

8-5-2009

# Flowers v. Shenango Screenprinting, Inc. Clerk's Record v. 1 Dckt. 36367

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36367

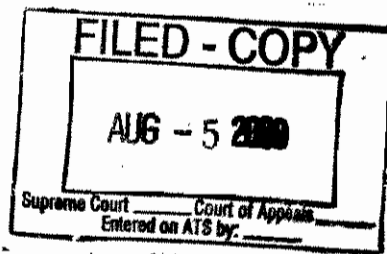
Vol. 1 of 1

**LAW CLERK** BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

DANIEL R. FLOWERS, )  
 )  
 Claimant, )  
 )  
 vs. )  
 )  
 SHENANGO SCREENPRINTING, INC., )  
 Employer, )  
 Appellant-Appellant on Appeal, )  
 )  
 and )  
 )  
 IDAHO DEPARTMENT OF LABOR, )  
 )  
 Respondent-Respondent on Appeal. )  
 \_\_\_\_\_ )

SUPREME COURT NO. 36367

AGENCY'S RECORD



**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

**For Employer, Appellant-Appellant on Appeal:**

**Jeffrey A. Child  
 Child and Fisher  
 Mullan Professional Building  
 212 S. 11<sup>th</sup> Street, Suite 1  
 Coeur d'Alene, ID 83814**

**For Respondent-Respondent on Appeal:**

**Tracey Rolfsen  
 Deputy Attorney General  
 Idaho Department of Labor  
 317 W. Main Street  
 Boise, ID 83735**

36367

 **COPY**

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

DANIEL R. FLOWERS, )  
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 Claimant, )  
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 vs. )  
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 SHENANGO SCREENPRINTING, INC., )  
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SUPREME COURT NO. 36367

AGENCY'S RECORD

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

**For Employer, Appellant-Appellant on Appeal:**

**Jeffrey A. Child  
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212 S. 11<sup>th</sup> Street, Suite 1  
Coeur d'Alene, ID 83814**

**For Respondent-Respondent on Appeal:**

**Tracey Rolfsen  
Deputy Attorney General  
Idaho Department of Labor  
317 W. Main Street  
Boise, ID 83735**

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## LIST OF EXHIBITS

Hearing Transcript taken on November 5, 2008, will be lodged with the Supreme Court.

### Exhibits admitted into record before Idaho Department of Labor

- |    |   |         |
|----|---|---------|
| 1. | Notice of Telephone Hearing, mailed October 29, 2008    | 3 pages |
| 2. | Important Information about your Hearing Read Carefully | 2 pages |
| 3. | Eligibility Determination Unemployment Insurance Claim  | 2 pages |
| 4. | Request for Appeals Hearing                             | 5 page  |
| 5. | Employers Data  | 1 page  |



APPEALS BUREAU  
IDAHO DEPARTMENT OF LABOR  
317 WEST MAIN STREET / BOISE, IDAHO 83735-0720  
(208) 332-3572 / (800) 621-4938  
FAX: (208) 334-6440

DANIEL R FLOWERS, )  
SSN: [REDACTED] )  
Claimant )  
vs. )  
SHENANGO SCREEN PRINTING, )  
Employer )  
and )  
IDAHO DEPARTMENT OF LABOR )

DOCKET NUMBER 0114-2009  
DECISION OF APPEALS EXAMINER

FILED  
DEC 17 2008  
INDUSTRIAL COMMISSION

**DECISION**

Benefits are ALLOWED effective September 14, 2008.

The employer's account IS CHARGEABLE on the claim.

The Eligibility Determination dated September 24, 2008, is hereby AFFIRMED.

**HISTORY OF THE CASE**

The above-entitled matter was heard by Thomas J. Holden, Appeals Examiner for the Idaho Department of Labor, on November 5, 2008, by telephone in the City of Boise, in accordance with §72-1368(6) of the Idaho Employment Security Law.

The claimant, Daniel Flowers, did not participate in the hearing.

The employer, Shenango Screen Printing, was represented in the hearing by Jerry Fraley.

**ISSUES**

The issues before the Department are whether unemployment is due to the claimant quitting voluntarily and, if so, whether with good cause connected with the employment -OR- being discharged and, if so, whether for misconduct in connection with the employment, according to §72-1366(5) of the Idaho Employment Security Law, and whether the employer's account is properly chargeable for experience rating purposes for benefits paid to the claimant, according to §72-1351(2)(a) of the Idaho Employment Security Law.

## FINDINGS OF FACT

Based on the exhibits and testimony in the record, the following facts are found:

1. The claimant worked as a lead screen printer for Shenango Screen Printing from June 2007 to September 5, 2008.
2. The employer discharged the claimant for having an affair with the owner's wife.
3. The owner confronted the claimant, and the claimant denied the affair.
4. In the first four of the five calendar quarters preceding the one in which the claimant applied for benefits, this employer paid the claimant more wages than any other employer.

## AUTHORITY

Section 72-1366(5) of the Idaho Employment Security Law provides in pertinent part, that a claimant is ineligible for unemployment compensation benefits if he or she was discharged for misconduct in connection with employment. The issue is not whether the employer had reasonable grounds for discharging claimant, but rather whether the reasons for discharge constituted "misconduct" in connection with claimant's employment such that claimant can be denied unemployment benefits. The two issues are separate and distinct. Beaty vs. City of Idaho Falls, 110 Idaho 891, 719 P.2d 1151 (1986).

The burden of proving misconduct by a preponderance of the evidence falls strictly on the employer and, where the burden is not met, benefits must be awarded the claimant. Roll vs. City of Middleton, 105 Idaho 22, 665 P.2d 721 (1983); Parker vs. St. Maries Plywood, 101 Idaho 415, 614 P.2d 955 (1980); Hart vs. Deary High School, 126 Idaho 550, 552, 887 P.2d 1057, 1059 (1994). The Idaho Supreme Court has defined misconduct as a willful, intentional disregard of the employer's interest; a deliberate violation of the employer's rules; or a disregard of standards of behavior which the employer has a right to expect of his employees. John vs. S.H. Kress and Company, 78 Idaho 544, 307 P.2d 217 (1957).

For misconduct in standard-of-behavior cases, a two-pronged test has been delineated: (1) whether the employee's conduct fell below the standard of behavior expected by the employer; and (2) whether the employer's expectation was objectively reasonable in the particular case. However, the employer's expectations must be communicated to the employee. Davis vs. Howard O. Miller Co., 107 Idaho 1092, 695 P.2d 1231 (1984); Puckett vs. Idaho Department of Corrections, 107 Idaho 1022, 695 P.2d 407 (1985).

Section 72-1351(2)(a) of the Idaho Employment Security Law provides in part that for experience rating purposes, no charge shall be made to the account of such covered employer with respect to benefits paid to a worker who terminated his services voluntarily without good cause attributable to such covered employer, or who had been discharged for misconduct in connection with such services.

## CONCLUSIONS

The employer discharged the claimant for having an affair with the owner's wife. It has not been established that the claimant's conduct was sufficiently connected to the work that he performed as to constitute work-related misconduct. The employer may have believed that it was in its best interest to discharge the claimant. However, misconduct has not been established. Therefore, the claimant is eligible for unemployment insurance benefits, and the employer's account is chargeable on the claim.



Thomas J. Holden  
Appeals Examiner

Date of Mailing November 21, 2008 Last Day To Appeal December 5, 2008

## APPEAL RIGHTS

You have FOURTEEN (14) DAYS FROM THE DATE OF MAILING to file a written appeal with the Idaho Industrial Commission. The appeal must be mailed to:

Idaho Industrial Commission  
Judicial Division, IDOL Appeals  
P.O. Box 83720  
Boise, Idaho 83720-0041

Or delivered in person to:

Idaho Industrial Commission  
700 S Clearwater Lane  
Boise, ID 83712

Or transmitted by facsimile to:

(208) 332-7558.

If the appeal is mailed, it must be postmarked no later than the last day to appeal. An appeal filed by facsimile transmission must be received by the Commission by 5:00 p.m., Mountain Time, on the last day to appeal. A facsimile transmission received after 5:00 p.m. will be deemed received by the Commission on the next business day. A late appeal will be dismissed. Appeals filed by any means with the Appeals Bureau or a Department of Labor local office will not be accepted by the Commission. ***TO EMPLOYERS WHO ARE INCORPORATED:*** *If you file an appeal with the Idaho Industrial Commission, the appeal must be signed by a corporate officer or legal counsel licensed to practice in the State of Idaho and the signature must include the individual's title. The Commission will not consider appeals submitted by employer representatives who are not attorneys. If you request a hearing before the Commission or permission to file a legal brief, you must make these requests through legal counsel licensed to practice in the State of Idaho. Questions should be directed to the Idaho Industrial Commission, Unemployment Appeals, (208) 334-6024.*

If no appeal is filed, this decision will become final and cannot be changed. **TO CLAIMANT:** If this decision is changed, any benefits paid will be subject to repayment. If an appeal is filed, you should continue to report on your claim as long as you are unemployed.

APPEALS BUREAU  
IDAHO DEPARTMENT OF LABOR  
317 WEST MAIN STREET / BOISE, IDAHO 83735-0720  
(208) 332-3572 / (800) 621-4938  
FAX: (208) 334-6440

CERTIFICATE OF SERVICE

I hereby certify that on NOV 21 2008, a true and correct copy of  
**Decision of Appeals Examiner** was served by regular United States mail upon each of the  
following:

DANIEL R FLOWERS  
402 15TH ST APT B  
COEUR D'ALENE ID 83814

SHENANGO SCREEN PRINTING  
6120 COMMERCE LOOP  
POST FALLS ID 83854

cc: Idaho Department of Labor Coeur d'Alene Local Office -- Decision of Appeals Examiner

  
\_\_\_\_\_



Docket No 0114 yr 2009

[Docket](#) [Participants](#) [Exhibits](#) [Issues](#) [Calendar](#)  
[Schedule](#) [Determinations](#)  
**Appeal Information**

Get Docket Info

Clear

Must have both Docket No and Year to edit appeals.

