

November 1, 2023

Richard W. Donner
Direct Dial: 414-298-8169
rdonner@reinhartlaw.com

SENT BY E-MAIL

Ald. Milele A. Coggs, Chair
City of Milwaukee Licenses Committee
mcoggs@milwaukee.gov

Dear Alderwoman Coggs:

Re: Pacific Bells, LLC
Taco Bell #31507 – 6268 S. 27th Street
License Renewal

This firm represents Pacific Bells, LLC (“Pacific Bells”) in its Food Dealer License Renewal Application for its restaurant located at 6268 S. 27th Street, in the 13th Aldermanic District (the “Property”). At its meeting on October 17, 2023, the Committee requested that Pacific Bells provide additional information regarding a police response to the Property on September 13, 2022 for a “Child Enticement complaint”. In preparation for our hearing on November 7, 2023, following are initial responses to the Committee’s request for additional information:

1. What triggered Pacific Bells’ internal investigation of this matter?

Area Coach reached out to Human Resources (“HR”) to notify that City of Milwaukee Police were at the Property for a Child Endangerment complaint and removed the Restaurant General Manager.

2. Did the Minor Team Member report the allegation?

No. The Minor Team Member (“Minor TM”) did not report the incident to Pacific Bells. As described below, despite repeated requests by HR, the Minor TM refused to participate in the investigation.

3. What company procedures are in place when an incident occurs that involves a minor?

HR investigation is started immediately. Should HR determine it needs to suspend the Manager while investigating, then it does. In this matter, Manager was immediately suspended pending outcome of the investigation.

4. *What company procedures are in place when an employee wants to report an issue with a manager?*

If a Team Member (“TM”) wants to report a Manager they can reach out to their Above Restaurant Leader (“ARL”), their HR Business Partner, or call the 1-800 anonymous TM Helpline Pacific Bells has established. The helpline number is posted in every location and in the Employee Handbook. An excerpt from the Employee Handbook detailing internal investigations and procedures for how to report discrimination, harassment or retaliation is attached hereto as **Exhibit A**.

4. *On the date of the police call, what shift was the Minor TM working?*

On 9/12/2022, Minor TM worked from 6:45 p.m. to 2:25 a.m. On the subject date, Minor TM was 16 years old. Wisconsin law provides that “State and federal laws do not limit the hours that minors 16 years of age or over may work.” In addition, “Minors 16 and 17 years of age who are employed after 11:00 p.m. must have 8 hours rest between the end of one shift and the start of the next shift.” Minor TM did not return to work following this shift. Additional information from the Wisconsin Department of Workforce Development regarding work requirements for minors is attached hereto as **Exhibit B**.

5. *Why was the manager fired?*

Manager was terminated for failure to follow company’s cash handling procedure on 11/22/2022.

6. *Why did it take 2 months after the police call for the Manager to be fired?*

HR investigation was unable to substantiate the allegations made by the Minor TM. City of Milwaukee District Attorney did not press charges against the Manager. Manager was allowed to return to work following the investigation outcome. A summary of Pacific Bells internal investigation, including texts exchanged between the parties, is attached hereto as **Exhibit C** (“Investigation Summary”).

7. *The police report of the matter provides in part that “texts confirmed that [Manager] provided alcohol to the victim, drank with the victim on the premises during working hours, and allowed the victim to smoke marijuana on the premises while working.” Did Pacific Bells internal investigation confirm this statement?*

As detailed in the Investigation Summary, multiple attempts were made to speak to the Minor TM and/or his father, however, neither would participate in the investigation. Pacific Bells has no knowledge of any text messages that confirm the behavior described in the police report. Text messages obtained by Pacific Bells and attached to the Investigation Summary support Minor TM making threats on the Manager. Based on Pacific Bells having no visibility to said text messages provided to the police, nor

any involvement with the investigation from Minor TM or his parent, HR was unable to substantiate the Minor TM's allegations. HR was able to substantiate threats of violence from Minor TM towards Manager.

