

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON

In re: Acropolis Restaurant dba Kayak Bar
& Grill and Nicholas Rondos,

Citation and Notice of Assessment No.
W-039-17

OAH Docket No. 11-2016-LI-00298

No. 2018-001-WPA

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

Joel Sacks, Director of the Washington State Department of Labor & Industries, having considered the Initial Order served on May 2, 2017, having considered the petition for review filed by Acropolis Restaurant dba Kayak Bar & Grill and Nicholas Rondos (the Appellant), briefing submitted to the Director's Office, and having reviewed the record created at hearing and the records and files herein, issues this Director's Order. This Order intends to resolve the contested issue of whether the Appellant violated the wage payment and minimum wage laws with regard to Randy Powell for the time period of May 2, 2013, to April 13, 2014. **The Appellant is ordered to pay wages to Randy Powell in the amount of \$41,475.00. The Appellant is also ordered to pay interest in the amount of one percent per month under RCW 49.48.083(2) for these wages. The Appellant is ordered to pay the Department a penalty in the amount of \$4,147.40.** The parties in this matter are the Department and the Appellant.

The Director makes the following Findings of Fact, Conclusions of Law, and Final Decision and Order.

I. FINDINGS OF FACT

1. The Office of Administrative Hearings issued and served the Initial Order on May 2, 2017, following a hearing that was held on April 20, 2017. The Initial Order affirmed the Department's Citation and Notice of Assessment No. W-039-17.

2. On May 31, 2017, the Appellant timely filed a petition for review with the Director.

3. The Director issued a scheduling letter that directed the parties to file briefs explaining their positions. The Appellant was directed to file a brief by September 26, 2017.

4. The Director granted the Appellant's request for an extension to file a brief, and issued a new deadline of December 15, 2017.

5. The Appellant did not file a timely brief. The Department did file a timely brief explaining its position.

6. The Director adopts and incorporates all the Initial Order's findings of facts.

7. The Director adopts and incorporates the Initial Order's "Issues Presented," the "Order Summary," and the "Hearing" summary.

II. CONCLUSIONS OF LAW

1. Based on the Appellant's timely filed petition for review, there is authority to review and decide this matter under RCW 49.48.084 and RCW 34.05.

2. I have considered the findings and conclusions of the Initial Order, which correctly analyze the legal issues in this appeal and adopt and incorporate all the Initial Order's conclusions of law and "initial order" section.

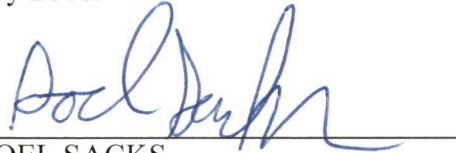
III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusion of Law, the Citation and Notice of Assessment No. W-039-17 is affirmed. The Initial Order of May 2, 2017 is incorporated by reference herein.

1. Payment of wages. See Citation and Notice of Assessment for payment information and the effect of the failure to pay wages and interest. The Appellant is ordered to pay wages to Randy Powell in the amount of \$41,475.00. The Appellant is also ordered to pay interest in the amount of one percent per month under RCW 49.48.083(2) for these wages. The Appellant is ordered to make these payments within thirty days of the date of service of this final Director's Order.

2. Payment of Civil Penalty: The Appellant is ordered to pay the Department a penalty in the amount of \$4,147.40. See Citation and Notice of Assessment for payment information.

DATED at Tumwater this 10 day of January 2018.



JOEL SACKS
Director

SERVICE

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

APPEAL RIGHTS

Reconsideration. Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order **or** (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing, or by emailing to DirectorAppeal@LNI.WA.GOV, or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

NOTE: A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition **or** (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

Judicial Review. Any petition for judicial review must be filed with the appropriate court and served within 30 days after service of this Order. RCW 34.05.542. RCW 49.48.084(5) provides, "Orders that are not appealed within the time period specified in this section and Chapter 34.05 RCW are final and binding, and not subject to further appeal." Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.

DECLARATION OF MAILING

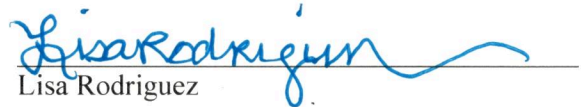
I, Lisa Rodriguez, hereby declare under penalty of perjury under the laws of the State of Washington, that the DIRECTOR'S ORDER was mailed on the 10 day of January 2018, via U.S. Mail, postage prepaid, to the following:

Nicholas Rondos
Acropolis Restaurant Inc.
dba Kayak Bar & Grill
4009 SW Concord Street
Seattle, WA 98136

Heather Leibowitz
Assistant Attorney General
Attorney General's Office
800 Fifth Ave., Ste. 2000
Seattle, WA 98104

Randy Powell
4545 S. Custer Court
Spokane, WA 99223

DATED this 10 day of January 2018, at Tumwater, Washington.