Office 09 Coeur d' Alene  
Employer

SSN [REDACTED]

Appellant Party

File Date 10/08/2007

Process Status Notice of Telephone Hearing

Save

**Summary Info Only (can not edit below):**

**0114-2009** Daniel R Flowers Shenango Screen Printing 9 10/08/2007

Issues:

Hearing Schedule:

020-Discharge; 021-  
Chargeability;

Nov 5 2008 2:30 PM Thomas J. Holden

**518-98-1895-0** Appellant: Employer

Updated: 10/29/2008 By: tswanson

Daniel R. Flowers / Shenango Screen Printing

**Notes:**

2008-11-05 14:43:24-(th) - The claimant did not call in. Did the hearing with the employer and will be issuing a decision. ;



Idaho Industrial Commission  
Judicial Division, IDOL Appeals  
PO Box 83720  
Boise, ID 83720-0041

December 4, 2008

**Re: Appeal of Claim, Daniel R. Flowers, SSN [REDACTED]**

This letter is to appeal the decision to approve the claim for unemployment benefits filed by Daniel R. Flowers.

Our letter of protest to the Idaho Department of Labor listed three company policies that Mr. Flowers knowingly and admittedly violated. Furthermore, Mr. Flowers did not attend the telephone interview scheduled by the Appeals Bureau. The reason for this appeal is that we feel there was no logical or legal reasoning for approving the claim. It is possible that some of the pertinent details were not considered when the protest was examined, so this letter is an attempt to clarify these details and to correct any misconstrued information.

Referring to the 'Decision' letter sent by the Appeals Bureau, the Finding of Facts section lists our reason for discharging Mr. Flowers *'for having an affair with the owner's wife'*. This fact is **untrue** and is not listed as a reason in the letter we sent to the Appeals Bureau. In fact, Mr. Flowers was well aware of the reasons he was terminated, and we never expected him to file a claim for unemployment insurance.

We have made our policies very clear. We reserve the right to choose when to enforce our policies. For example, if an employee is suspected of stealing from our business, they are confronted with the facts. If the employee admits all wrongdoings and displays an honest, sincere attempt at repairing the situation, then termination is not always the best course of action. However, if the employee decides to lie about the situation, quoting our policies as his workplace motto, termination is the only course of action if the theft is confirmed. In this case, it was discovered that Mr. Flowers was having a relationship with his co-worker, who was also the owner's wife. It was in the company's best interest to find out the extent of the relationship, to prevent any disruption in the workplace. Mr. Flowers chose to lie repeatedly about the relationship, repeating his devotion to our company policies of honesty and integrity. When more evidence was presented, he continued to deny the relationship, even though the potential disruption of the workplace was explained to him.

Mr. Flowers was a very valuable employee, and an asset to our company. We had no intention of discharging Mr. Flowers because of the relationship, and we conveyed this to him many times. When the true extent of the relationship was revealed to us, we had no choice but to terminate employment immediately. Our decision should be enforced and respected. The decision would have been the same as if the relationship had been with a new employee instead of the owner's wife.

Again referring to the 'Decision' letter sent by the Appeals Bureau, the Conclusions section states *'it has not been established that the conduct was sufficiently connected to the work that he performed as to constitute work-related misconduct'*. We feel that Mr. Flowers' conduct was well within the guidelines for work-related misconduct, and have listed our reasoning here.

From the Authority section of the 'Decision' letter: *The Idaho Supreme Court has defined misconduct as a willful, intentional disregard of the employer's interest; a deliberate violation of the employer's rules; or a disregard of standards of behavior which the employer has a right to expect of his employees.*

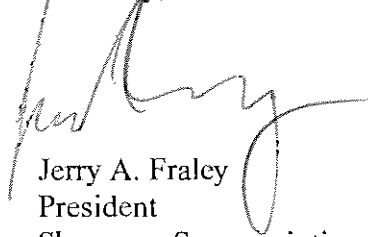
-Mr. Flowers' conduct was well outside our interests as his employer. He was well aware of our policies, but chose to violate them regardless of our interests. There could not be an argument that his conduct was in our best interests.

-Mr. Flowers violated 3 separate policies, and was made fully aware of what those policies were. Again, he deliberately chose to violate these rules.

-Mr. Flowers' behavior while on-the-job was completely unacceptable. As stated in our policy manual, we have a "scrupulous regard for the highest standards of conduct and personal integrity". Mr. Flowers decided to 1) enter into a relationship that would cause much disruption at the workplace, 2) display very dishonest and unethical conduct while on the job, and 3) quote company ethic policies as his own moral standards, all the while lying to management. We feel this is well below the standard of behavior we expect from employees, and Mr. Flowers was fully aware of these expectations.

We feel we must appeal this decision to set an example to our current and future employees. The behavior displayed by Mr. Flowers while on the job cannot and should not be considered acceptable. Please feel free to contact us for further discussion, if necessary, as we cannot understand why a violation of three company policies is not considered work-related misconduct.

Sincerely,



Jerry A. Fraley  
President  
Shenango Screenprinting, Inc.  
(208) 667-1406

attachments: decision letter; original protest letter (10-7-08)





**SHENANGO**  
• SCREENPRINTING INC. •

SHENANGO SCREENPRINTING, INC.  
6120 E. Commerce Loop • Post Falls ID 83854  
PH: 208-667-1406 • FAX: 208-667-0389  
www.ShenangoScreenprint.com

Idaho Department of Labor  
1221 W Ironwood Drive, Suite 200  
Coeur d'Alene, ID 83814

October 7, 2008

Re: Protest of Claim, Daniel R. Flowers, SSN [REDACTED]

This letter is to protest the approval of the claim for unemployment benefits filed by Daniel R. Flowers.

Mr. Flowers was terminated after it was discovered he entered into a relationship with his co-worker, Mrs. Fraley, knowing that this would cause much disruption at the workplace (see policy 'Personal Relationships in the Workplace').

In addition, when Mr. Flowers was confronted about the relationship, he displayed very dishonest and unethical conduct while on the job (see policies 'Business Ethics and Conduct' & 'Employee Conduct and Work Rules').

Mr. Flowers was given the chance to reveal all truths, *no matter what the truth might be, with no consequences to his employment*, on several occasions during the weeks of August 25 – 29, and September 1 – 5. Mr. Flowers was also made aware that dishonest conduct was unacceptable and that there would be *consequences* if he were found to be lying about the situation. Mr. Flowers willingly and admittedly chose to lie, and by doing so he terminated his own employment at that time.

Mr. Flowers has caused much disruption due to his actions and choices at our company. He was warned many times and given several opportunities to repair the situation, but chose instead to lie repeatedly on several different occasions. His statements to management were very clear, and he repeated the words 'integrity' and 'honesty' as his workplace motto. A person that can repeatedly lie to co-workers and management, no matter what the subject matter, cannot be trusted to run a department.

We believe we acted within every right of our company policies, and fully stand by our decision to discharge Mr. Flowers. If there are any other questions or any other details needed, please feel free to contact us at any time.

Sincerely,

Jerry A. Fraley  
President  
Shenango Screenprinting, Inc.  
(208) 667-1406

type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

### **★ Business Ethics and Conduct**

The successful business operation and reputation of Shenango are built upon the principles of fair dealing and ethical conduct of our employees. Our reputation for integrity and excellence requires careful observance of the spirit and the letter of all applicable laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity.

Shenango will always comply with all applicable laws and regulations and expects its directors, officers, and employees to conduct business in accordance with the letter, spirit, and intent of all relevant laws and to refrain from any illegal, dishonest, or unethical conduct.

In general, the use of good judgment, based on high ethical principles, will guide you with respect to lines of acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the matter should be discussed openly with your immediate supervisor.

Compliance with this policy of business ethics and conduct is the responsibility of every company employee. Disregarding or failing to comply with this standard of business ethics and conduct could lead to disciplinary action, up to and including possible termination of employment.

### **★ Personal Relationships in the Workplace**

The employment of individuals involved in a dating relationship in the same area of an organization may cause serious conflicts and problems with favoritism and employee morale. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried over into day-to-day working relationships.

For purposes of this policy, a dating relationship is defined as a relationship that may be reasonably expected to lead to the formation of a consensual "romantic" or sexual relationship. This policy applies to all employees without regard to the gender or sexual orientation of the individuals involved.

Individuals involved in a dating relationship with a current employee may not occupy a position that will be working directly for or supervising the employee with whom they are involved in a dating relationship. We reserve the right to take prompt action if an actual or potential conflict of interest arises involving individuals involved in a dating relationship who occupy positions at any level (higher or lower) in the same line of authority that may affect the review of employment decisions.

→ In cases where a conflict or the potential for conflict arises because of the relationship between employees, even if there is no line of authority involved, the employees may be separated by reassignment or terminated from employment. Employees in a close personal relationship should refrain from public workplace displays of affection or excessive personal conversation.

### **Immigration Law Compliance**

Shenango is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.