8. *What happened to the Manager after the Company had notice of the complaint/police call?*

Manager was immediately suspended pending outcome of the investigation.

9. *Did the Manager continue working with minors?*

No, as noted above, the Manager was immediately suspended pending outcome of the investigation. After HR investigation was unable to substantiate the allegations made by the Minor TM, Manager was allowed to return to work (approximately 10 days after the police call).

We look forward to speaking with the Committee on November 7, 2023. Thank you.

Very truly yours,



Richard W. Donner

cc: Ald. Scott Spiker (scott.spiker@milwaukee.gov)
Yadira Melendez (Yadira.Melendez@milwaukee.gov)
Jim Cooney (Jim.Cooney@milwaukee.gov)

EXHIBIT A

Pacific Bells, LLC Employee Handbook Excerpt

The Company Will Investigate

The Company will investigate all claims of discrimination or harassment promptly and in a fair, timely, and thorough manner. Even in the absence of a formal complaint, the Company may initiate an investigation where it has reason to believe that conduct that violates this policy has occurred. Moreover, even where a complainant conveys a request to withdraw their initial formal complaint, the Company may continue the investigation to ensure that the workplace is free from discrimination, harassment, and retaliation. Anonymous complaints will also be investigated. The method will depend on the details provided in the anonymous complaint. If the complaint is sufficiently detailed, the investigation may be able to proceed in the same manner as any other complaint. If the information is more general, the Company may need to do an environmental assessment or survey to try to determine if misconduct has occurred.

Complaints of discrimination or harassment will be handled with sensitivity, discretion and confidentiality to the extent allowed by the circumstances and the law. Generally, this means that allegations of discrimination or harassment are shared only with those who need to know so that the Company can conduct an effective investigation. To the extent possible, the confidentiality and privacy of Team Members will be respected during the investigation, with efforts made to avoid any unwarranted publicity or invasions of privacy. However, remedying instances of prohibited conduct generally require an investigation through which some details of any allegations made may become known to others.

The Company has a compelling interest in protecting the integrity of its investigations. In every investigation, the Company has a strong desire to protect witnesses from harassment, discrimination, intimidation, and retaliation, to keep evidence from being destroyed, to ensure that testimony is not fabricated, and to prevent a cover-up. The Company will determine, on a case-by-case basis, whether these interests justify a confidentiality requirement and will advise Team Members as such. If, in a particular case, the Company reasonably imposes a confidentiality requirement and you do not maintain such confidentiality, you may be subject to Performance Coaching up to and including immediate termination.

The complaining Team Member is usually requested to provide as many details as possible, such as the date(s), location(s), name(s) of witness(es), or information about the alleged harasser(s) or person(s) who engaged in conduct that is otherwise prohibited by this policy. Persons with relevant information will be interviewed. During the investigation, steps may be taken, when appropriate, to minimize contact between the complaining Team Member and the alleged harasser. Such actions may include schedule changes, temporary transfers, or investigatory leave, usually for the alleged harasser. After the investigation is completed, the Company will share its conclusions with the complaining Team Member, the alleged harasser, and if appropriate other Team Members who are involved in the incident.

If the Company concludes that a violation of the Company's anti-discrimination and harassment policy has occurred, prompt and effective remedial action will be taken. This may include discipline of the harasser or person who engaged in prohibited conduct and other actions to remedy the effects of the harassment or discrimination and prevent further harassment or discrimination.

How Do I Report Discrimination, Harassment or Retaliation?