Lisa Rodriguez

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Acropolis Restaurant, Inc. dba
Kayak Bar & Grill and Nicholas
Rondos,

Appellants.

Docket No. 11-2016-LI-00298

INITIAL ORDER

Agency: Labor and Industries
Program: Wage Payments
Agency No. W-039-17

1. ISSUES PRESENTED

- 1.1 Did Appellant Acropolis Restaurant, Inc. dba Kayak Bar & Grill and Nicholas Rondos, as an individual, violate Chapter RCW 49.52 by failing to pay Randy Powel wages due for the period of May 2, 2013 to April 13, 2014, as alleged in the Department's Citation and Notice of Assessment for Wage Payment Violations, No. W-039-17, dated July 29, 2016? If so, what amount of wages is owed, including interest?
- 1.2 Are Acropolis Restaurant, Inc. dba Kayak Bar & Grill and Nicholas Rondos, liable for a penalty under RCW 49.48.083?

2. ORDER SUMMARY

- 2.1 Acropolis Restaurant, Inc. dba Kayak Bar & Grill and Nicholas Rondos, as an individual, violated Chapter 49.52 RCW by failing to pay Randy Powell wages due for the period of May 2, 2013 to April 13, 2014. The Department's Citation and Notice of Assessment for Wage Payment Violations, No. W-039-17, dated July 29, 2016, is AFFIRMED.
- 2.2 For the period of May 2, 2013 to April 13, 2014, Acropolis Restaurant, Inc. dba Kayak Bar & Grill and Nicholas Rondos, as an individual, owes Randy Powell \$18,458.00 for 2,000 regular hours worked and \$28,767.00 for 2,075 overtime hours worked. For this period, the Wage Claimant received \$5,750.00 from the Employer. The Wage Claimant is owed \$41,475.00 for unpaid wages, plus interest beginning April 30, 2014.
- 2.3 Acropolis Restaurant, Inc. dba Kayak Bar & Grill and Nicholas Rondos, as an individual, are liable for a penalty of \$4,147.50 as per RCW 49.48.083.

3. HEARING

<i>Hearing Date</i>	April 20, 2017
<i>Administrative Law Judge</i>	Jane Cantor Shefler
<i>Appellants</i>	Acropolis Restaurant, Inc. dba Kayak Bar & Grill and Nicholas Rondos, as an individual
<i>Appellant Representative</i>	Nicholas Rondos
<i>Appellant's Witnesses</i>	Robert Michael Hamlin; Al Fischer
<i>Appellant's Exhibits</i>	Appellant Exhibit A was admitted.
<i>Agency</i>	Department of Labor and Industries
<i>Agency Representative</i>	Heather Leibowitz, Assistant Attorney General
<i>Agency Witnesses</i>	Cindy Sparks, Industrial Relations Agent; Randy Powell, Wage Claimant; Dinato Luz
<i>Agency Exhibits</i>	Department Exhibits 1 through 19 were admitted.
<i>Court Reporter</i>	Elizabeth Harvey, Central Court Reporting

4. FINDINGS OF FACT

Based on the evidence presented, the Administrative Law Judge makes the following findings of fact:

Jurisdiction

- 4.1 The Department of Labor and Industries ("Department") issued a Citation and Notice of Assessment on July 29, 2016, alleging that Acropolis Restaurant, Inc., dba Kayak Bar & Grill, and Nicholas Rondos, as an individual ("Appellant" or "Rondos"), violated RCW 49.52.050, by failing to pay Wage Claimant Randy Powell ("Wage Claimant") wages due for the period of May 2, 2013 to April 13, 2014. The Department assessed Appellant a penalty of \$4,147.50. *Exhibits 1-4.*
- 4.2 The Appellant filed a letter of appeal on August 9, 2016. *Exhibit 5.*
- 4.3 The matter was referred to the Office of Administrative Hearings on October 31, 2016.

Wage Claim

- 4.4 Nicholas Rondos is the former owner of Acropolis Restaurant, Inc. dba Kayak Bar & Grill. He purchased the restaurant in May 2011 and operated it until on or about April 20, 2014, when it was closed.

