

**STATE OF INDIANA
BEFORE THE FIRE PREVENTION AND
BUILDING SAFETY COMMISSION**

| | | |
|----------------------------|---|---------------------------|
| IN RE: |) | CAUSE NO. |
| |) | |
| SHINING STARS CHILD |) | DHS-1733-FPBSC-022 |
| CARE ACADEMY, LLC |) | |
| |) | |
| |) | |

NON-FINAL ORDER OF DISMISSAL

On December 12, 2017, the parties in this matter submitted the attached Agreed Order and Joint Motion to Dismiss.

Accordingly, the Administrative Law Judge now enters this Non-Final Order of Dismissal. The ultimate authority in this matter is the Fire Prevention and Building Safety Commission. Indiana Code § 4-21.5-3-29(d) requires any party seeking to preserve an objection to this order for judicial review to file a written objection that:

1. identifies the basis of the objection with reasonable particularity; and
2. is filed with the Commission within fifteen days (or any longer period set by statute) after this order is served.

In the absence of an objection from a party or notice from the Commission of its intent to review any issue related to this order, the Commission shall affirm this order in accordance with Ind. Code § 4-21.5-3-29(c). **This order will be considered by the Commission on January 3, 2018 at 9:00 a.m. (EST), in Conference Center Room B, Indiana Government Center South, 302 West Washington Street, Indianapolis, IN 46204.**

Date: December 12, 2017


HON. CHELSEA E. SMITH
Administrative Law Judge
Indiana Department of Homeland Security
302 W. Washington Street
Indiana Government Center South, Rm E208
Indianapolis, IN 46204
Telephone: (317) 234-8917
E-mail: chesmith2@dhs.in.gov

STATE OF INDIANA
BEFORE THE FIRE PREVENTION AND BUILDING
SAFETY COMMISSION

RECEIVED
DEC 2
BY: *[Signature]*

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| |) | |
| SHINING STARS CHILD |) | DHS-1733-FPBSC-022 |
| CARE ACADEMY, LLC |) | |
| |) | |

AGREED ORDER AND JOINT MOTION TO DISMISS

The parties respectfully request the above captioned matter be dismissed. In support of this request, the parties state the following:

1. On September 25, 2017, Respondent served Petitioner with an Inspection Report Order, citing numerous violations.
2. On October 10, 2017, Petitioner filed their Petition for Review concerning violation 4.
3. After engaging in informal discussions, the parties agreed to the following conditions, resolving all issues:
 - a. Petitioner uses a domestic cooking appliance for commercial purposes as mentioned in Section 507.2.3 of the 2014 Indiana Mechanical Code.
 - b. Petitioner agrees to only use this cooking appliance for warming or cooking that does not produce grease or smoke as a result of the cooking process.
 - c. Specifically, Petitioner agrees to refrain from cooking raw meat on this cooking appliance, unless a Type 1 hood is installed.
 - d. In the event that Petitioner is found to be in violation of this agreement and Section 507.2.3 of the 2014 Indiana Mechanical Code, the Department may immediately issue a civil penalty of two hundred fifty dollars (\$250).

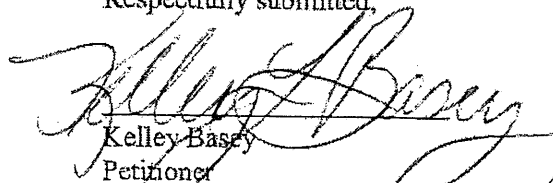
e. Upon execution of this agreement, Petitioner withdraws her Petition for review with prejudice.

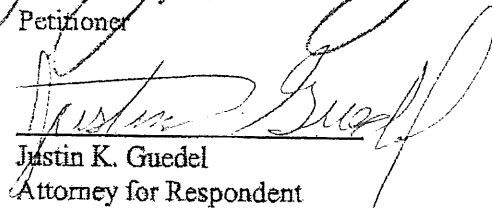
f. Upon execution of this agreement and compliance with the terms of this agreement, and all applicable building and fire safety laws the Department will issue Petitioner a complied order.

WHEREFORE, the parties respectfully request this matter be dismissed.

Date: 12/10/17

Respectfully submitted,


Kelley Bascy
Petitioner


Justin K. Guedel
Attorney for Respondent

A copy of the foregoing was served by U.S. Postal Service upon the following parties and attorneys of record:

Kelley Basey
Shining Stars Child Care Academy
1295 N. State Street
Greenfield, IN 46140

Steve Kropacek
Chief James Roberts
Greenfield Fire Territory
17 W. South Street
Greenfield, IN 46140

and personally served on the following attorney of record:

Justin K. Guedel, Esq.; Staff Attorney
Indiana Department of Homeland Security
302 W. Washington Street
Indiana Government Center South, Room E208
Indianapolis, IN 46204
jguedel@dhs.in.gov

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