If you believe you have been the subject of, a witness to, or have knowledge of conduct that may be in violation of this Policy, you must promptly:

- Tell the person who may have violated the Policy that his/her conduct is inappropriate and stop immediately, if you feel comfortable in doing so.
- Report the incident immediately to:
 - Your Manager
 - Your Manager's Manager or supervisor
 - Your Human Resources Business Partner
- Our Team Member Hotline by calling (866) 962-8685. HR Hotline is an independent company who will take your call and send your concern, anonymously if you prefer, to a Company authorized representative for investigation, determination, and response. Whenever possible, the Company representative will respond back to you upon conclusion of the investigation.
- Managers are required to notify Human Resources immediately upon becoming aware of harassment and/or discrimination.
- All Team Members are encouraged to document any incidents involving discrimination, harassment, and sexual assault.

Open Door Policy & Problem Resolution Procedure

Should you have a problem that you believe the Company can help solve, you should first discuss the problem with your Manager. This is generally the easiest and most effective way to deal with a problem. If the problem is still not resolved or is of such a nature that you prefer not to discuss it with your Manager, you should go directly to the next higher level of supervision or to your Human Resources representative. When the chain of command has been exhausted without satisfactory resolution to the problem, you should feel free to contact the Vice President of Human Resources. By clearly defining this procedure, we ensure that every Team Member has a clear method to be heard and to solve a problem if one occurs. You also have the option to anonymously call the Team Member Hotline at (866) 962-8685 to get help.

EXHIBIT B

Hours and Times of Day Minors May Work in Wisconsin

State and federal laws do not limit the hours that minors 16 years of age or over may work, except that they may not be employed or permitted to work during hours of required school attendance under Wis. Stat. § 118.15.

State and federal laws also permit minors under 16 to work up to seven days per week in the delivery of newspapers and agriculture. In most other types of labor, minors under 16 may only work six days a week.

Most employers must obtain work permits for minors under 16 before permitting them to work. For further information, see the Wisconsin Employment of Minors Guide (ERD-4758-P).

Maximum Hours of Work for 14 & 15 year-old minors	After Labor Day through May 31	June 1 through Labor Day
<u>Daily Hours</u>		
Non-School Days	8 hours	8 hours
School Days	3 hours	3 hours
<u>Weekly Hours</u>		
Non-School Weeks	40 hours	40 hours
School Weeks	18 hours	18 hours
Permitted Time of Day	7am-7pm	7am-9pm

Employers subject to both federal and state laws must comply with the more stringent section of the two laws.

State child labor laws prohibit work during times that minors are required to be in school, except for students participating in work experience and career exploration programs operated by the school.

Minors under 16 years of age are limited to the maximum hours and time of day restrictions even though they may work for more than one employer during the same day or week.

Minors under 14 years of age are allowed to work in certain occupations (e.g., street trades, agriculture, and work in school lunch programs. See the Wisconsin Employment of Minors Guide, ERD-4758-P, for more detail). These minors are subject to the same hourly and time of day restrictions as minors who are 14 or 15 years of age.

Minors under 18 years of age may not work more than 6 consecutive hours without having a 30-minute, duty free meal period.

Minors 16 & 17 years of age who are employed after 11:00 pm must have 8 hours of rest between the end of one shift and the start of the next shift.

Minimum Wage for minors is \$7.25 per hour. Employers may pay an "Opportunity Wage" of \$5.90 per hour for the first 90 days of employment. On the 91st day, the wage must increase to \$7.25 per hour.

For further information about the federal child labor laws call (608) 441-5221, or write to U.S. Department of Labor, Wage & Hour, 740 Regent Street, Suite 102, Madison, WI 53715.

For further information about the state child labor laws, call the Equal Rights Division in Madison (608) 266-6860 or Milwaukee (414) 227-4384.

DEPARTMENT OF WORKFORCE DEVELOPMENT - EQUAL RIGHTS DIVISION

PO BOX 8928 MADISON WI 53708

Telephone: (608) 266-6860

Website: <https://dwd.wisconsin.gov/er/>

DWD is an equal opportunity employer and service provider. If you have a disability and need assistance with this information. Please contact the Equal Rights Division at (608) 266-6861 to request information in an alternate format, including translated to another language.