- 4.5 The Appellant hired the Wage Claimant as a manager in May 2011. The Wage Claimant's starting salary was \$2,000.00 per month. In August 2011, the Wage Claimant's salary was reduced to \$500.00. *Exhibit A*.
- 4.6 Mr. Rondos and the Wage Claimant shared certain managerial duties. For example, they both hired staff, but the Wage Claimant generally fired employees. The Wage Claimant's other managerial duties included scheduling staff, working with vendors, and preparing the payroll information for transmittal to the accountant. He did not have check signing authorization. Mr. Rondos had sole check-signing authority.
- 4.7 In addition to his managerial responsibilities, the Wage Claimant also worked regularly as a server or bartender. When service was slow, he took other employees off the clock and covered their shifts himself. For the period of May 2, 2013 through April 13, 2014, he worked seven days per week, sometimes 10 to 12 hours per day. *Exhibit 10*.
- 4.8 The Appellant authorized the Wage Claimant to supplement his salary by working as a server or bartender. He did not pay the Wage Claimant wages for the hours worked in these capacities. For these hours worked, the Wage Claimant received tips only. *Exhibit 6, page 2; Testimony of Nicholas Rondos*.
- 4.9 Payroll records were generated by the restaurant's point of sale (POS) system. This is a computerized system which tracked food and drink orders, as well employee time. Employees were required to log into the system at the beginning of their work day and then log off at the end of their shift. Depending on the job, employees had different access rights. For example, a server could enter customer orders, but not the cooks. The Wage Claimant was the only employee who had managerial rights.
- 4.10 The POS system generated a daily employee time report, as well as a weekly one. See, e.g., *Exhibit 10, page 1*. Using these reports, the Wage Claimant calculated the time worked by each employee and submitted this information by email to the accountant. The information also included declared tips. See, e.g. *Exhibit 16, pages 3 to 31*. The accountant then prepared the payroll checks for signature by Mr. Rondos.
- 4.11 Because he was paid a monthly salary of \$500.00, the Wage Claimant reported his time worked as 14 hours per pay period. During the period at issue, May 2, 2013 through April 13, 2014, the Wage Claimant also reported tips received from his work as a server or bartender. *Exhibit 5; Exhibit 16, pages 35 to 65*.
- 4.12 For the period of May 2, 2013 through April 13, 2014, the Wage Claimant worked 2,000 regular hours and 2,075 overtime hours. *Exhibits 10 and 19*. During this time, he received \$250.00 per pay period, for a total of \$5,750.00. *Exhibit 5, pages 4 to 33; Exhibit 9, Exhibit 16, pages 35 to 65*.

- 4.13 During 2013, the minimum wage in Washington was \$9.19 per hour. Effective January 1, 2014, the minimum wage increased to \$9.32 per hour.

Department Investigation

- 4.14 The Wage Claimant filed a Worker's Rights Complaint Form on March 31, 2016. He asserted that he was owed wages for the period of April 1, 2013 through April 13, 2014. *Exhibit 8.*
- 4.15 In support of his complaint, the Wage Claimant submitted payroll records and weekly time records generated by the POS system. *Exhibits 9 and 10.*
- 4.16 Cindy Sparks, Industrial Relations Agent, investigated the Worker's Rights Complaint. She initially determined that the claim period began on May 2, 2013, because of the three-year statute of limitations from the date a complaint is received.¹ She also determined that the salary paid to the Wage Claimant was below that statutory minimum to qualify for an executive exemption from the minimum wage and overtime pay requirements. *Exhibit 6, page 1; Testimony of Cindy Sparks.*
- 4.17 As part of her investigation, Ms. Sparks spoke with the Wage Claimant, the Appellant and Rob Hamlin, a former accountant of the Appellant. The Appellant informed Ms. Sparks that the Wage Claimant "would wait tables and help out and the reason he had the time slips is because he would punch in and out on the point of sale system as a manager." *Exhibit 6, page 2.* Ms. Sparks also reviewed payroll records obtained from the two accountants who had prepared the payroll checks for the Appellant. *Exhibit 6, page 2; Exhibit 10 and Exhibit 16.*
- 4.18 Ms. Sparks determined that the POS time records submitted by the Wage Claimant provided a more plausible basis to calculate actual hours worked than the payroll records submitted by the Appellant. She thought it important that the Appellant knew the Wage Claimant logged into the POS system. Ms. Sparks also took into consideration the tips declared by the Wage Claimant each pay period. In her experience, it was highly unlikely that a person could earn significant tips while working only 14 hours per pay period. For these reasons, Ms. Sparks used the records provided by the Wage Claimant to calculate the regular and overtime hours worked during the period at issue. *Sparks Testimony.*

5. CONCLUSIONS OF LAW

Based on the facts above, the Administrative Law Judge makes the following conclusions:

¹ RCW 49.48.083(2).

