

An appeal

- by -

Fogg N' Suds International Ventures Corporation ("Fogg N' Suds")

- of a Determination issued by -

The Director of Employment Standards (the "Director")

pursuant to Section 112 of the Employment Standards Act R.S.B.C. 1996, C.113 (as amended)

TRIBUNAL MEMBER: David B. Stevenson

FILE No.: 2005A/183

DATE OF DECISION:

January 6, 2006



## DECISION

## **SUBMISSIONS**

Rod Bianchini

Geoff Gray-Grant

on behalf of the Director

on his own behalf

## **OVERVIEW**

- <sup>1.</sup> This decision completes an appeal filed by Fogg N' Suds International Ventures Corporation ("Fogg N' Suds") under Section 112 of the *Employment Standards Act* (the "*Act*") of a Determination that was issued by a delegate of the Director of Employment Standards (the "Director") on April 13, 2005. The Determination found that Fogg N' Suds had contravened Part 3, Sections 17 and 21, Part 7, Section 58 and Part 8, Section 63 of the *Act* in respect of the employment of seven persons. The Director ordered Fogg N' Suds to cease contravening those sections of the *Act*, to comply with the *Act* and the *Employment Standards Regulation* (the "*Regulation*") and to pay wages to the seven persons named in the Determination (collectively "the Complainants") in the amount of \$201,742.05, an amount which included annual vacation pay on the amounts owed and interest.
- <sup>2.</sup> The Director also imposed administrative penalties on Fogg N' Suds under Section 29(1) of the *Regulation* in the amount of \$2000.00.
- <sup>3.</sup> In BC EST #D118/05 (the "original decision"), I found some of the Complainants had received partial payment on the amounts which were claimed by them and the receipt of those amounts affected the calculations made by the Director on the amounts owed under the *Act*. I referred the Determination back to the Director to make necessary changes in those calculations.
- <sup>4.</sup> The Director has reviewed the matter and has issued a supplement to the Determination, dated October 18, 2005, indicating the Determination should be varied to show the Complainants are owed an amount of \$166,139.62. The Tribunal has requested submissions from the parties on the calculations set out in the supplement.
- <sup>5.</sup> Fogg N' Suds has filed no response. Only one of the Complainants, Geoff Gray-Grant, has filed a response. Mr. Grant agrees with the calculation of the wages as it relates to the amount owed to him.
- <sup>6.</sup> There being no objection to the wage calculations made by the Director and no indication that the calculations are wrong, it is appropriate to vary the Determination as set out by the Director.



## ORDER

<sup>7.</sup> Pursuant to Section 115 of the *Act*, I order the Determination dated April 13, 2005 be varied to show a total amount owing to the Complainants of \$166,139.62.

David B. Stevenson Member Employment Standards Tribunal