EXHIBIT C

Summary of HR Investigation Police Call for Child Endangerment Complaint at TB #21507 on 9-13-2022

1. **Tuesday, 9/13/22-** Police arrived at location with a complaint of sexual solicitation by General Manager (“GM”) against Minor TM.

Began investigation by trying to contact parent and retrieve evidence that Minor TM alleged having against GM. Minor TM’s father was in Puerto Rico and unreachable. He then was delayed due to a Hurricane that struck on 9/18/22. A Zoom call with Minor TM and father was set for 9/21/22. Both failed to attend. A scheduled phone call with Minor TM and father on 9/26/22 was unanswered. At that time, HR had evidence of threats made towards GM by Minor TM and no evidence to substantiate Minor TM’s harassment claims.

2. **Tuesday 9/20/22-** Sent Email to Police Officer that handled complaint after not being able to contact Police Officer via phone Monday, 9/19/2022.

Good Afternoon,

I received your information from my Area Coach that oversees the Taco Bell at 6268 S. 27th St. in Milwaukee. I was made aware last week of an incident that may have transpired at our location last Saturday 9/10/22 that you had taken a report on. I was hoping to connect with you and gather any details that would help us with our internal investigation. I have had a difficult time in getting in touch and/or details from [Minor TM] and his father around the claims with [GM]. We currently have [GM] out on suspension and want to remedy as quickly as possible.

I was told you work midnights so I was hoping an email may be quicker. I am on pacific time this week so if you need to call back late, It will not be an inconvenience on my part. I appreciate any assistance you can provide.

3. **Wednesday 9/21/22-** Received email back from PD:

Hello,

I can tell you that [GM] was arrested for Solicitation of a Minor. The District Attorneys office declined to issue any charges. If you would like more details you will have to file an open records request through our records department.

*PO Jedidiah THOMPSON
Milwaukee Police Department
District 6 Late Shift*

Reply from HR to Officer Thompson (on 9/21/2022):

Thank you so much for getting back to me. Is there a case number I can reference when calling? I have tried a couple times this past week and they were unable to locate case by names of affiliates. [HR received no response to this email and was never provided with the case number]

4. **Wednesday, 9/21/22-** Alex and I had a scheduled Zoom call with Minor TM and his Dad. Both failed to appear.

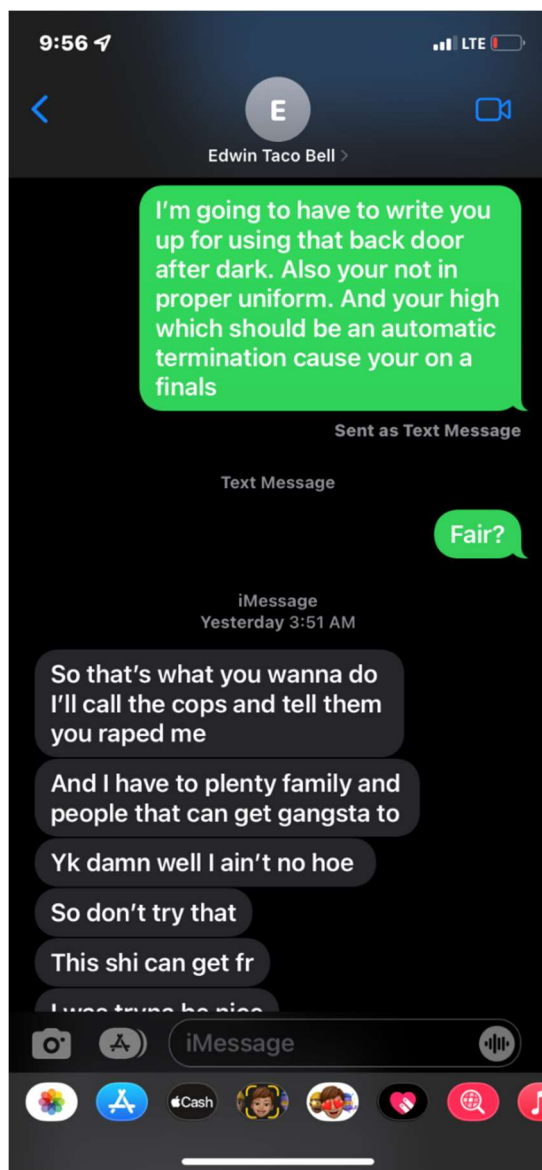
GM Statement received by HR:

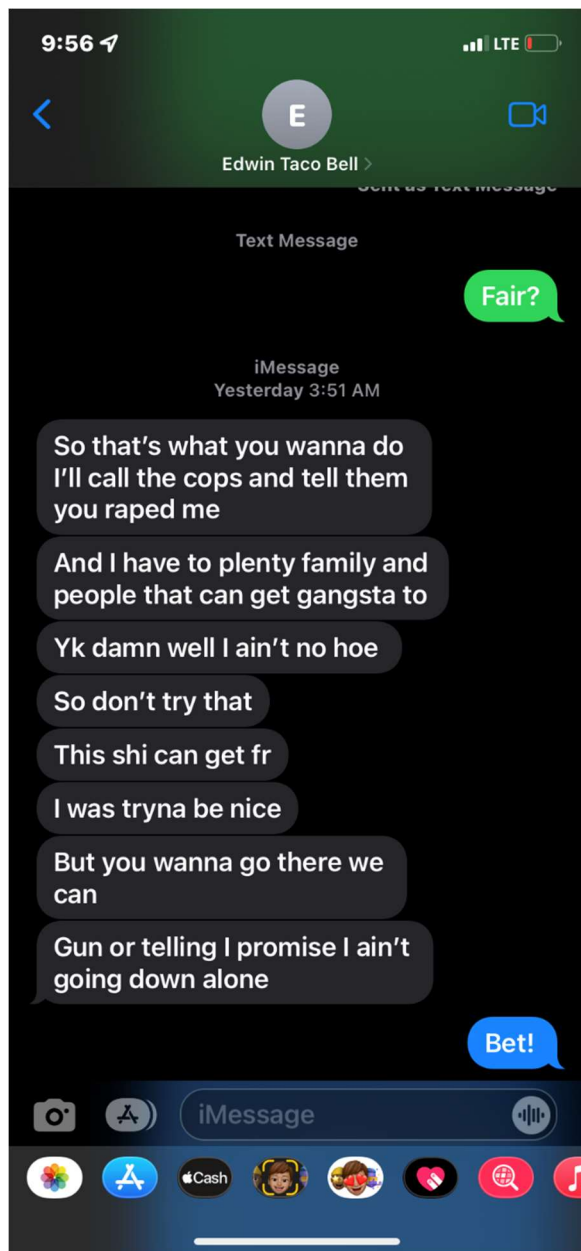
I did not make sexual advancements towards [Minor TM] on Friday we closed together. The night before these allegations were made I told him I was going to write him up for having the back door open after dark(late night), being high at work after already having wrote him up for that, and not being in proper uniform. He then texted me and stated he would say I raped him or he would shoot me if I chose to go ahead and write him up. I am attaching the screenshot of those messages...

[name]

General Manager

[phone number]





5. **Friday, 9/23/22-** GM was brought back to work and investigation was deemed unsubstantiated.
6. **Monday, 9/26/22-** Email sent to Tom Foulks closing out investigation.

Hi Tom,

No need to call back unless you have something for me, I was just calling to give you a couple updates.

31507- [GM] returned as of Friday based on lack of information to substantiate claims. The case was also dropped with the Milwaukee PD. We have tried to connect with [Minor TM] and his dad on several occasions, including a scheduled zoom and phone call. Alex will terminate [Minor TM] today for failure to participate in an internal investigation. They will both receive resolution letters this week to close out.