Jurisdiction

- 5.1 The Office of Administrative Hearings has jurisdiction over the persons and subject matter of this case under RCW 34.05 and 49.48.084.

Burden of Proof

- 5.2 Under the Washington Wage Payment Act, RCW 49.48 (WPA), the wage claimant has the initial burden of showing *prima facie* evidence of a wage payment law violation. See, *Anderson v. Mt. Clemens Pottery Co.*, 328 US. 680, 687-688, S.Ct. 1187, 90 L.Ed. 1515 (1946) (federal minimum wage law under Fair Labor & Standards Act); *MacSuga v. County of Spokane*, 97 Wn.App. 435, 445-446, 983 P.2d 1167 (1999). The *prima facie* showing must be supported by a preponderance of the evidence.
- 5.3 A preponderance of the evidence is that evidence sufficient to incline a fair and impartial mind to one side of the issue rather than the other. *Mendoza v. Dept. of Agriculture*, 2006 Wash.App.LEXIS 2363 (Ct. App.Wa.II, No. 34262-6-II), citing *Mohr v. Grant*, 153 Wn.2d 812, 822, 108 P.3d 768 (2005).
- 5.4 Substantial evidence must be presented and must be "sufficient to persuade a fair-minded person of the truth or correctness of the matter." *Ongom v. Dept. of Health*, 124 Wn App. 935, 948-49, 104 P.3d 29 (2005), *reversed on other grounds*, 155 Wn.2d 1001, 122 P.3d 185 (2005).

Applicable Law

- 5.5 The WPA authorizes administrative enforcement of wage payment requirements. Upon receipt of a wage complaint that alleges a violation of a wage payment requirement, the Department "shall investigate" and, unless otherwise resolved, "shall" issue either a citation (when finding a wage law violation) or a determination of compliance (when finding no violation) within sixty days. RCW 49.48.083. The Department may extend the time period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the time period. *Id.*
- 5.6 Wage payment requirements are those "set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or 49.52.060, and any related rules adopted by the department." RCW 49.48.082(10). These wage payment requirements include, but are not limited to, requirements to pay minimum wages, overtime wages, agreed wages, and wages for final pay periods. RCW 49.48.082(12).
- 5.7 RCW 49.46.020 requires that every employer shall pay to each of his or her employees a rate of minimum wage for hours worked. See *also*, Chapter 296-126 WAC.

5.8 RCW 49.46.010(7) defines “wage” as:

[C]ompensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules by director.

5.9 Employers must pay employees for all hours worked. Under Department Administrative Policy ES.C.2, “hours worked” is defined as:

[A]ll hours during which the employee is authorized or required, known or reasonably believed by the employer to be on duty on the employer’s premises or at a prescribed work place.

See *also*, WAC 296-126-002(8).

5.10 An employee cannot waive the legal right to receive all wages due. RCW 49.46.090(1) provides in pertinent part:

Any employer who pays any employee less than the amounts to which such employee is entitled under or by virtue of [Chapter 49.46 RCW] shall be liable to such employee affected for the full amount due such employee less any amount actually paid to such employee by the employer *Any agreement between such employee and the employer allowing the employee to receive less than what is due under [Chapter 49.46 RCW] shall be no defense to such action.*

[Emphasis added]

5.11 An employer is required to pay overtime when an employee works over 40 hours in a work week. RCW 49.46.130(1). The overtime rate is not less than one and a half times the regular rate at which the worker is employed. *Id.* A work week is defined as a fixed and regularly reoccurring seven day period. WAC 296-128-015.

5.12 Certain classes of employees, including executive employees, are exempt from the minimum wage and overtime pay requirements. RCW 49.46.130(2)(a); RCW 49.46.010(3)(c); WAC 296-128-510.

5.13 WAC 296-128-510 defines an individual employed in a “bona fide executive” capacity as any employee:

- 1) Whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof; and

- (2) Who customarily and regularly directs the work of two or more other employees therein; and
- (3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and
- (4) Who customarily and regularly exercises discretionary powers; and
- (5) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the work week to activities which are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this section: Provided, That this paragraph (5) shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which he is employed; and
- (6) Who is compensated for his services on a salary basis at a rate of not less than \$155 per week exclusive of board, lodging, and other facilities: Provided, That an employee who is compensated on a salary rate of not less \$250 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all of the requirements of this section.

