



Commissioner Brad Avakian
Bureau of Labor and Industries

COMMISSIONER'S MESSAGE – October 1, 2010

Dear Friends:

As we have been helping our kids transition back to school this year, I have simultaneously been transitioning back to a rigorous schedule of events of all kinds, all around the state. The Brad Tracker on the next page has a list of highlights, but I have to spotlight one event that was a spectacular success and an absolute joy to be a part of: Wednesday night's "Know Your Rights" seminar at Humboldt Gardens in Portland.

I want to praise the diligent work of staff from BOLI, as well as our great partners from the Urban League of Portland, the Fair Housing Council of Oregon and the Oregon Law Center, who helped bring together a sizable audience for the kind of community education that makes BOLI's work much more efficient. Creating more knowledgeable citizens who can speak up for their rights and the rights of their neighbors is hugely beneficial not only for those individuals, but it helps all of us build the fair and equitable communities that we want to live in. I am very pleased to have been a part of this outreach event and want to thank all of the folks who helped make it such a great success.

As you're aware, though, we've had lots of things going on lately. A look at our News page (www.oregon.gov/boli/press.shtml) will give you a full run-down, including both our official announcements and a survey of what various media are saying about our work. We try to update this page regularly, so it's a good first stop if you're wondering what BOLI is working on at any given time.

Since there has been a lot happening lately, I've included a couple of articles here that cover some headlines from the last month. For more on these or other recent issues, check out the list of articles on our [News page](#).

Unfortunately, amid all the clamor of other headlines, you've likely not seen much about another annual event at BOLI: the Business Leadership Awards. I opened the nominating process on September 14 with [limited fanfare](#), but in the next several weeks I expect to see even more numerous and diverse submissions than we received last year. This isn't because Oregonians have plenty of free time in which to submit nominations; rather, I think that when our economy is still struggling, this is a critically important time to take a few minutes and recognize the employer(s) that you know are working extra hard to take good care of their employees, treat them fairly, and help build the next generation of Oregon's workforce. When our local businesspeople are going the extra mile, even when it's financially difficult for them to do so, it is certainly worth letting them know that you noticed and appreciate what they are doing. You'll find the nomination form [here](#).

Sincerely,

Brad Avakian
Oregon Labor Commissioner

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The Brad Tracker

Where's he been?

This month, Brad has been to Wasco County, Lane County, Clackamas County (twice) and Douglas County. He went to Central Point to chair the Oregon State Apprenticeship and Training Council's quarterly meeting, and Wednesday night he helped to host a "Know Your Rights" community forum at Humboldt Gardens in Portland. Also, see below for a report on part of Brad's most recent visit to Central Oregon: his



Part of the crowd at last night's "Know Your Rights" Forum at Humboldt Gardens, hosted by BOLI, the Urban League of Portland, Fair Housing Council of Oregon and Oregon Law Center. Photo by Donna Brown.

discussion with the Deschutes County League of Women Voters.

Where's he going? Today, Brad will attend the Portland City Club's Metro Council President Candidates Forum and NARAL's Annual Gala. Next week, he will attend an EMAC meeting.

If your group is interested in having the Commissioner come to speak, send good contact information to Donna.Brown@state.or.us. Staff will respond to your request in a timely manner, but please try to provide at least 2 weeks' notice if suggesting a particular date for the Commissioner's visit.

Edited for length from: State lacking in technical training, Oregon labor commissioner says

Avakian argues that employers will locate here only if there's a skilled work force

By David Holley / The Bulletin

During a luncheon with the League of Women Voters of Deschutes County, Oregon Labor Commissioner Brad Avakian said young people today aren't being trained to replace Oregon workers who are retiring from fields like construction or metal work, a situation he described as a potential crisis.

... [Avakian will have legislation next year to restore career and technical education programs to

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state middle and high schools.]

“It won't be an easy bill to pass, but there's great support for it,” said Avakian, a former legislator who was appointed to the commissioner's office in 2008 and re-elected later that year.

Avakian spoke to the group of about 20 as a way to inform them about current issues related to employment in the state, and to familiarize them with the operations of the office he heads, the Bureau of Labor and Industries. The bureau regulates four different areas of employment: protecting civil rights, wage and hour issues, assisting employers with understanding federal employment laws and regulating statewide apprenticeship programs.

... Additionally, unless the state fully funds education, Avakian said, it won't be able to reach former employment levels, and won't be able to attract new businesses with jobs. High taxes are not a top reason keeping business from moving to the state, he said, adding that he doesn't believe Oregon's taxes are high.

“They want a trained work force,” Avakian said. “Until we invest in public education, we are not going to attract businesses.”