## FINDINGS OF FACT

Based on the exhibits and testimony in the record, the following facts are found:

1. The claimant worked as a lead screen printer for Shenango Screen Printing from June 2007 to September 5, 2008.
2. The employer discharged the claimant for having an affair with the owner's wife.
3. The owner confronted the claimant, and the claimant denied the affair.
4. In the first four of the five calendar quarters preceding the one in which the claimant applied for benefits, this employer paid the claimant more wages than any other employer.

### AUTHORITY

Section 72-4366(5) of the Idaho Employment Security Law provides in pertinent part, that a claimant is ineligible for unemployment compensation benefits if he or she was discharged for misconduct in connection with employment. The issue is not whether the employer had reasonable grounds for discharging claimant, but rather whether the reasons for discharge constituted "misconduct" in connection with claimant's employment such that claimant can be denied unemployment benefits. The two issues are separate and distinct. Beaty vs. City of Idaho Falls, 110 Idaho 891, 719 P.2d 1151 (1986).

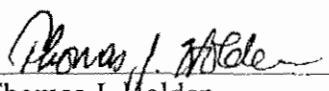
The burden of proving misconduct by a preponderance of the evidence falls strictly on the employer and, where the burden is not met, benefits must be awarded the claimant. Roll vs. City of Middleton, 105 Idaho 22, 665 P.2d 721 (1983); Parker vs. St. Maries Plywood, 101 Idaho 415, 614 P.2d 955 (1980); Hart vs. Deary High School, 126 Idaho 550, 552, 887 P.2d 1057, 1059 (1994). The Idaho Supreme Court has defined misconduct as a willful, intentional disregard of the employer's interest; a deliberate violation of the employer's rules; or a disregard of standards of behavior which the employer has a right to expect of his employees. John vs. S.H. Kress and Company, 78 Idaho 544, 307 P.2d 217 (1957).

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## CONCLUSIONS

The employer discharged the claimant for having an affair with the owner's wife. It has not been established that the claimant's conduct was sufficiently connected to the work that he performed as to constitute work-related misconduct. The employer may have believed that it was in its best interest to discharge the claimant. However, misconduct has not been established. Therefore, the claimant is eligible for unemployment insurance benefits, and the employer's account is chargeable on the claim.

  
Thomas J. Holden  
Appeals Examiner

Date of Mailing November 21, 2008 Last Day To Appeal December 5, 2008

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APPEALS BUREAU  
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317 WEST MAIN STREET / BOISE, IDAHO 83735-0720  
(208) 332-3572 / (800) 621-4938  
FAX: (208) 334-6440

**CERTIFICATE OF SERVICE**

I hereby certify that on NOV 21 2008, a true and correct copy of **Decision of Appeals Examiner** was served by regular United States mail upon each of the following:

DANIEL R FLOWERS  
402 15TH ST APT B  
COEUR D'ALENE ID 83814

SHENANGO SCREEN PRINTING  
6120 COMMERCE LOOP  
POST FALLS ID 83854

cc: Idaho Department of Labor Coeur d'Alene Local Office -- Decision of Appeals Examiner



Internet usage is intended for job-related activities, incidental and occasional brief personal use of e-mail and the Internet is permitted within reasonable limits.

All Internet data that is composed, transmitted, or received via our computer communications systems is considered to be part of the official records of Shenango Screenprinting and, as such, is subject to disclosure to law enforcement or other third parties. Employees should expect only the level of privacy that is warranted by existing law and no more. Consequently, employees should always ensure that the business information contained in Internet e-mail messages and other transmissions is accurate, appropriate, ethical, and lawful. Any questions regarding the legal effect of a message or transmission should be brought to our General Counsel.

Data that is composed, transmitted, accessed, or received via the Internet must not contain content that could be considered discriminatory, offensive, obscene, threatening, harassing, intimidating, or disruptive to any employee or other person. Examples of unacceptable content may include, but are not limited to, sexual comments or images, racial slurs, gender-specific comments, or any other comments or images that could reasonably offend someone on the basis of race, age, sex, religious or political beliefs, national origin, disability, sexual orientation, or any other characteristic protected by law.

The unauthorized use, installation, copying, or distribution of copyrighted, trademarked, or patented material on the Internet is expressly prohibited. As a general rule, if an employee did not create material, does not own the rights to it, or has not gotten authorization for its use, it should not be put on the Internet. Employees are also responsible for ensuring that the person sending any material over the Internet has the appropriate distribution rights.

Internet users should take the necessary anti-virus precautions before downloading or copying any file from the Internet. All downloaded files are to be checked for viruses; all compressed files are to be checked before and after decompression.

Abuse of the Internet access provided by Shenango in violation of the law or Shenango's policies will result in disciplinary action, up to and including termination of employment.

### **\* Employee Conduct and Work Rules**

To ensure orderly operations and provide the best possible work environment, Shenango expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions of rules of conduct that may result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate removal or possession of property
- Falsification of timekeeping records
- Working under the influence of alcohol or illegal drugs
- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty or while operating employer-owned vehicles or equipment
- Fighting or threatening violence in the workplace
- Boisterous or disruptive activity in the workplace



- Negligence or improper conduct leading to damage of employer-owned or customer-owned property
- • Insubordination or other disrespectful conduct
- Sexual or other unlawful or unwelcome harassment
- Possession of dangerous or unauthorized materials, such as explosives or firearms, in the workplace
- Excessive absenteeism or any absence without notice
- Unauthorized disclosure of business "secrets" or confidential information
- • Violation of personnel policies
- • Unsatisfactory performance or conduct

Nothing in this policy is intended to change the company's at-will employment policy. Employment with Shenango is at the mutual consent of Shenango and the employee, and either party may terminate that relationship at any time, with or without cause, and with or without advance notice.

### **Drug and Alcohol Use**

It is Shenango's desire to provide a drug-free, healthful and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on company premises and while conducting business-related activities off company premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.

Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.

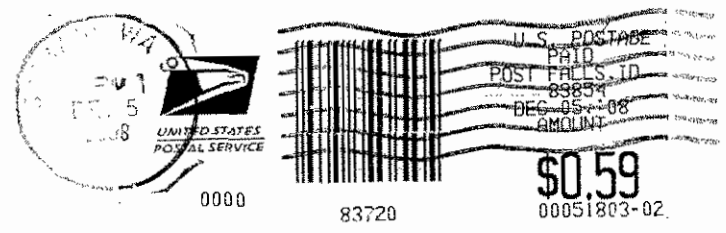
### **Sexual and Other Unlawful Harassment**

Shenango is committed to providing a work environment that is free from all forms of discrimination and conduct that can be considered harassing, coercive, or disruptive, including sexual harassment. Actions, words, jokes, or comments based on an individual's sex, race, color, national origin, age, religion, disability, sexual orientation, or any other legally protected characteristic will not be tolerated.

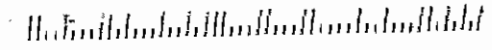
Sexual harassment is defined as unwanted sexual advances, or visual, verbal, or physical conduct of a sexual nature. This definition includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser. The following is a partial list of sexual harassment examples:

- Unwanted sexual advances
- Offering employment benefits in exchange for sexual favors
- Making or threatening reprisals after a negative response to sexual advances

**Shenango Screenprinting**  
**6120 E Commerce Loop**  
**Post Falls, ID 83854**



IDAHO INDUSTRIAL COMMISSION  
JUDICIAL DIVISION, IDOL APPEALS  
P.O. BOX 83720  
BOISE, ID. 83720-0041

8372080041 8900 

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DANIEL R. FLOWERS, )  
SSN [REDACTED] )  
 )  
Claimant, )  
 )  
vs. )  
 )  
SHENANGO SCREEN PRINTING, )  
 )  
Employer, )  
 )  
and )  
 )  
IDAHO DEPARTMENT OF LABOR. )  
\_\_\_\_\_ )

IDOL # 0114-2009

NOTICE OF  
FILING OF APPEAL

FILED

DEC 18 2008

INDUSTRIAL COMMISSION

**PLEASE TAKE NOTICE:** The Industrial Commission has received an appeal from a decision of an Appeals Examiner of the Idaho Department of Labor. A copy of the appeal is enclosed. Documents that are already part of the record or file will not be copied.

Further action will be taken by the Industrial Commission in accordance with its Rules of Appellate Practice and Procedure, a copy of which is enclosed.

**PLEASE READ ALL THE RULES CAREFULLY**

The Commission will make its decision in this appeal based on the record of the proceedings before the Appeals Examiner of the Idaho Department of Labor. To request a briefing schedule or hearing, refer to Rule 4(A) and 6(A,B) of the Rules of Appellate Practice and Procedure.