5.14 Under RCW 49.48.083(2), the Department may order an employer to pay interest on the amount of unpaid wages due:

If the department determines that an employer has violated a wage payment requirement and issues to the employer a citation and notice of assessment, the department may order the employer to pay employees all wages owed, including interest of one percent per month on all wages owed, to the employee. The wages and interest owed must be calculated from the first date wages were owed to the employee, except that the department may not order the employer to pay any wages and interest that were owed more than three years before the date the wage complaint was filed with the department.

Analysis

- 5.15 The Appellant argues that the Wage Claimant inflated the number of hours worked by making changes in the POS system. He claims that this was done in the few weeks before the restaurant was closed, when the Appellant was not present due to illness. The Appellant also asserts that the Wage Claimant falsified the amounts of declared tips.
- 5.16 The Department has provided evidence that the Wage Claimant regularly worked more than 40 regular hours per week during the period at issue. The Wage Claimant kept track of his hours and provided credible testimony that was corroborated by Dinato Luz, of the hours he worked. The Appellant, on the other hand, provided no records or credible testimony to substantiate his claims that the Wage Claimant had altered the POS records for the period beginning May 2, 2013 through April 13, 2014. The Appellant knew or should have known that the Wage Claimant regularly worked more than 40 hours per week. He authorized the Wage Claimant to work as a server or bartender, albeit for tips only. The Appellant had sole check-signing authority, and implicitly authorized the hours worked when he approved and signed the paychecks showing tips declared for the pay period. The Department has shown that it is more likely than not that the Wage Claimant worked, 2,000 regular hours and 2,075 overtime hours during the period at issue.
- 5.17 During the period at issue, the Wage Claimant was paid a salary of \$250.00 per bi-monthly pay period. This salary is less than the statutory minimums to exempt an employee from the minimum wage and overtime pay requirements. WAC 296-128-510(6). Thus, the Wage Claimant should have been paid wages for the hours worked as a server or bartender. Paying a server or bartender tips only violates the minimum wage requirements of RCW 49.46.020 and any agreement to the contrary is not enforceable under RCW 49.46.090(1).
- 5.18 For the period of May 2, 2013 to April 13, 2014, the Appellant owes the Wage Claimant \$18,458.00 for 2,000 regular hours worked and \$28,767.00 for 2,075 overtime hours worked. For this period, the Wage Claimant received \$5,750.00 from the Appellant. The Appellant owes the Wage Claimant \$41,475.00 for unpaid wages, plus interest, beginning April 30, 2014. The Department's Citation and Notice of Assessment for Wage Payment Violations, No. W-039-17, dated July 29, 2016, is AFFIRMED.

Penalty

- 5.19 The Department has the authority to issue a civil penalty to employers who unlawfully withhold an employee's wages. RCW 49.48.083(3)(a). The statute provides:

(3) If the department determines that the violation of the wage payment requirement was a willful violation, the department also

may order the employer to pay the department a civil penalty as specified in (a) of this subsection.

(a) A civil penalty for a willful violation of a wage payment requirement shall be not less than one thousand dollars or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a willful violation of a wage payment requirement shall be twenty thousand dollars.

- 5.20 A willful violation is defined in RCW 49.48.082(13) as a “knowing and intentional action that is neither accidental nor the result of a bona fide dispute, as evaluated under the standards applicable to wage payment violations under RCW 49.53.050(2).”
- 5.21 In this case, there was is no bona fide dispute between the parties. During the period at issue, the Wage Claimant worked as a server or bartender, receiving tips only. The Appellant knew or should have known that the Wage Claimant worked extensive hours, seven days per week. He was aware that the Wage Claimant logged into the POS daily. He knew or should have known the system tracked hours worked. The Appellant’s failure to pay the Wage Claimant at least minimum wage for all hours worked was “knowing and intentional.” The violation of the wage payment requirements was thus “willful” under RCW 49.48.083(3)(a). The Department’s assessment of a penalty of ten percent (10%) of the net amount of wages owed is appropriate under RCW 49.48.083(3)(a). The penalty of \$4,147.50, as assessed in Citation and Notice of Assessment, No. W-039-17, must be affirmed.

