

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
Fremont District Office
39141 Civic Center Drive, Suite 310
Fremont, CA 94538
Phone: (510) 794-2521 Fax: (510) 794-3889

Inspection #: 1518946
Inspection Dates: 03/10/2021 - 09/03/2021
Issuance Date: 09/03/2021
CSHO ID: H6984
Optional Report #: 015-21



Citation and Notification of Penalty

Company Name: Dakota Brothers, Inc.
Establishment DBA: Marina Food
and its successors
Inspection Site: 10122 Bandlely Dr
Cupertino, CA 95014

Citation 1 Item 1 Type of Violation: **Regulatory**

Title 8 CCR Section 342(a). Reporting Work-Connected Fatalities and Serious Injuries.

(a) Every employer shall report immediately to the Division of Occupational Safety and Health any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment. The report shall be made by the telephone or through a specified online mechanism established by the Division for this purpose. Until the division has made such a mechanism available, the report may be made by telephone or email.

Immediately means as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

Serious injury or illness is defined in section 330(h), Title 8, California Administrative Code.

The employer failed to immediately report to the Division a serious illness suffered by an employee who was hospitalized with COVID-19 on January 15, 2021 and later suffered a fatality in and or around February 2, 2021.

Date By Which Violation Must be Abated: Corrected During Inspection
Proposed Penalty: \$5000.00

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Company Name: Dakota Brothers, Inc.
Establishment DBA: Marina Food
and its successors
Inspection Site: 10122 Bandlely Dr
Cupertino, CA 95014

Citation 1 Item 2 Type of Violation: **General**

Title 8 CCR Section 3205(c)(5)(A). COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(5) Training and instruction. The employer shall provide effective training and instruction to employees that includes the following:

(A) The employer's COVID-19 policies and procedures to protect employees from COVID-19 hazards.

Prior to and during the course of the investigation, including, but not limited to, on January, 2021, the employer failed to implement its written COVID-19 Prevention Program in accordance with this regulation by failing to provide training and instruction to employees on its COVID-19 Prevention Program.

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| Date By Which Violation Must be Abated: | Corrected During Inspection |
| Proposed Penalty: | \$1200.00 |

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Citation and Notification of Penalty

Company Name: Dakota Brothers, Inc.
Establishment DBA: Marina Food
and its successors
Inspection Site: 10122 Bandlely Dr
Cupertino, CA 95014

Citation 1 Item 3 Type of Violation: **General**

Title 8 CCR Section 3225(a)(1). Maintenance and Access to Exits.

(a) Exits shall be so located and arranged that they are readily accessible at all times. Where exits are not immediately accessible from an open floor area, safe and continuous passageways, aisles, or corridors leading directly to every exit and so arranged as to provide convenient access for each occupant to at least two exits by separate ways of travel shall be maintained, except as a single exit or limited dead ends are permitted by other provisions of these regulations.

(1) Every required exit shall be maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency.

Reference Title 8 CCR Section 3235(e). Doors.

(e) Locking. Exit doors shall be openable from the direction of exit travel without the use of a key or any special knowledge or effort whenever the building is occupied.

Prior to, and during the course of the investigation, including, but not limited to, on March 26, 2021, the employer failed to ensure that exit doors at the front of the store were maintained unlocked and accessible during all business hours.

Date By Which Violation Must be Abated: Corrected During Inspection
Proposed Penalty: \$450.00

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Inspection Dates: 03/10/2021 - 09/03/2021
Issuance Date: 09/03/2021
CSHO ID: H6984
Optional Report #: 015-21



Citation and Notification of Penalty

Company Name: Dakota Brothers, Inc.
Establishment DBA: Marina Food
and its successors
Inspection Site: 10122 Bandlely Dr
Cupertino, CA 95014

Citation 2 Item 1 Type of Violation: **Serious**

Title 8 CCR Section 3205(c)(2)(B). COVID-19 Prevention.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(2) Identification and evaluation of COVID-19 hazards.

(B) The employer shall develop and implement a process for screening employees for and responding to employees with COVID-19 symptoms. The employer may ask employees to evaluate their own symptoms before reporting to work. If the employer conducts screening at the workplace, the employer shall ensure that face coverings are used during screening by both screeners and employees and, if temperatures are measured, that non-contact thermometers are used.

Prior to and during the course of the investigation, including but not limited to the month of January 2021, the employer failed to effectively implement its COVID-19 Prevention Program by having a process for screening employees for and responding to employees with COVID-19 symptoms in the workplace.

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| Date By Which Violation Must be Abated: | Corrected During Inspection |
| Proposed Penalty: | \$9000.00 |

Kelly Tatum
Compliance Officer / District Manager