

STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS

In the Matter of the Request for Review of:

**Quiocho Concrete, Inc**

**Case No.: 13-0374-PWH**

[Request For Review of  
DLSE Case No.: 40-32170/572]

From a Civil Wage and Penalty Assessment issued by:

**Division of Labor Standards Enforcement**

**NOTICE OF FINDINGS**

PLEASE TAKE NOTICE that the Director of the Department of Industrial Relations has issued a final decision in this case consisting of this Notice and the attached Stipulation for Director's Decision; Order Thereon. This is the final decision of the Director under Labor Code section 1742, subdivision (b) and Rule 60 [Cal. Code Regs., tit. 8, §17260]. By law, the Director may only reconsider or modify this decision to correct an error within 15 days from the date of *issuance*. A party is not required to apply for reconsideration before seeking judicial review, and an application for reconsideration will not extend the time to seek judicial review unless a modified or reconsidered decision is issued within 15 days of the issuance of this decision.

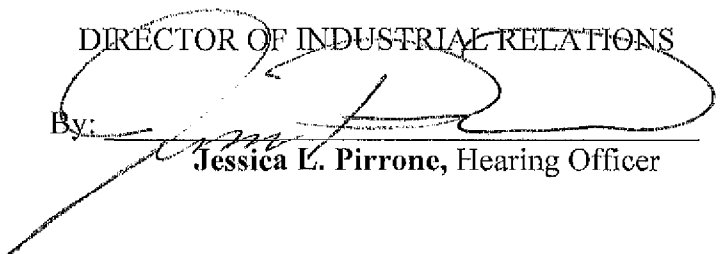
An affected contractor or subcontractor may obtain review of this decision by filing a petition for writ of mandate under Code of Civil Procedure section 1094.5 to the appropriate superior court, within 45 days after *service* of this decision. The Director should be named as the respondent to the petition and may be served with process by serving the hearing officer as specified in Rule 62 (d) [Cal. Code Regs., tit. 8, §17262, subd. (d)] or by any other proper service method. The Enforcing Agency should be named as a Real Party in Interest, and the Labor Commissioner may also be served with process by serving the attorney who represented the Labor Commissioner as specified in Rule 62(d) or by any other proper service method. Rule 63 [Cal. Code Regs., tit. 8, §17263] sets forth the requirements for obtaining the record for the court to review.

If no petition for writ of mandate is filed within 45 days after service of this decision, the order shall become final and may be filed and entered as a court judgment.

DATED: May 29, 2014

DIRECTOR OF INDUSTRIAL RELATIONS

By:

  
Jessica L. Pirrone, Hearing Officer

1 DIVISION OF LABOR STANDARDS ENFORCEMENT  
Department of Industrial Relations  
2 By William A. Snyder, Staff Counsel, State Bar #78255  
MOLINA Center  
3 300 Oceangate, Suite 850  
Long Beach, California 90802-4339  
4 Telephone: (562) 590-7394  
Fax: (562) 499-6438

5 Attorney for the DIVISION OF  
6 LABOR STANDARDS ENFORCEMENT

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8 STATE OF CALIFORNIA  
9 DEPARTMENT OF INDUSTRIAL RELATIONS

10 In The Matter of the Request for Review of:

CASE NO.: 13-0374-PWH

11 QUIOCHO CONCRETE, INC.

(DLSE Case No. 40-32170/572)

12  
13 From a Civil Wage and Penalty Assessment and  
Determination of Civil Penalty Issued by:

14 **STIPULATION FOR DIRECTOR'S  
DECISION; (~~PROPOSED~~) ORDER  
THEREON**

15 **Division of Labor Standards Enforcement**

16 Date:  
Time: 10:00 a.m.  
Hearing Officer: Jessica Pirrone  
Place: Department of Industrial Relations  
320 W. Fourth Street, Room 600  
Los Angeles, California 90013-2344