Workplace Expression of Milk Committee Meets Oct. 6

Committee to hear state, federal updates

On Wednesday, October 6th, Oregon's Expression of Milk in the Workplace Advisory Committee (EMAC) will receive updates on the enforcement of state workplace protections as well as efforts to bring Oregon law in line with the new national standard enacted earlier this year. Representatives from the Oregon Bureau of Labor and Industries, the U.S. Department of Labor and community advocates will participate in the meeting, set for 3PM in Room 1D at 800 NE Oregon Street in Portland.

“Senator Merkley has done great work at the state and national levels on this issue,” said BOLI Commissioner Brad Avakian, who appoints members of EMAC and oversees enforcement of the law. “Building on Oregon's experience is a recipe for success nationally, and BOLI is very pleased to work with our federal partners to ensure all nursing mothers are treated fairly by their employers.”

U.S. Senator Jeff Merkley (D-Oregon) has been a champion for nursing mothers in Congress, ensuring that workplace protections for expression of milk became part of the federal health care reform bill earlier this year. As Speaker of the Oregon House in 2007, Merkley was a key advocate for Oregon's law creating similar protections.

“BOLI's work with partners like the Nursing Mothers Counsel of Oregon and our employer community has set a great example for other states to follow,” Sen. Merkley said. “It is much easier to bring these important protections to nursing mothers throughout the country when a success story is already being written for other states to follow.”

House Bill 2372 (2007) established EMAC as well as directing employers to provide up to 30 minutes in unpaid break time to an employee needing to express breast milk. BOLI's Wage and

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Hour Division staffs EMAC and investigates complaints against employers who may not be complying with the law.

“In the next legislative session, BOLI will work to bring state law in line with the new federal standard while retaining the stronger provisions provided in Oregon law,” Avakian continued. “Giving employers one, consistent standard to follow will better protect the rights of nursing mothers in Oregon by making BOLI’s enforcement more efficient and compliance by employers more achievable.”

Restaurant in Bend focus of civil rights investigation

By Nick Budnick / *The Bulletin*

State Labor Commissioner Brad Avakian on Tuesday launched a civil rights probe of employment practices at Typhoon! Inc., the popular Oregon-based Thai restaurant chain that has a branch in Bend.

The investigation is based on a formal complaint filed by Avakian that accuses the restaurant of a companywide practice of unlawfully discriminating against the Thai nationals it recruits overseas.

In his complaint, Avakian claims that the chain recruits workers from Thailand who then are denied raises, paid lower wages, and required to work longer hours with less vacation time than employees hired in the U.S. The complaint further claims that imported workers were required to sign agreements that subjected them to deportation and “retaliatory lawsuits” if they declined to work under the terms dictated by the chain.

In an interview, Avakian, a former civil rights lawyer who served six years in the Oregon Legislature, said the agency will also examine allegations that Typhoon! makes false promises about working conditions at their restaurants to lure workers from Thailand under a special work visa, only to subject them to highly restrictive employment contracts.

“This was unusual in that it looked like a pattern that applied to a lot of individuals, that really stripped them of their freedom and the lives that they thought they were going to have,” he said.

The chain's co-founder and co-owner, Steve Kline, however, denied most of the allegations in Avakian's complaint, calling it an “astounding litany of lies. ... I'm furious.” Typhoon! Inc. includes six restaurants in Oregon and one in Redmond, Wash.

It also includes a catering business and two “Restobar” restaurants, including one in Bend, owned by Steve's wife, Bo Kline, who oversees the chain's cuisine.

The complaint focuses on two Thai nationals who worked at Typhoon! starting in the late '90s until recently. Typhoon! brought Suchart and Nualjira Treemeth to the United States using a special type of E-2 Visa intended for highly skilled workers with expertise that cannot be found in the United States. The complaint says the Treemeths were paid less than other U.S. employees and, among other things, had their tax refunds confiscated by the company between 1999 and 2002. Along with other forms of discrimination, the complaint alleged, Nualjira Treemeth's vacation was reduced to one week per year. When the couple notified Typhoon! they intended to leave, they were subjected to repeated harassment and inquiries about their return to Thailand, the complaint alleges.

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Jimmy Go, the Treemeths' attorney, said he appreciates that Avakian is giving a voice to Thai cooks at Typhoon! “that they otherwise would not have.”

Though Kline denied the bulk of the allegations, he said he would have to check on the claim that the couple's tax refunds were confiscated. “I have to go back and look at my records,” he said.

He said the complaint appeared to be an effort “to hustle the immigration system” and allow the couple to stay in the U.S. rather than face deportation.

