

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF LABOR STANDARDS ENFORCEMENT

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Arthur S. Lujan
*Office of the
State Labor Commissioner*

June 22, 2001

Richard J. Simmons
Sheppard, Mullin, Richter & Hampton
333 South Hope Street, 48th Floor
Los Angeles, CA 90071-1448

RE: Deductions From Exempt Employees' Salary

Dear Mr. Simmons:

You received a letter from DLSE's Chief Counsel dated May 30, 2001, regarding "Deductions From Exempt Employees' Salary." The letter describes the Division's enforcement policy, and that it rests on both the, IWC Orders, and the Division's premise that the enforcement policy for those orders would be patterned on federal regulations under the Fair Labor Standards Act, except as California law requires a different conclusion.

At its recent meeting several members of the Industrial Welfare Commission indicated they would be reviewing this policy area with an eye toward making changes. Since the California law and regulation on which the letter is based appears in flux, and a higher level of certainty as to the law may soon be available, I have decided to withdraw the letter as the Division's enforcement position. The Division will seek clarification of the criteria for determining the correct interpretation of "salary" in this context, and follow the policy which results, on both current and future claims and cases.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur S. Lujan", with a long horizontal flourish extending to the right.

Arthur S. Lujan
State Labor Commissioner

cc: Stephen J. Smith, Director
Bridget Bane, IWC Executive Officer
Tom Grogan, Deputy Chief, DLSE
Miles Locker, Chief Counsel, DLSE
Roger Miller, Assistant Chief, DLSE
Greg Rupp, Assistant Chief, DLSE
Nance Steffen, Assistant Chief, DLSE