

STATE OF INDIANA
DEPARTMENT OF HOMELAND SECURITY

IN THE MATTER OF:	)	
	)	
HORNET'S NEST	)	Cause No. DHS-2004-FPBSC-004
CIVIL PENALTY ORDER NO.	)	
AE8225244-11132019	)	
	)	

NON-FINAL ORDER OF DISMISSAL

On November 13, 2019, Respondent, the Indiana Department of Homeland Security (IDHS), issued a civil penalty to Hornet's Nest for failure to correct all violations of the Indiana building and fire safety laws found during an inspection conducted at the facility. On November 30, 2019, Petitioner filed a Petition for Administrative Review of the civil penalty. On March 24, 2020, the Administrative Law Judge received an Agreed Order and Joint Motion to Dismiss, attached as Exhibit A.

Accordingly, the Administrative Law Judge now enters this Non-Final Order of Dismissal. The ultimate authority in this matter is the Fire Prevention and Building Safety Commission (Commission). Indiana Code § 4-21.5-3-29(d) requires any party seeking to preserve an objection to this order for judicial review to file a written objection that:

1. identifies the basis of the objection with reasonable particularity; and
2. is filed with the Commission within fifteen days (or any longer period set by statute) after this order is served.

In the absence of an objection from a party or notice from the Commission of its intent to review any issue related to this order, the Commission shall affirm this order in accordance with Indiana Code § 4-21.5-3-29(c). **This order will be considered by the Commission at their next meeting date. Due to the current state of emergency, the date of the next Commission meeting is unknown, but information on meetings can be found online at <https://www.in.gov/dhs/2375.htm>.**

Dated: March 26, 2020

/s/ Zanna Claire Dyer
Zanna Claire Dyer
Administrative Law Judge



Certificate of Service

I certify that on March 26, 2020, I have served the foregoing Non-Final Order of Dismissal on the following persons in the methods noted below:

/s/ Zanna Claire Dyer
Zanna Claire Dyer

Service by email:

Justin Guedel
Staff Attorney
Indiana Department of Homeland Security
302 W. Washington St., Room E208
Indianapolis, IN 46204
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Service by email:

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Hornet's Nest
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**STATE OF INDIANA
BEFORE THE FIRE PREVENTION AND BUILDING
SAFETY COMMISSION**

IN THE MATTER OF:

HORNET'S NEST

CIVIL PENALTY ORDER NO.

AE8225244-11132019

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CAUSE NO: DHS-2004-FPBSC-004

AGREED ORDER AND JOINT MOTION TO DISMISS

The parties respectfully request the above captioned matter be dismissed. In support of this request, the parties state the following:

1. On or about November 13, 2019, Respondent issued a civil penalty to Petitioner for failure to comply with an October 07, 2019 inspection report order.

2. On or about November 30, 2019, Petitioner filed their petition for review of the civil penalty.

3. In order to informally resolve this dispute, the parties agreed to the following:

Respondent agrees to rescind the civil penalty so long as Petitioner:

- a. refrains from using any appliance required to be covered by the kitchen hood that extends past the outside edge of the kitchen hood; and
- b. complies with all cited violations in the October 07, 2019 inspection report order by July 31, 2020.

Petitioner acknowledges that failure to comply with these conditions will result in immediate implementation of the civil penalty and additional enforcement actions.

WHEREFORE, the parties respectfully request this matter be dismissed.

Respectfully submitted,

/s/ Derek Ungethiem
Derek Ungethiem
Petitioner

/s/ Justin Guedel
Justin Guedel
Attorney for Respondent

Date: 3/24/2020