Rick Anderson, the firm's chief operating officer, echoed Kline in denying the allegations. He said that each of the former employees was paid about \$40,000. And he defended the firm's practices as “humanistic.” As for the contract Typhoon! uses for its line cooks, he said, “we mirrored this off of what Microsoft does when they bring employees over. ... You can't come over and start moonlighting.”

This is not the first time the chain has faced allegations about its working conditions. In 2002 a couple that left the firm and went to work for a rival Thai restaurant were arrested and subjected to deportation proceedings before agreeing to leave voluntarily. They sued, claiming failure to pay overtime and other workplace violations; the case ended in a confidential settlement.

A subsequent federal investigation into unpaid overtime led to a settlement in which Typhoon agreed to pay 33 current and former cooks more than \$170,000 in back wages, but did not admit wrongdoing.

In 2008, another of the firm's Thai employees filed a civil lawsuit accusing the firm of inhumane working conditions and of using an unlawful contract to enforce “human trafficking and involuntary servitude.” A federal judge in Oregon agreed, calling the contract “unconscionable,” siding with the employee's lawyer that an arbitration clause in the employment contract potentially could lead to prohibitive costs borne by the employee.

However, in June a three-judge panel of the 9th Circuit Court of Appeals overturned that ruling, saying the firm's offer made in court proceedings to pay for the arbitration meant the agreement is legally sound. The case is now going to arbitration.

In all cases, the Typhoon! chain has denied wrongdoing. Similarly, Anderson said in this case the couple had no basis to complain — he said Nualjira, the top chef in the chain, made \$40,000 a year, and the husband earned \$10 an hour plus was able to work overtime . This income, he said, was enough for them to marry, have two kids, and buy a house and cars. “It seems to me that they are leading a pretty good life,” he said.

Normally, Avakian's agency investigates complaints filed by other people. In this case, Avakian employed a rarely used “commissioner's complaint” process that allows him to file the complaint personally. He said the process is intended to shield employees from retaliation and to serve a higher public interest.

He stressed that the case still needs to be investigated, but “if the allegations are proven to be true, then personally I think it's incredibly offensive,” he said.

Upcoming BOLI Events

Date	Event Type	Location	Subject	Contact
Oct. 5	PWR Seminar	Jackson County Library, Medford	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0838
Oct. 5	PWR Seminar	Jackson County Library, Medford	PWR for Public Agencies	PWR Unit @ 971-673-0838
Oct. 5 & 6	TA Seminar	Central Oregon Comm. Coll, Bend	Employee Supervision: A 2-Day Basic Training	TA Program @ 971-673-0825
Oct. 6	PWR Seminar	Klamath County Community Room	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0838
Oct. 6	PWR Seminar	Klamath County Community Room	PWR for Public Agencies	PWR Unit @ 971-673-0838
Oct. 12	TA Seminar	Treasure Valley C.C., Ontario	Effective Supervisory Practices	TA Program @ 971-673-0825
Oct. 12	PWR Seminar	Columbia Gorge CC, The Dalles	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0838
Oct. 12	PWR Seminar	Columbia Gorge CC, The Dalles	PWR for Public Agencies	PWR Unit @ 971-673-0838
Oct. 12 & 13	TA Seminar	Chemeketa Comm. College, Salem	Leave Laws in Oregon: A 2-Day Training	TA Program @ 971-673-0825
Oct. 13	TA Seminar	City Hall, Baker City	Wage and Hour Laws	TA Program @ 971-673-0825
Oct. 13	PWR Seminar	Umatilla-Morrow ESD, Pendleton	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0838
Oct. 13	PWR Seminar	Umatilla-Morrow ESD, Pendleton	PWR for Public Agencies	PWR Unit @ 971-673-0838
Oct. 14	TA Seminar	Blue Mtn Comm. College, Pendleton	Leave Laws in Oregon	TA Program @ 971-673-0825
Oct. 19	PWR Seminar	State Office Building, Portland	PWR for Public Agencies	PWR Unit @ 971-673-0838
Oct. 19 & 20	TA Seminar	Lane Comm. College, Eugene	Employee Supervision: A 2-Day Basic Training	TA Program @ 971-673-0825
Oct. 21	OCCR Quarterly Mtg.	State Office Building, Portland	The Co-Chairs are developing the agenda	Civil Rights @ 971-673-0795
Oct. 22	TA Seminar	State Office Building, Portland	Recordkeeping Requirements	TA Program @ 971-673-0825
Oct. 25 & 26	TA Seminar	State Office Building, Portland	Employee Supervision: A 2-Day Basic Training	TA Program @ 971-673-0825
Oct. 26	PWR Seminar	County Library, Baker City	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0838
Oct. 26	PWR Seminar	County Library, Baker City	PWR for Public Agencies	PWR Unit @ 971-673-0838

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