INDUSTRIAL COMMISSION  
UNEMPLOYMENT APPEALS DIVISION  
POST OFFICE BOX 83720  
BOISE IDAHO 83720-0041  
(208) 334-6024

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18<sup>TH</sup> day of December, 2008, a true and correct copy of the **Notice of Filing of Appeal and compact disc of the Hearing** was served by regular United States mail upon the following:

DANIEL R FLOWERS  
402 15<sup>TH</sup> ST APT B  
COEUR D ALENE ID 83814

SHENANGO SCREEN PRINTING  
6120 COMMERCE LOOP  
POST FALLS ID 83854

DEPUTY ATTORNEY GENERAL  
IDAHO DEPARTMENT OF LABOR  
**STATE HOUSE MAIL**  
317 W MAIN STREET  
BOISE ID 83735

mes



Assistant Commission Secretary

LAWRENCE G. WASDEN  
ATTORNEY GENERAL

CRAIG G. BLEDSOE - ISB# 3431  
KATHERINE TAKASUGI - ISB# 5208  
**TRACEY K. ROLFSEN - ISB# 4050**  
CHERYL GEORGE - ISB# 4213  
Deputy Attorneys General  
Idaho Department of Labor  
317 W. Main Street  
Boise, Idaho 83735  
Telephone: (208) 332-3570 ext. 3184

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DANIEL R. FLOWERS, )  
)  
                                  Claimant, )  
)  
vs. )  
)  
SHENANGO SCREEN PRINTING, )  
)  
                                  Employer, )  
)  
and )  
)  
STATE OF IDAHO, )  
DEPARTMENT LABOR. )  
\_\_\_\_\_ )

IDOL NO. 0114-2009

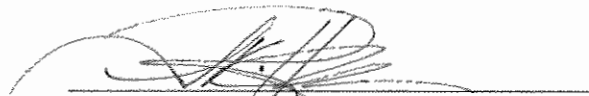
NOTICE OF APPEARANCE

FILED  
DEC 26 2008  
INDUSTRIAL COMMISSION

TO THE ABOVE-NAMED PARTIES:

Please be advised that the undersigned Deputy Attorney General representing the Idaho Department of Labor hereby enters the appearance of said attorneys as the attorneys of record for the State of Idaho, Department of Labor, in the above-entitled proceeding. By statute, the Department of Labor is a party to all unemployment insurance appeals in Idaho.

DATED this 24<sup>th</sup> day of December, 2008.



Tracey K. Rolfsen  
Deputy Attorney General  
Attorney for the State of Idaho,  
Department of Labor

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a copy of the foregoing NOTICE OF APPEARANCE, was mailed, postage prepaid, this 24<sup>th</sup> day of December, 2008, to:

DANIEL R FLOWERS  
402 15TH ST APT B  
CDA ID 83814

JERRY A FRALEY  
SHENANGO SCREEN PRINTING  
6120 COMMERCE LP  
POST FALLS ID 83854



To whom this may concern,

Dec. 29, 2008

After reading the document I received on Dec. 24, 2008, it came to my understanding that Mr. Fraley is not to contact myself; Daniel R. Flowers, according to the rules of the appeal process. I am also aware that any contact or correspondence should also be carried through this office.

I assume that Mr. Fraley received the same set of rules that I have received, and in doing so why is it that I have to adhere to the rules, while Mr. Fraley and Mrs. Fraley have approached me separately on two different occasions, during the appeal process of the claim I have with the Idaho Labor Board.

Mr. Fraley called my cell phone on Tues. 16<sup>th</sup>, 2008 at about 12:30pm. I didn't answer the phone so he left a message. He proceeded to let me know that is was 4 months since I ruined his life, and wanted to talk to me about the affair his wife had with my self. I did not respond.

Mrs. Fraley came to my house, forced her way through the door of my entry, as I tried to close it and let her know she was not welcome, or had no business being at my home. She told to me stop filing my claim with the unemployment board. That was a week before Thanksgiving.

I have not sought out Mr. Fraley, or Mrs. Fraley, for anything, even though Mr. Fraley's brother, Rich Fraley, assaulted me in front of a witness. I do not wish to retaliate, but I want this harassment to stop!

Then I would like for Mr. Fraley to discontinue his conversations with our former peer group, about my unemployment status, when it should concern no one but the parties involved. Numerous times I have been approached by his friends and family. The matter has embarrassed me, as I'm sure it has Mr. Fraley. As I stated earlier I fail to understand why I have to follow the rules and the Fraley's do not. Mrs. Fraley pursued a relationship with my self outside of work. I have made a bad decision, as did Mrs. Fraley. I betrayed my boss, and my friend, but will no longer allow the lies I have heard or have read about my work performance. To my understanding my work was above the par of the average employee in my position. I did not lie to my fellow co-workers concerning this matter as Mr. Fraley has stated. In fact it is my understanding when Mr. Fraley called me on a Sunday to fire me, that he informed his employees I left for personal reasons, who is lying now?

I would like this matter to be resolved, and feel I have a right to live without harassment.

Sincerely,

Daniel R. Flowers

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BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DANIEL R. FLOWERS, )  
 )  
 Claimant, )  
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 vs. )  
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 SHENANGO SCREEN PRINTING, )  
 Employer, )  
 )  
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 and )  
 )  
 IDAHO DEPARTMENT OF LABOR. )  
 )

IDOL # 0114-2009

FILED

JAN - 5 2009

INDUSTRIAL COMMISSION


CERTIFICATE OF SERVICE

I hereby certify that on the 5<sup>TH</sup> day of January, 2009 a true and correct copy of **Claimant's correspondence, filed December 31, 2008** was served by regular United States mail upon the following:

SHENANGO SCREEN PRINTING  
6120 COMMERCE LOOP  
POST FALLS ID 83854

DEPUTY ATTORNEY GENERAL  
IDAHO DEPARTMENT OF LABOR  
STATEHOUSE MAIL  
317 W MAIN ST  
BOISE ID 83738

nics

  
Assistant Commission Secretary

cc: DANIEL R FLOWERS  
402 15<sup>TH</sup> ST APT B  
COEUR D ALENE ID 83814





Idaho Industrial Commission  
Judicial Division, IDOL Appeals  
PO Box 83720  
Boise, ID 83720-0041  
**Re: IDOL # 0114-2009**

January 12, 2009

This letter is in response to the **Claimant's correspondence, filed December 31, 2008** by Daniel R. Flowers, SSN: [REDACTED]

It appears that Mr. Flowers is accusing Mr. Fraley of violating the rule of ex parte communications, which states that "no person involved in the appeal shall communicate, either directly or indirectly, or shall discuss with a Commissioner or Referee the merits of any matter in which an appeal is pending unless all parties or their attorneys are present" (pg. 7, *Rules of Appellate Practice and Procedure*).

Mr. Flowers states that Mr. Fraley called his cell phone and left a voicemail on Tuesday, December 16<sup>th</sup>, 2008. Since this appeal was filed on December 18<sup>th</sup>, 2008, the ex parte rule was not violated.

The remainder of the correspondence is a series of baseless accusations of harassment that have nothing whatsoever to do with this appeal. The events he describes have no bearing on the approval of his unemployment claim. Therefore, once it is established that the rule of ex parte was not violated, **we request that the Claimant's correspondence be stricken from the record of this appeal.**

We are appealing the decision to award unemployment benefits to Daniel R. Flowers. He has never disputed the fact that he violated three company policies, and was fully aware of the consequences for his actions. To our knowledge, there has never been any dispute of these facts. We understand that sometimes facts can be overlooked during the busy season, so this appeal is an attempt to clarify these facts and to make sure that our company policies are honored in the future.

Sincerely,

Jerry A. Fraley  
President  
Shenango Screenprinting, Inc.  
(208) 667-1406

attachments: Claimant's correspondence (12-31-08).

12/31/08  
12/31/08  
12/31/08

Shenango Screenprinting  
6120 E Commerce Loop  
Post Falls, ID 83854



IDAHO INDUSTRIAL COMMISSION  
JUDICIAL DIVISION, IDOL APPEALS  
P.O. BOX 83720  
Boise, ID. 83720-0041

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DANIEL R. FLOWERS, )  
 )  
 Claimant, )  
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 Employer, )  
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 and )  
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 IDAHO DEPARTMENT OF LABOR. )  
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IDOL # 0114-2009  
DECISION AND ORDER

FILED  
JAN 14 2009  
INDUSTRIAL COMMISSION

Employer, Shenango Screen Printing, appeals the Decision by the Idaho Department of Labor (IDOL) finding Claimant, Daniel R. Flowers, eligible for unemployment insurance benefits. The Appeals Examiner found that 1) Claimant was discharged but not for employment-related misconduct; and 2) Employer's account is chargeable for experience rating purposes. Claimant did not appear for the hearing. Employer did appear. Neither party has requested a new hearing, nor do we find that the interest of justice requires one.

The undersigned Commissioners have conducted a *de novo* review of the record in accordance with Idaho Code § 72-1368(7) and opinions issued by the Idaho Supreme Court. The Commission has relied on the audio recording of the hearing held before the Appeals Examiner on November 5, 2008, along with exhibits [1 through 5] admitted into the record during that proceeding.

**FINDINGS OF FACT**

Based on the hearing and the evidence in record, the Commission sets forth its own Findings of Fact as follows.

1. In June of 2007, Employer hired Claimant to work as a lead screen printer. Claimant was discharged on September 5, 2008.
2. Employer discharged Claimant for violating a company policy prohibiting having a personal relationship with a co-worker where there is a conflict or an appearance of a conflict. Claimant was accused of having a personal relationship with a co-worker, who was the owner's wife. When Employer confronted Claimant about this allegation, Claimant denied the affair. Employer also discharged Claimant for lying about the relationship, thereby violating Employer's policy regarding honesty and integrity.
3. In the first four of the five calendar quarters preceding the one in which Claimant applied for benefits, this Employer paid Claimant more wages than any other employer.

### **DISCUSSION**

According to Employer, Claimant was discharged for having an affair with the owner's wife, who was also a co-worker. When Employer confronted Claimant about the affair, Employer stated that Claimant continued to lie about the alleged incident. (Audio Recording.) Employer alleges that both the relationship and Claimant's response to the inquiries violated Employer's policies and, therefore, Claimant was discharged for employment related misconduct.

