

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF LABOR STANDARDS ENFORCEMENT

25 GOLDEN GATE AVENUE
SAN FRANCISCO CALIFORNIA - 94102

June 15, 1988

ADDRESS REPLY TO:

P.O. BOX 603
San Francisco CA 94101

IN REPLY REFER TO:

Ms. Tina Dotti
Payroll Processor
Korbel
13250 River Road
Guerneville, CA 95446-9538

Dear Ms. Dotti:

This is in reply to your letter of May 12, 1988 regarding the payment of overtime wages when employees receive an hourly rate of pay plus commissions.

If commissions are earned during a work week that includes overtime (i.e. work beyond 8 hours in a day or 40 hours in a week) such commissions are subject to the premium pay requirements. For example, if an employee who receives an hourly rate of \$10 plus commissions, works 50 hours and earns \$100 in commissions, then he/she should be paid as follows:

40 hours straight time rate of \$10 per hour	\$400.00
10 hours overtime rate of \$15 per hour	\$150.00
Commissions	\$100.00
*Commission Overtime	\$ 10.00
Total for Week	<u>\$660.00</u>

*The overtime rate for commissions is calculated by dividing the number of hours worked during the work week into the amount of the commissions earned during the same work week to obtain the regular hourly rate of earned commissions. In this example, \$2.00 per hour. The overtime rate for commissions would be one and half times the regular rate of \$3.00 per hour. As the employee worked 10 hours overtime, the amount of overtime, based on commissions, would be 10 hours at \$1.00 per hour which equals \$10.00. (The \$10.00 includes 10 hours at the regular rate, therefore, only the half time amount is due).

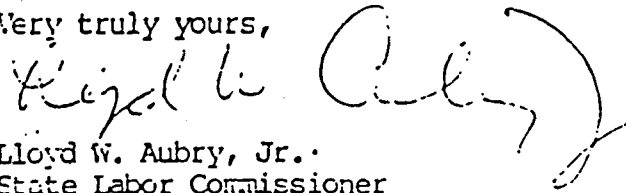
In your letter you indicate commissions are paid monthly which may be in violation of the wage payment laws as wages, including earned commissions, must be paid at least semi-monthly. In other words, if the commissions are calculated and considered earned as the hourly wages are earned, then they must be paid at the same time. However, if commissions are not considered earned until some subsequent event has occurred, then they would only have to be paid at that time in accordance with the payday requirements (Sec.224). Enclosed is a digest of the wage payment laws and your attention is directed to Section 204.

1988.06.15

Ms. Tina Dotti
June 15, 1988
Page 2

I hope the above information will be of assistance to you, if not, please let me know.

Very truly yours,


Lloyd W. Aubry, Jr.
State Labor Commissioner

Enclosure

1988.06.15