17  
18 THE PARTIES HEREIN, consisting of the DIVISION OF LABOR STANDARDS  
19 ENFORCEMENT (hereafter "DLSE"), QUIOCHO CONCRETE, INC. (hereafter "**Quiocho**  
20 **Concrete, Inc.**") and ANDY RODRIGUEZ QUIOCHO doing business as QUIOCHO  
21 CONCRETE (hereafter "**Andy Quiocho**," who together with Quiocho Concrete, Inc., is  
22 hereafter referred to as "**Quiocho**" or the "**Subcontractor**"), all collectively referred to as the  
23 "**Parties**," who wish to resolve the remaining issues in this matter by way of a Stipulated  
24 Decision of the Director, hereby submit this STIPULATION FOR DIRECTOR'S DECISION  
25 regarding the Civil Wage and Penalty Assessment and the Determination of Civil Penalty issued  
26 by DLSE under DLSE case number 40-32170-572.  
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**STIPULATION FOR DIRECTOR'S DECISION; (Proposed) ORDER THEREON**

Case No. 13-0374-PWH; DLSE Case No. 40-32170/572

1 WHEREBY THE PARTIES STIPULATE AS FOLLOWS:

2 1. In July 2012, Quiocho caused a complaint to be filed with the Department of  
3 Industrial Relations in an attempt to obtain compensation for the workers it employed on the  
4 public works project known as Rio Hondo College/El Monte Education Center (hereafter  
5 "PROJECT"), awarded by the Rio Hondo Community College District as the "Awarding  
6 Body."

7 2. On March 25, 2013, DLSE timely served a Civil Wage and Penalty Assessment -  
8 Amended ("CWPA") in DLSE Case No. 40-32170-572, to Nile Advanced Construction, Inc.  
9 (hereafter "Nile" or "General Contractor"), Quiocho, and others, claiming wages and training  
10 funds due in the amount of \$59,093.99; penalties in the amount of \$18,150.00; and potential  
11 liquidated damages in the amount of \$59,093.99; said amounts alleged to be due and owing by  
12 Nile and Quiocho, jointly and severally, as a result of alleged violations of the prevailing wage  
13 laws of the State of California involving workers employed by Quiocho on the PROJECT,  
14 awarded by the Rio Hondo Community College District as the "Awarding Body" to Nile as the  
15 general contractor, with Quiocho performing as a subcontractor. It is Quiocho's position that  
16 Andy Quiocho and Quiocho Concrete, Inc. were unable to make all of the required prevailing  
17 wage payments because Andy Quiocho did not receive sufficient progress payments for its work  
18 on the PROJECT from General Contractor, even though such payments were due and owing.

19 3. On June 12, 2013, DLSE served a Determination of Civil Penalty - Labor Code  
20 1777.7 ("DETERMINATION") in DLSE Case No. 40-32170-572, on Nile, Quiocho, the  
21 Awarding Body and others, assessing penalties in the amount of \$19,040.00; said amount alleged  
22 to be due and owing by General Contractor and Quiocho as a result of violations of Labor Code  
23 section 1777.5 involving Quiocho's work on the PROJECT.

24 4. On or about July 23, 2013, a Request for Review of DLSE Case No. 40-32170-  
25 572 was submitted on behalf of Quiocho, which resulted in the Director of Industrial Relations  
26 (hereafter "DIRECTOR") appointing a Hearing Officer to preside over a hearing on said  
27 Request for Review. Said matter is pending before the DIRECTOR, entitled: In the Matter of the  
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STIPULATION FOR DIRECTOR'S DECISION; (Proposed) ORDER THEREON

Case No. 13-0374-PWH; DLSE Case No. 40-32170/572

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Request for Review of: QUIOCHO CONCRETE, INC., Case No. 13-0374-PWH.

5. DLSE settled aspects of the CWPA and the DETERMINATION with Nile, the general contractor, on March 7, 2014.


6. After credit is applied for the money to be received by DLSE from its settlement with Nile, it is agreed that the balance due on the CWPA and DETERMINATION as against Andy Quiochoco and Quiochoco Concrete, Inc., are the following sums:

- A. Wages due in the sum of \$20,295.92;
- B. Prejudgment interest on the wages due in the sum of \$6,336.89;
- C. Penalties under Labor Code §§ 1775 and 1813 due in the sum of \$14,790.00;
- D. Liquidated damages under Labor Code §1742.1 due in the sum of \$38,798.07 as a result of the wages dues under the CWPA not being paid within 60 days of service; and
- E. Penalties under Labor Code § 1777.7 due in the sum of \$2,380.00.