Idaho Code § 72-1366(5) provides, in part, that a claimant is eligible for unemployment insurance benefits if that individual was discharged for reasons other than employment-related misconduct. The burden of proving misconduct falls strictly on the employer, and where the burden is not met, benefits must be awarded to the claimant. Roll v. City of Middleton, 105 Idaho 22, 25, 665 P.2d 721, 724 (1983); Parker v. St. Maries Plywood, 101 Idaho 415, 419, 614 P.2d 955, 959 (1980). What constitutes "just cause" in the mind of an employer for dismissing an employee is not the legal equivalent of "misconduct" under Idaho's Employment Security Law. Therefore, whether the employer had reasonable grounds according to the employer's

standards for dismissing a claimant is not controlling of the outcome in these cases. Our only concern is whether the reasons for discharge constituted “misconduct” connected with the claimant’s employment such that the claimant can be denied unemployment benefits. Beaty v. City of Idaho Falls, 110 Idaho 891, 892, 719 P.2d 1151, 1152 (1986).

The Idaho Supreme Court has defined misconduct as a willful, intentional disregard of the employer’s interest; a deliberate violation of the employer’s rules; or a disregard of standards of behavior which the employer has a right to expect of its employees. Gunter v. Magic Valley Regional Medical Center, 143 Idaho 63, 137 P.3d 450 (2006) (citing Johns v. S. H. Kress & Company, 78 Idaho 544, 548, 307 P.2d 217, 219 (1957)). Specifically, under the “standards of behavior” analysis, the employer must show by a preponderance of the evidence that it communicated its expectations to the claimant, or that its expectations “flowed normally” from the employment relationship and that those expectations were objectively reasonable as applied to the claimant. As the Idaho Supreme Court has pointed out, an “employer’s expectations are ordinarily reasonable only where they have been communicated to the employee.” Folks v. Moscow School District No. 281, 129 Idaho 833, 838, 933 P.2d 642, 647 (1997). In addition, the Court requires the Commission to consider all three grounds in determining whether misconduct exists. Dietz v. Minidoka County Highway Dist., 127 Idaho 246, 248, 899 P.2d 956, 958 (1995).

Employer was the only party to appear for the hearing. Therefore, the evidentiary record consists of Employer’s testimony regarding the discharge and the policies it submitted in support. (Audio Recording and Exhibit 4, pp. 3-5.) Employer stated that it terminated Claimant because he was having a personal relationship with a co-worker, who also happened to be the owner’s wife. (Audio Recording.) When Employer confronted Claimant about the relationship,

Employer alleges that Claimant lied about the relationship and, therefore, violated the company policy regarding honesty and integrity. According to Employer's policies, having a personal relationship with a co-worker can result in termination from employment were "a conflict or the potential for conflict arises because of the relationship between employees." (Exhibit 4, p. 3.) Employer contends that because the co-worker was the owner's wife, there was at the very least, a potential for conflict. (Audio Recording.)

While Employer may be correct in its assertions regarding the affair, the record is void of any competent evidence to conclusively establish that the affair occurred. Although Claimant did not appear to provide testimony, Employer testified that Claimant denied the relationship when it confronted him. (Audio Recording.) At no time did Employer represent or provide sound evidence that the relationship occurred, instead Employer relies on solely on its verbal assertions. The owner's wife did not testify to the relationship nor is there any competent evidence in record that Claimant and the co-worker were involved in a personal relationship that violated Employer's policy. Without establishing a relationship, there is also insufficient evidence to support that Claimant lied about the relationship or violated any policy dealing with honesty and integrity.

As one court stated, "Unemployment compensation is not a gratuity which may be withheld frivolously." Wyoming Department of Employment v. Rissler & McMurry Company, 837 P.2d 686, 690 (1992). Therefore, it bears repeating that when an employer discharges an employee, that employer must meet its burden of demonstrating that the claimant committed misconduct as described in the Idaho Employment Security Law. Employer has not met that burden. There is no competent evidence that the conduct for which Claimant was discharged actually occurred. If the alleged conduct has not been proven, then it cannot be found that

Claimant's behavior violated Employer's policy, let alone any of the other legal prongs of misconduct.

As a side note in response to Employer's appeal, Claimant submitted correspondence requesting the Commission deal with alleged harassment by Employer following Claimant's discharge. Unfortunately, the Commission does not have jurisdiction over such matters. Therefore, we are not the proper venue for any relief which Claimant seeks.

In this case, the record does not support a finding that Claimant deliberately violated Employer's rules, that he willfully, intentionally disregarded Employer's interest, or that his conduct fell below Employer's standard of behavior. Therefore, Employer discharged Claimant, but not for employment-related misconduct.

## **CONCLUSIONS OF LAW**

### **I**

Employer discharged Claimant, but not for employment-related misconduct.

### **II**

Employer's account is held chargeable for experience rating purposes.

**ORDER**

Based on the forgoing analysis, the Decision of the Appeals Examiner is AFFIRMED. Claimant was discharged, but not for employment related misconduct. The Employer's account is chargeable for experience rating purposes. This is a final order under Idaho Code § 72-1368(7).

DATED this 14 day of January, 2009.

INDUSTRIAL COMMISSION

R.D. Maynard  
R.D. Maynard, Chairman

Thomas E. Linbaugh  
Thomas E. Linbaugh, Commissioner

James F. Kile  
James F. Kile, Commissioner

ATTEST:

W. Schork  
Assistant Commission Secretary



**CERTIFICATE OF SERVICE**

I hereby certify that on the 14 day of January, 2009, a true and correct copy of **Decision and Order** was served by regular United States mail upon each of the following:

DANIEL R FLOWERS  
402 15<sup>TH</sup> STREET APT B  
COEUR D'ALENE ID 83815

SHENANGO SCREEN PRINTING  
6120 COMMERCE LOOP  
POST FALLS ID 83854

DEPUTY ATTORNEY GENERAL  
IDAHO DEPARTMENT OF LABOR  
**STATE HOUSE MAIL**  
317 W MAIN STREET  
BOISE ID 83735

cjh

[Signature]



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DANIEL R. FLOWERS, )  
 )  
 Claimant, )  
 )  
 vs. )  
 )  
 SHENANGO SCREEN PRINTING, )  
 Employer, )  
 )  
 and )  
 )  
 IDAHO DEPARTMENT OF LABOR. )  
 )

IDOL # 0114-2009

FILED

JAN 15 2009

INDUSTRIAL COMMISSION


CERTIFICATE OF SERVICE

I hereby certify that on the 15<sup>TH</sup> day of January, 2009, a true and correct copy of **Employers correspondence, filed January 12, 2009, received after the Decision and Order dated January 14, 2009 was mailed**, and was served by regular United States mail upon the following:

DANIEL R FLOWERS  
402 15<sup>TH</sup> STREET APT B  
COEUR D' ALENE ID 83815

DEPUTY ATTORNEY GENERAL  
IDAHO DEPARTMENT OF LABOR  
STATEHOUSE MAIL  
317 W MAIN ST  
BOISE ID 83738

mcs

  
Assistant Commission Secretary

cc:SHENANGO SCREEN PRINTING  
6120 COMMERCE LOOP  
POST FALLS, ID 83854



Idaho Industrial Commission  
Judicial Division, IDOL Appeals  
PO Box 83720  
Boise, ID 83720-0041

January 30, 2009

**Re: Request For Reconsideration, IDOL # 0114-2009**

This is a request for reconsideration of the Decision and Order regarding IDOL # 0114-2009. The Commission has decided that we, the Employer, discharged Claimant, Daniel R. Flowers, but not for employment-related misconduct. We have requested this reconsideration based on several specific reasons, and have listed them here:

**1. Referee did not consider all evidence available.**

The Decision and Order claims that, "While Employer may be correct in its assertions regarding the affair, the record is void of any competent evidence to conclusively establish that the affair occurred (Decision and Order, pg.4).

This claim is incorrect. If the Referee had consulted the IDOL representative who interviewed Mr. Flowers, he would have discovered that Mr. Flowers openly admitted to all details of the affair, and wished to receive benefits based on these details. The only denial of the affair was during the previous two weeks of employment, when he chose to lie to management about the relationship. Mr. Flowers was made fully aware of the policies he would violate if he continued to lie about the affair. Instead of revealing the truth, he quoted our Honesty & Integrity policy as his own moral standard (see Notice of Filing Appeal, pg.2).

In addition, Mr. Flowers wrote in the Claimant's Correspondence: "I betrayed my boss." This is a clear admission of the affair, and should have been considered so by the Referee and/or the Industrial Commission.

Furthermore, Mr. Flowers elected to not attend the telephone interview with the IDOL, which would have been his opportunity to dispute this fact.

**2. False information was provided to us by the Industrial Commission staff.**

After receiving the 'Claimant's Correspondence', filed January 5, 2009, we called the Industrial Commission and spoke with **Mary Schoeler** regarding the time allowed to respond to the Correspondence. She told us that the time frame was the same as a 'Brief', in that we had seven days from the file date to respond to the Correspondence. Using this information, we made sure our response was postmarked within seven days of the filing of the Claimant's Correspondence. However, our response was received after the Decision and Order was filed.

When we called to ask Mary Schoeler why our response was not received in time, she insisted again that seven days was correct and that our response *was* received in time. Once we quoted to her the Decision and Order that stated our correspondence was "received after the Decision and Order dated January 14," she then admitted that she was mistaken and that she had given us incorrect information. In our opinion, this is an error that could have changed the outcome of this Decision.

**3. Misconduct was employment-related.**

It is clear to us that Mr. Flowers' misconduct was employment-related. Mr. Flowers engaged in a relationship that created a potential for conflict at the workplace. When confronted about the relationship, he quoted our policies of Honesty and Integrity and denied the existence of any relationship. He then continued employment for two more weeks, denying the relationship several more times during these weeks.

