STATE OF CALIFORNIA

PETE WILSON, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
**DIVISION OF LABOR STANDARDS ENFORCEMENT**
*LEGAL SECTION*
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H. THOMAS CADELL, JR., *Chief Counsel*

May 16, 1997

Donald N. Hubbard
Law Offices of Donald N. Hubbard
2100 Garden Road, Suite F
Monterey, CA 93940

Dear Mr. Hubbard:

You requested an opinion letter from me last year concerning overtime exemptions for Shorty's Portable Toilets. Susan Dovi, one of my staff attorneys responded to your request with an opinion letter dated July 10, 1996. Recently, we had occasion to review the opinion and while finding it sound and accurate in all respects to your client's situation, find it necessary to clarify one error mentioned in passing. That error relates to "for hire" motortrucks regulated by the PUC. The July 10, 1996, opinion letter concluded that Vehicle Code Section 34500(j) would include for hire vehicles such as airport shuttles or hotel/motel shuttles. Section 34500(j) however, is much more limited. That section relates only to "motortrucks... regulated by the Public Utilities Commission or the Interstate Commerce Commission, but only for matters relating to hours of service and logbooks of drivers."

An airport or hotel/motel shuttle is not a motortruck and the Public Utilities Commission does not regulate the hours of service and logbooks of drivers of such shuttles. Therefore, these types of shuttles are not exempted from the overtime provisions contained in the Industrial Welfare Commission Orders.

Again, this correction does not change the conclusion reached in Ms. Dovi's July 10, 1996 letter that under the facts as presented by you the exemption would not apply to your client's situation.

Yours truly,

H. Thomas Cadell, Jr.

H. Thomas Cadell, Jr
Chief Counsel

cc: Mike Meuter, Esq.

1997.05.16