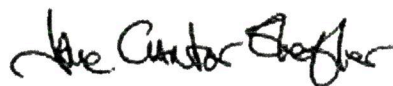
6. INITIAL ORDER

- 6.1 The Department of Labor and Industries’s Citation and Notice of Assessment for Wage Payment Violations, No. W-039-17, dated July 29, 2016, is AFFIRMED.
- 6.2 Acropolis Restaurant, Inc. dba Kayak Bar & Grill and Nicholas Rondos, as an individual, must pay Randy Powell regular and overtime wages in the amount of \$41,475.00, plus interest, accruing at the rate of one percent (1%) per month on the unpaid wage amount, beginning April 30, 2014 and until payment in full is received by the Department of Labor and Industries.

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6.3 Acropolis Restaurant, Inc. dba Kayak Bar & Grill and Nicholas Rondos, as an individual, are liable for a penalty in the amount \$4,147.50.

Issued from Tacoma, Washington on the date of mailing.



Jane Cantor Shefler
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF SERVICE ATTACHED

PETITION FOR REVIEW

Any party that disputes this Initial Order may file a Petition for Administrative Review with the Director of the Department of Labor and Industries.² You may e-mail your Petition for Administrative Review to the Director at directorappeal@lni.wa.gov. You may also mail or deliver your Petition for Administrative Review to the Director at the Department's physical address listed below.

Mailing Address:

Director
Department of Labor and Industries
PO Box 44001
Olympia, WA 98504-4001

Physical Address:

7273 Linderson Way SW
Tumwater, WA 98501

If you e-mail your Petition for Administrative Review, please do not mail or deliver a paper copy to the Director.

Whether you e-mail, mail or deliver the Petition for Administrative Review, the Director *must actually receive* the Petition for Administrative Review during office hours at the Director's office within 30 days of the date this Initial Order was mailed to the parties. You must also provide a copy of your Petition for Administrative Review to the other parties at the same time.

If the Director does not receive a Petition for Administrative Review within 30 days from the date of the Initial Order, the Initial Order shall become final with no further right to appeal.³

If you timely file a Petition for Administrative Review, the Director will conduct an administrative review under chapter 34.05 RCW.

² RCW 49.48.084 and RCW 34.05.464.

³ RCW 49.48.084 and Chapter 34.05 RCW.

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 11-2016-LI-00298

I certify that true copies of this document were served from Tacoma, Washington via Consolidated Mail Services upon the following as indicated:

<p>Acropolis Restaurant Inc. dba Kayak Bar & Grill c/o Nicholas Rondos 4009 SW Concord Street Seattle, WA 98136 Appellant 91 7199 9991 7037 2235 0728</p>	<p><input checked="" type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Heather Leibowitz, AAG Office of the Attorney General MS: TB-14 800 Fifth Avenue, Suite 2000 Seattle, WA 98104 Agency Representative</p>	<p><input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Randy Powell PO Box 3416 Lynnwood, WA 98046 Wage Claimant</p>	<p><input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>

Date: Tuesday, May 02, 2017

OFFICE OF ADMINISTRATIVE HEARINGS



Melesa Noguera
 Legal Assistant 2

USPS Tracking® Results

FAQs > (<http://faq.usps.com/?articleId=220900>)

Track Another Package +

Remove X

Tracking Number: 9171999991703722350728



In-Transit

Expected Delivery Day: Thursday, May 4, 2017 ⓘ

Product & Tracking Information

See Available Actions

Postal Product:
First-Class Mail®





Features:
Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
May 4, 2017, 11:56 am	Notice Left (No Authorized Recipient Available)	SEATTLE, WA 98136
▲ We attempted to deliver your item at 11:56 am on May 4, 2017 in SEATTLE, WA 98136 and a notice was left because an authorized recipient was not available.		
May 3, 2017, 8:31 pm	Departed USPS Facility	SEATTLE, WA 98168
May 3, 2017, 12:30 pm	Arrived at USPS Facility	SEATTLE, WA 98168
May 3, 2017, 12:03 am	Departed USPS Facility	TACOMA, WA 98413

DATE & TIME	STATUS OF ITEM	LOCATION
May 2, 2017, 8:27 pm	Arrived at USPS Facility	TACOMA, WA 98413
May 2, 2017, 7:12 pm	Accepted at USPS Origin Facility	OLYMPIA, WA 98504

[See Less](#) 

Available Actions

- Text Updates** 
 - Email Updates** 
 - Return Receipt Email** 
-  **Confirmation**
- We regret there is no record of delivery for your item. This will be indicated in the letter provided.
- Your confirmation will be sent to the following:
- melesa.noguera@oah.wa.gov

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