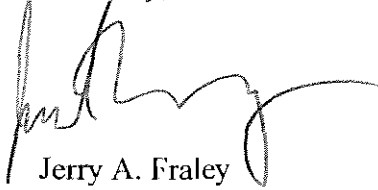
When Mr. Flowers was terminated at the end of those two weeks, he was fully aware of the policies he had violated, and made no argument regarding his actions.

It is our understanding that no additional evidence will be considered after the Decision and Order has been filed. Therefore, we will not submit a letter of testimony from Mrs. Fraley, the owner's wife. However, the letter is available upon request.

In conclusion, we fully understand the importance of unemployment compensation, and would not file an appeal if we did not feel justified in doing so. It is our opinion that unemployment compensation should not be awarded frivolously.

Please feel free to contact us if there are any questions or clarification needed.

Sincerely,



Jerry A. Fraley  
President  
Shenango Screenprinting, Inc.  
(208) 667-1406

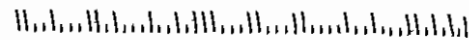
**Shenango Screenprinting  
6120 E Commerce Loop  
Post Falls, ID 83854**



1999 FEB -4 A 11:02  
RECEIVED  
INDUSTRIAL COMMISSION

IDAHO INDUSTRIAL COMMISSION  
JUDICIAL DIVISION, IDOL APPEALS  
P.O. BOX 83720  
BOISE, ID 83720-0041

83720+0041 8300



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DANIEL R. FLOWERS, )  
)  
Claimant, )  
)  
vs. )  
)  
SHENANGO SCREEN PRINTING, )  
)  
Employer, )  
)  
and )  
)  
IDAHO DEPARTMENT OF LABOR, )  
\_\_\_\_\_ )

IDOL # 0114-2009

FILED  
FEB 04 2009  
INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 4<sup>th</sup> day of February, 2009 a true and correct copy of **Employer's request for reconsideration, filed February 2, 2009** was served by regular United States mail upon the following:

DANIEL R FLOWERS  
402 15<sup>TH</sup> STREET APT B  
COEUR D ALENE ID 83815

DEPUTY ATTORNEY GENERAL  
IDAHO DEPARTMENT OF LABOR  
**STATE HOUSE MAIL**  
317 W MAIN STREET  
BOISE ID 83735

mcs

  
Assistant Commission Secretary

cc: SHENANGO SCREEN PRINTING  
6120 COMMERCE LOOP  
POST FALLS ID 83854

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

DANIEL R. FLOWERS,	)	
	)	
Claimant,	)	<b>IDCL #0114-2009</b>
vs.	)	
	)	
SHENANGO SCREEN PRINTING,	)	<b>ORDER DENYING</b>
	)	<b>RECONSIDERATION</b>
Employer,	)	
	)	
and	)	<b>FILED</b>
	)	
IDAHO DEPARTMENT OF LABOR.	)	<b>MAR 13 2009</b>
_____	)	<b>INDUSTRIAL COMMISSION</b>

Employer filed a request for reconsideration pursuant to Idaho Code § 72-1368(7). Employer requests reconsideration of the Idaho Industrial Commission's Decision and Order filed on January 14, 2009. The Commission affirmed the Decision issued by an Appeals Examiner with the Idaho Department of Labor (IDOL). The Commission conducted a *de novo* review of the record and found that Employer discharged Claimant for reasons other than employment-related misconduct, and that Employer's account is chargeable for experience-rating purposes.

Employer discharged Claimant for violating a company policy prohibiting personal relationships with a co-worker where there is a conflict or an appearance of a conflict. Claimant was accused of having a personal relationship with a co-worker, who was the owner's wife. Claimant did not testify at the hearing. Employer testified that Claimant denied the relationship. The Commission found that Employer did not provide sound evidence that the relationship occurred, and without establishing a relationship there was no violation of company policy.

In the request for reconsideration, Employer argues that the referee did not consider all evidence available, that false information was provided to Employer by the Industrial Commission staff, and that Claimant's misconduct was employment-related.

Employer cites correspondence Claimant submitted to the Commission after the Appeals Examiner's decision was issued. Claimant's correspondence included the statement "I betrayed my boss." This statement is not an exhibit in the record, is not a statement given under oath, and is not an affidavit. The Commission is not persuaded by Claimant's delayed correspondence that Employer met his burden of proving Claimant was involved in the alleged relationship.

Employer argues that Industrial Commission staff gave incorrect information regarding the time allowed to respond to Claimant's correspondence letter. Claimant's correspondence and Employer's response are additional documents not provided for in the procedural rules. Employer did not request a briefing schedule or the addition of any evidence at the appeal level. Employer's critical documents, the appeal and reconsideration, were timely filed and considered.

Finally, Employer avers that Claimant's misconduct was employment-related because he engaged in a relationship that created a potential conflict at the workplace. Employer relied solely on its verbal assertions that a relationship existed. By Employer testimony, Claimant denied the relationship. While there may have been a conflict if a relationship existed, the Commission found that Employer did not prove that such a relationship did exist.

The fact remains that Employer has the burden of proving misconduct by a preponderance of the evidence in a discharge case. Employer presents no arguments in its request for reconsideration which would persuade the Commission to alter its ruling. The Commission finds no reason to disturb the Decision and Order in this matter.

Based upon the foregoing reasons, Employer's Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

DATED this 13 day of March 2009.

INDUSTRIAL COMMISSION

R.D. Maynard  
R.D. Maynard, Chairman

Thomas E. Limbaugh  
Thomas E. Limbaugh, Commissioner

James F. Kile  
James F. Kile, Commissioner

ATTEST:

[Signature]  
Assistant Commission Secretary



**CERTIFICATE OF SERVICE**

I hereby certify that on 13 day of March 2009, a true and correct copy of the foregoing ORDER DENYING RECONSIDERATION was served by regular United States mail upon each of the following:

DANIEL R FLOWERS  
402 15<sup>TH</sup> STREET APT B  
COEUR D ALENE, ID 83815

SHENANGO SCREEN PRINTING  
6120 COMMERCE LOOP  
POST FALLS, ID 83854

DEPUTY ATTORNEY GENERAL  
IDAHO DEPARTMENT OF LABOR  
**STATE HOUSE MAIL**  
317 W MAIN ST  
BOISE ID 83735

mcs

[Signature]





Idaho Industrial Commission  
Judicial Division, IDOL Appeals  
PO Box 83720  
Boise, ID 83720-0041

March 30, 2009

**Re: Appeal to Supreme Court, IDOL # 0114-2009**

This letter is to appeal the decision to approve the claim for unemployment benefits filed by Claimant, Daniel R. Flowers, SSN [REDACTED]. For unknown reasons, the facts we have provided to the Idaho Department of Labor (IDOL) and the Idaho Industrial Commission (IIC) have not been sufficient in denying this claim. We, the Employer, would not appeal this decision if we believed Mr. Flowers' claim was justified. The only explanation is that the details of this claim must have been overlooked. In an attempt to clarify these details, we have summarized the events of this claim, including the events leading to Mr. Flowers' termination. These details can also be found throughout the correspondence with the IDOL and the IIC.

**Aug. 25 – Sept. 05, 2008**

Mr. Flowers was confronted regarding a possible relationship with Mrs. Fraley, who was Mr. Flowers' co-worker and also the owner's wife. There were several indications of the relationship, but no actual proof without an admission. He was reminded of company policies regarding relationships with co-workers, as well as company policies of honesty and integrity. Mr. Flowers firmly denied any relationship with Mrs. Fraley. Mr. Flowers also created stories and told lies to management in an attempt to convince us of his innocence. On several occasions during these two weeks, Mr. Flowers was given the opportunity to reveal the truth about the relationship, no matter what it might be, with no consequence to his employment. Mr. Flowers was very passionate about his statements, and quoted our company policy of honesty and integrity as his own personal motto.

**Sept. 06, 2008**

Mrs. Fraley revealed the details of the relationship to Mr. Fraley, which was an affair with Mr. Flowers during the week of Aug. 18 – Aug. 23. The affair included on-the-job innuendos, such as written notes and text messages, as well as off-the-job sexual encounters.

**Sept. 07, 2008**

Mr. Fraley contacted Mr. Flowers on the telephone regarding the affair. Mr. Fraley informed Mr. Flowers that he should not return to work. His actions and decisions were unacceptable and embarrassing for all parties involved. As a courtesy, Mr. Fraley offered to tell co-workers that Mr. Flowers left for 'personal reasons' to avoid any further embarrassment. Mr. Flowers did not respond, and has not been in contact with Mr. or Mrs. Fraley, or Shenango, since that time.

**Sept. 19, 2008**

Received 'Employer Notification – Employment Insurance Claim Filed' from the local IDOL office. This notice was unexpected, since Mr. Flowers was fully aware of the reasons for his termination. The notice informed us that a representative would be contacting us to obtain further information regarding the claim.

James, the IDOL representative, contacted us on or around September 23<sup>rd</sup>, 2008. He spoke with the owner, Jerry Fraley, regarding the claim. James informed Mr. Fraley that the Claimant, Mr. Flowers, had admitted to having the affair with his wife. James said that normally this would be a violation of policy, but only if the other involved party was terminated as well. When Mr. Fraley told him that the other party was also an owner of the business, and therefore could not be terminated, he said it didn't matter. When Mr. Fraley informed James of the dishonest conduct over the 2 weeks after the affair, he said we couldn't terminate an employee for lying. There was never mention of having to prove the affair occurred, since Mr. Flowers was the one who went to the IDOL and admitted the affair occurred.

**Sept. 25, 2008**

Received 'Eligibility Determination – Unemployment Insurance Claim' from the local IDOL office. The decision was to award benefits to Mr. Flowers. The reasoning given was, "The affair did not take place while on the clock or on the premises, therefore, can not be considered a work related incident." We felt it was within our right to appeal this decision, since the policy violations were not addressed.