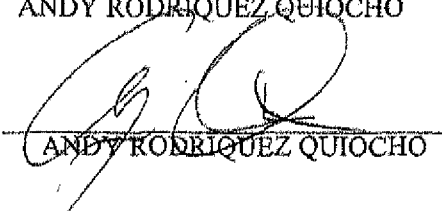
7. This Stipulated Decision is entered into by the Parties to avoid the further cost and expense of continued administrative litigation before the DIRECTOR, and to permit the issuance of an agreed "final order" and thereby facilitate DLSE obtaining a clerk's judgment pursuant to Labor Code §§ 1742, subdivision (d) and 1777.7, subdivision (c), paragraph (4).

Dated: 5/21/2014

DIVISION OF LABOR STANDARDS ENFORCMENT  
California Department of Industrial Relations

By:   
WILLIAM A. SNYDER,  
Attorney for the Labor Commissioner

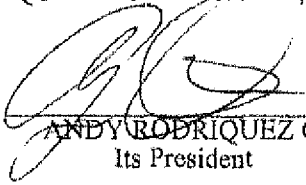
Dated: May 20, 2014

ANDY RODRIGUEZ QUIOCHO  
By:   
ANDY RODRIGUEZ QUIOCHO

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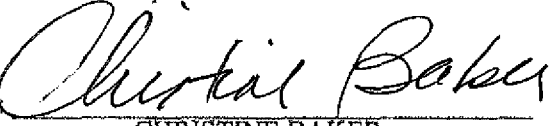
Dated: May 20, 2014

QUIOCHO CONCRETE, INC.

By:   
ANEY RODRIGUEZ QUIOCHO  
Its President

The Civil Wage and Penalty Assessment and Determination of Civil Penalty are affirmed as set forth in the above Stipulation. The Hearing Officer shall serve a Notice of Findings which shall be served with this Stipulation and Order on the parties.

Dated:

By:   
CHRISTINE BAKER  
DIRECTOR OF INDUSTRIAL RELATIONS

STIPULATION FOR DIRECTOR'S DECISION; (Proposed) ORDER THEREON

Case No. 13-0374-PWH; DLSE Case No. 40-32170/572

CERTIFICATE OF SERVICE

Case Name(s): **Quiocho Concrete, Inc vs Division of Labor Standards Enforcement**


Case No(s): **13-0374-PWH**

I certify that on May 29, 2014, I served the **STIPULATION FOR DIRECTOR'S DECISION AND NOTICE OF FINDINGS** on the parties or representatives as indicated below:

BY FIRST CLASS MAIL TO: [List names and mailing addresses]

Hana Adel Hana Nile Advanced Construction, Inc 715 S. Serenade St. West Covina, CA 91790	Ms. Lisa A. Stepanski Law Office of Lisa A. Stepanski 550 North Parkcenter Drive, Suite 204 Santa Ana, California 92705
Ms. Tracy Brooks Quiocho Concrete, Inc 8884 Thames River Ave. Fountain Valley, CA 92708	Ms. Natasha I. Rieger Latham & Watkins LLP 650 Town Center Drive, 20th floor Costa Mesa, CA 92626-1925
Mr. Michael Monteiro Division of Labor Standards Enforcement 300 Oceangate Ste 850 Long Beach, CA 90802	Mr. William A. Snyder Division of Labor Standards Enforcement 300 Oceangate, Suite 850 Long Beach, CA 90802-4339
Teresa Dreyfus Rio Hondo Community College District 3600 Workman Mill Road Whittier, CA 90601	American Contractors Indemnity Co. 601 S. Figueroa Street Suite 1600 Los Angeles, CA 90017
Ms. Wagdy Bissada Nile Advanced Construction Inc. 12754 Jessie Ct Rancho Cucamonga, CA 91739	

Date: May 29, 2014

  
\_\_\_\_\_  
**Simone M. Olsen**, Legal Secretary  
DIR, Office of the Director, Legal Unit  
Los Angeles, CA 90013