

DEPARTMENT OF INDUSTRIAL RELATIONS

## DIVISION OF LABOR STANDARDS ENFORCEMENT

525 GOLDEN GATE AVENUE  
SAN FRANCISCO, CA 94102ADDRESS REPLY TO:  
P.O. BOX 603  
San Francisco, CA 94102

IN REPLY REFER TO:

March 28, 1988

Ms. Louise Guthals  
Secretary Treasurer  
Hubert Braun Hair Inc.  
Corporate Headquarters  
5475 East Evans  
Denver, Colorado 80222

Dear Ms. Guthals:

This is in reply to your letter of February 29, 1988 regarding the method of calculating wages (including overtime) due employees who, in addition to their hourly salary, earn commissions.

The basic method is to add the overtime rate of earned commissions for each work week to the total hourly wages, and commissions.

In your example number 1, there would be overtime based on commissions as the number of hours worked exceeded eight on two days. The overtime due on the commissions is calculated by dividing the total number of hours worked into the amount of commissions, then dividing by two, then multiplying by the number of overtime hours worked.

Example:           38 hours at 6.00 = 228.00  
                      2 hours at 3.00 =   6.00  
                      Commission Overtime  
                      \*2 hours at .48           .96

Pay first week 234.96

Pay second week 240.00

Commissions  
First and second weeks 75.28

Total due for the  
two weeks                   550.24

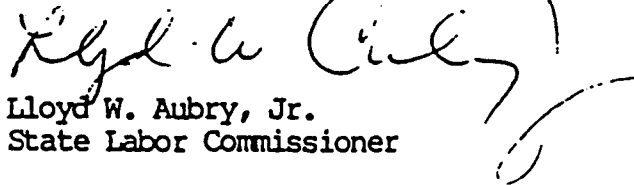
\*In week # 1 and 2 Total Hours 78  
Commissions 75.28  
75.28 - 78 = .96 regular hourly rate of commissions  
.96 - 2 = .48 overtime rate  
2 hours overtime at .48 = .96  
Total due commissions 75.28 plus .96 = 76.24

Ms. Louise Guthals  
March 28, 1988  
Page Two

State and federal regulations require overtime to be calculated on a weekly basis (state also on a daily basis). Therefore, your payroll procedures should be corrected to reflect when commissions are earned during each work week. Failure to record when commissions are earned may result in claims that all the commissions were earned during overtime periods. If the employer does not have accurate records as required by regulation, such claims may be allowed.

I hope this is responsive to your questions, if not please let me know.

Very truly yours,



Lloyd W. Aubry, Jr.  
State Labor Commissioner

LWA/st

1988.03.28