**Oct. 7, 2008**

Mailed 'Protest of Claim' letter to the local IDOL office. The letter included pages from our Employee Handbook, showing the policies that Mr. Flowers violated.

**Oct. 30, 2008**

Received 'Notice of Telephone Hearing' from the IDOL Appeals Bureau in Boise, Idaho. The hearing was scheduled to begin at 2:30pm MT on November 5<sup>th</sup>, 2008. The Appeals Examiner was Thomas J. Holden.

**Nov. 5, 2008**

Mr. Fraley attended the telephone hearing with Thomas J. Holden. Mr. Flowers did not attend the hearing. Since there were no opposing arguments from the Claimant, Mr. Fraley merely reiterated the facts that were already stated in the 'Protest of Claim' letter. There was no discussion regarding the validity of the affair itself, since Mr. Flowers had already admitted the facts of the affair to the IDOL.

**Nov. 22, 2008**

Received 'Decision of Appeals Examiner' from the IDOL Appeals Bureau in Boise, Idaho. The decision was to award benefits to the Claimant, Mr. Flowers. The reasoning given was, "It has not been established that the claimant's conduct was sufficiently connected to the work that he performed as to constitute work-related misconduct."

**Dec. 4, 2008**

Mailed 'Appeal of Claim' to the Idaho Industrial Commission (IIC) in Boise, Idaho. The letter argues that Mr. Flowers violated several company policies, and that those policy violations were never addressed in the 'Decision' letters. The letter also argues that Mr. Flowers' conduct was indeed work-related.

**Dec. 19, 2008**

Received 'Notice of Filing of Appeal' from the IIC.

**Jan. 7, 2009**

Received a copy of 'Claimant's Correspondence,' filed December 31, 2008. This was a strange letter from Mr. Flowers to the IIC, accusing Mr. Fraley of harassment. This letter had nothing to do with the facts of the Claim, nor did he deny his affair with Mrs. Fraley. In fact, he further admits the affair by making statements such as: "The matter has embarrassed me", "I betrayed my boss", and "I have made a bad decision".

We then called the IIC office and spoke with Mary Schoeler regarding the time allowed to respond to the Claimant's Correspondence. She told us the time allowed was the same as a brief, which was 7 days from the receipt of the Claimant's Correspondence.

**Jan. 13, 2009**

Mailed 'Employer's Correspondence' in response to 'Claimant's Correspondence.' This letter requested that the 'Claimant's Correspondence' be stricken from the record, as there was no pertinent information in regards to the claim.

**Jan. 15, 2009**

Received 'Decision and Order' from the IIC. The Decision states that 'the record is void of any competent evidence to conclusively establish that the affair occurred,' and therefore has denied the appeal. So the IIC decided that an admission by the Claimant himself was not sufficient evidence to conclude that the affair actually occurred. This was the first time the validity of the affair had ever come into question.

**Jan 16, 2009**

Received a copy of 'Employer's Correspondence,' which was filed after the Decision and Order. We called and spoke to Mary Schoeler about why our correspondence was not considered by the Referee, and she told us that she had given us incorrect information regarding the time allowed to send correspondence. Therefore, our correspondence did not show up in time and was not included in the appeal.

**Jan 30, 2009**

Mailed 'Request for Reconsideration,' since the Decision and Order did not seem to consider all of the evidence in this appeal. The Request makes it clear that Mr. Flowers did indeed admit the affair to the local IDOL office. It also states that Mr. Flowers knowingly and admittedly violated company policy, since Mr. Flowers was informed of the company policies he was violating. Since he was terminated, he has

never denied these facts. The Request also states that Mary Schoeler at the IIC gave us incorrect information, which affected the outcome of the Decision.

**Mar 14, 2009**

Received 'Order Denying Reconsideration' from the IIC. The IIC argues that the Claimant's statement of, "I betrayed my boss," was not a sufficient admission of guilt by the Claimant. Of course, the IIC did not address the fact that Mr. Flowers had already admitted his guilt to the IDOL.

Regarding the false information given by Mary Schoeler, the IIC states, 'Claimant's correspondence and Employer's response are additional documents not provided for in the procedural rules.' So because the time allowed is not in the rules, it didn't matter that Mary Schoeler gave us incorrect information.

Lastly, the IIC argues again that because there was no proof of the affair, work-related misconduct has not been established.

---

In conclusion, it appears that the IDOL and the IIC are in agreement that Mr. Flowers has violated company policy. The strange phenomenon in this claim is that neither office wishes to deny Mr. Flowers his benefits. However, both offices have different reasons for denying the appeal, both of which contradict each other. The IDOL claims that the affair did indeed happen, but was not on the premises, and therefore was not work-related misconduct. The IIC claims that company policies were indeed violated, but cannot be enforced if there is no proof of the affair.

We have stated many times throughout this appeal that we have had the best intentions with these appeals and have merely sought to understand why Mr. Flowers has been awarded benefits. From our point of view, there is no reason to award benefits to Mr. Flowers. We have no monetary gain from winning this appeal. We only wish to have our policies enforced as they were intended. The IDOL or the IIC should not be able to decide when our policies should or should not be enforced.

Mr. Flowers was aware of the policies in place, was aware of the policy he had violated, and then continued to violate company policies for an additional 2 weeks. Since he was terminated, Mr. Flowers has never denied the affair occurred, nor denied that he violated company policy. *Why then is Mr. Flowers eligible for unemployment benefits??*

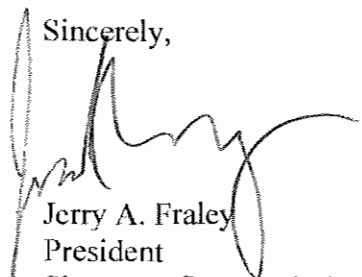
If an employee is suspected of stealing, and then terminated because proof of the theft had been discovered, and then the employee admits to the stealing, but files for unemployment anyway, does the IDOL then request proof of the theft? Even if the employee admits the theft to the IDOL??

Because the IIC has ignored Mr. Flowers' admission of having the affair, and has based its decision solely on the lack of evidence of the affair, we have asked Mrs. Fraley to write a letter of admission regarding the affair. We would have gladly provided this

evidence if it had been requested. Again, there was no reason to provide this evidence, since Mr. Flowers had already admitted his involvement to the IDOL. We would have submitted a letter with the 'Request for Reconsideration,' but we were informed that no new evidence would be considered after the 'Decision and Order' had been filed. We have included the letter from Mrs. Fraley with this appeal.

Please feel free to contact us if you need any additional information or details. We are fully willing to attend any hearing or meeting that is deemed necessary. Our sole request is that this letter be read thoroughly and understood. We truly believe there has been an oversight of the details and that once they are understood, this appeal will be approved and Mr. Flowers' claim for unemployment will be denied.

Sincerely,



Jerry A. Fraley  
President  
Shenango Screenprinting, Inc.  
(208) 667-1406

Attached: Letter from Mrs. Fraley


March 31, 2009

To Whom It May Concern,

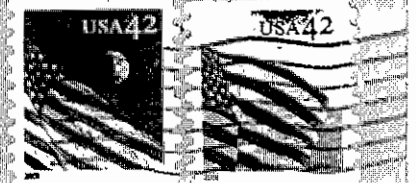
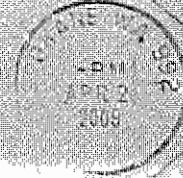
I am writing this letter as asked by Jerry Fraley, my husband and owner of Shenango Screenprinting to address the issue of the affair between Daniel Flowers and myself.

The affair happened during the week of August 18<sup>th</sup>-August 23<sup>rd</sup>. The first meeting and beginning of the affair happened on Wednesday August 20<sup>th</sup>. On Thursday August 21<sup>st</sup>, Mr. Flowers and I flirted at work, passed notes and joked about possible upcoming meetings, full well knowing at the time that what we were participating in was against company policy, would negatively impact the business as a whole and could possibly end in termination if anyone ever found out about it. Friday August 22<sup>nd</sup> Mr. Flowers and I continued to participate in unacceptable behavior at work, texting, flirting, still full well knowing what the consequences could be. Friday evening Mr. Flowers and I met for a 2<sup>nd</sup> time to continue on with the affair. Mr. Flowers and I texted and spoke on the phone late Friday night and Saturday morning to discuss the affair and the possible consequences again. Saturday August 23<sup>rd</sup>, Mr. Flowers and I met for the 3<sup>rd</sup> time to continue with the affair. Late Saturday evening, Jerry Fraley found incriminating text on my phone regarding the affair. During the next 2 weeks, Jerry Fraley gave Mr. Flowers and myself plenty of opportunities to tell the truth about the affair, but we continued to lie to him about the affair. During these two weeks I took a week leave of absence from work. On September 6<sup>th</sup>, I told Jerry Fraley about the affair. Jerry then spoke with Mr. Flowers on the telephone and told him not to come back to work.

If you have any further questions, please call 208-667-3886.

  
Lisa Fraley

Shenango Screenprinting  
6120 E Commerce Loop  
Post Falls, ID 83854



IDAHO INDUSTRIAL COMMISSION  
JUDICIAL DIVISION, IDOL APPEALS  
PO BOX 83720  
BOISE, ID. 83720-0041

RECEIVED  
 IDAHO SUPREME COURT  
 APR 13 2009 11:29:50

**BEFORE THE SUPREME COURT OF THE STATE OF IDAHO**

DANIEL R. FLOWERS,

Claimant,

v.

