment; otherwise, your cancelled check will be your receipt.

5/09

DISTRIBUTION SHEETCASE NO. _____ DECISION NO. _____ ORDER NO. 488 DATE SENT _____

NOTICE _____

EMPLOYERSSTATE OF HAWAII

____ GOVERNOR
 ____ ATTORNEY GENERAL
 ____ CHIEF NEGOTIATOR
 ____ DHRD

UNION & ATTORNEYS

____ HFFA _____ ATTORNEY
 ____ HGEA _____ ATTORNEY
 ____ HSTA _____ ATTORNEY
 ____ SHOPO _____ ATTORNEY
 ____ UHPA _____ ATTORNEY
 ____ UPW _____ ATTORNEY

DEPARTMENT OF EDUCATION

____ CHAIRMAN, BOARD OF EDUCATION 1
 ____ SUPERINTENDENT

UNIVERSITY OF HAWAII

____ CHAIRMAN, BOARD OF REGENTS
 ____ PRESIDENT
 ____ General Counsel

MISCELLANEOUS

____ B & F (IMPASSE MATTERS)
 1 ____ LIBRARY OF CONGRESS**
 15 ____ PUBLICATION DISTRIBUTION CTR**
 1 ____ RICHARDSON SCHOOL OF LAW LIB**
 1 ____ STATE ARCHIVES**
 2 ____ UH LIBRARY (SERIALS REC.)
 1 ____ WILLIAM PUETTE, CLEAR, UH**

CITY & COUNTY OF HONOLULU

____ MAYOR
 ____ DEPT OF HUMAN RESOURCES
 ____ CORPORATION COUNSEL

HLRB

____ CHAIR
 ____ BOARD MEMBER
 ____ BOARD MEMBER
 ____ EXECUTIVE OFFICER
 ____ DECISION FILED
 ____ ORDER FILE
 ____ BULLETIN BOARD

HAWAII COUNTY

____ MAYOR
 ____ DEPT OF PERSONNEL
 ____ CORPORATION COUNSEL

KAUAI COUNTY

____ MAYOR
 ____ DEPT OF PERSONNEL
 ____ COUNTY ATTORNEY

OTHER PARTIES IN INTEREST OR ATTORNEYS

MAUI COUNTY

____ MAYOR
 ____ DEPT OF PERSONNEL
 ____ CORPORATION COUNSEL

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UPON NOTIFICATION FROM HLRB ON _____
 A COPY OF ATTACHED WAS PICKED UP:
 BY _____ FOR _____ ON _____

TOTAL COPIES _____

*CRRR: Sent by Certified Mail,
 Return Receipt Requested
 **Send copies of ALL decisions.