SHENANGO SCREENPRINTING, INC.,  
 Employer,

Appellant-Appellant on Appeal,

and

IDAHO DEPARTMENT OF LABOR,

Respondent-Respondent on Appeal.

Appeal From:

Industrial Commission,

Case Number:

IDOL #0114-2009

Order Appealed from:

ORDER DENYING RECONSIDERATION, filed  
 March 13, 2009 and ORDER AND DECISION, filed  
 January 14, 2009

Representative for Employers:

Jerry A. Fraley, President  
 Shenango Screenprinting, Inc.  
 6120 Commerce Loop  
 Post Falls, Idaho 83854

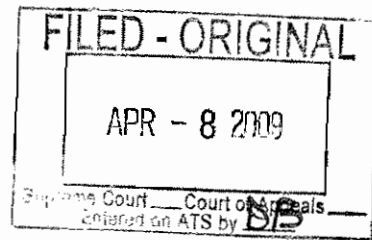
Representative for IDOL:

Tracey K. Rolfsen  
 Deputy Attorney General  
 317 W Main St  
 Boise ID 83735

Appealed By:

Employer/Appellant

SUPREME COURT NO. *36367*  
 CERTIFICATE OF APPEAL



**CERTIFICATE OF APPEAL - 1**  
**Flowers**



Appealed Against:

Idaho Department of Labor/Respondent

Notice of Appeal Filed:

April 6, 2009

Appellate Fee Paid:

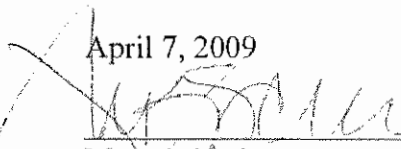
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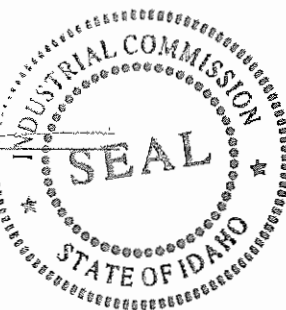
Transcript:

Transcript will be ordered

Dated:

April 7, 2009

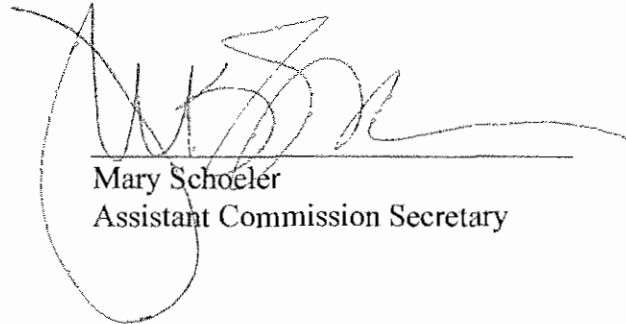
  
\_\_\_\_\_  
Mary Schoeler  
Assistant Commission Secretary



**CERTIFICATION**

I, Mary Schoeler, the undersigned Assistant Commission Secretary of the Industrial Commission of the State of Idaho, hereby CERTIFY that the foregoing is a true and correct photocopy of the Notice of Appeal filed April 6, 2009; Decision and Order, filed January 14, 2009; and Order Denying Reconsideration, filed March 13, 2009; and the whole thereof.

DATED: April 7, 2009



Mary Schoeler  
Assistant Commission Secretary

CHILD AND FISHER  
 Attorneys at Law  
 Mullan Professional Building  
 212 South 11<sup>th</sup> Street, Suite 1  
 Coeur d'Alene, ID 83814  
 Telephone: (208)667-4571  
 Facsimile: (208)664-6648  
 ISB# 2647 Jeffrey A. Child  
 ISB# 2650 Heidi L. Fisher

2009 APR 21 AM 11:00  
 114-2009

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DANIEL R. FLOWERS,	)	
	)	
Claimant,	)	Supreme Court Docket
	)	No. 36367-2009
-vs-	)	Industrial Commission
	)	No. 114-2009
SHENANGO SCREENPRINTING, INC.,	)	
Employer,	)	<b>SECOND AMENDED</b>
	)	<b>NOTICE OF APPEAL</b>
Appellant-Appellant on	)	
Appeal,	)	
	)	
and	)	
	)	
IDAHO DEPARTMENT OF LABOR,	)	
	)	
Respondent-Respondent	)	
on Appeal.	)	
	)	

TO: THE ABOVE-NAMED RESPONDENT(S), Idaho Department of Labor, c/o Tracey K. Rolfsen, Deputy Attorney General, 317 W. Main Street, Boise, Idaho 83735-0720; and Daniel R. Flowers, 402 15<sup>th</sup> Street, Apartment B, Coeur d'Alene, Idaho 83814.

1. The above-named Appellant Shenango Screenprinting, Inc., appeals against the above-named Respondents to the Idaho Supreme Court from the Order and Decision of the Idaho Industrial

Commission, filed January 14, 2009, and the Order Denying Reconsideration, filed March 13, 2009.

2. The Appellant has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(d) I.A.R.

3. The preliminary issues on appeal that the Appellant presently intends to assert in this appeal are: 1. Whether the Industrial Commission erred in not considering all "critical documents" of the Department of Labor in its determination and reconsideration of the Employer's Appeal, and 2. Whether the Industrial Commission's determination and reconsideration are clear error.

4. Has an order been entered sealing all or a portion of the record? No. If so, what portion? N/A

5. (a) Is a transcript requested? Yes.

(b) The Appellant requests the preparation of the following transcript:

Proceedings before the Idaho Department of Labor Appeals Bureau of November 5, 2008.

6. The Appellant requests the following documents to be included in the agency's record in addition to those automatically included under Rule 28, I.A.R.: All critical claimant's documents, including specifically the "discharge" report made by the claimant to the Department of Labor.

7. I certify:

(a) That a copy of this notice of appeal has been served on each reporter of whom a transcript has been requested as named below at the address set out below: N/A

(b) That the Industrial Commission has been paid the estimated fee for preparation of the transcript.

(c) That the estimated fee for preparation of the Clerk's or agency's record has been paid.

(d) That the Appellate filing fee has been paid.

(e) That service has been made upon all parties required to be served pursuant to Rule 20 and the attorney general of Idaho pursuant to §67-1401(1), Idaho Code.

DATED this 19<sup>th</sup> day of May, 2009.

CHILD AND FISHER  
Attorneys for Shenango  
Screenprinting, Inc.

By: 

Jeffrey A. Child


### CERTIFICATE OF SERVICE

I hereby certify that I delivered a true and correct copy of the above and foregoing SECOND AMENDED NOTICE OF APPEAL to:

Daniel R. Flowers  
402 15<sup>th</sup> Street, Apt. B  
Coeur d'Alene, ID 83814

Idaho Department of Labor  
317 W. Main Street  
Boise, ID 83735-0720

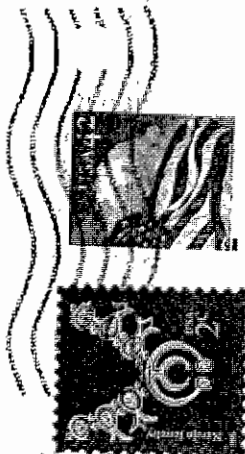
by regular United States mail, postage prepaid thereon this 19<sup>th</sup> day of May, 2009.

  
Jeffrey A. Child

CHILD AND FISHER  
ATTORNEYS AT LAW  
MULLAN PROFESSIONAL BUILDING  
212 SOUTH 11<sup>TH</sup> STREET, SUITE 1  
COEUR D'ALENE, ID 83814

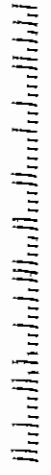
SPokane WA 992

19 MAY 2008 PM 2 T



Idaho Industrial Commission  
Judicial Division, IDOL Appeals  
P.O. Box 83720  
Boise, ID 83720-0041

83720+0041



**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

DANIEL R. FLOWERS, )  
                  Claimant, )  
                  ) )  
                  vs. ) )  
                  ) )  
SHENANGO SCREENPRINTING INC., )  
                  Employer/ Appellant, )  
                  ) )  
                  and ) )  
                  ) )  
IDAHO DEPARTMENT OF LABOR. )  
                  Respondent )  
\_\_\_\_\_ )

**IDOL # 4832-2008**

FILED

MAY 21 2009

INDUSTRIAL COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of May, 2009 a true and correct copy of **Appellant's Second Amended Notice of Appeal to the Supreme Court, filed May 21, 2009** was served by regular United States mail upon the following:

DANIEL R FLOWERS  
402 15<sup>TH</sup> ST APT B  
COEUR D ALENE ID 83814

DEPUTY ATTORNEY GENERAL  
IDAHO DEPARTMENT OF LABOR  
**STATE HOUSE MAIL**  
317 W MAIN STREET  
BOISE ID 83735

IDAHO SUPREME COURT  
STATEHOUSE MAIL  
PO BOX 83720  
BOISE ID 83720-0101

mcs



Assistant Commission Secretary

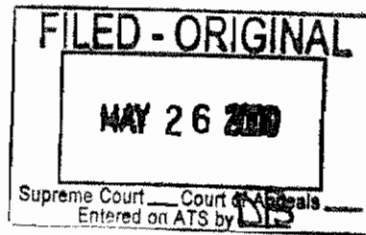
cc:JEFFREY A CHILD, ATTORNEY  
CHILD AND FISHER  
MULLAN PROFESSIONAL BUILDING  
212 SOUTH 11<sup>TH</sup> ST STE 1  
COEUR D ALENE ID 83814

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IDaho: COURT  
COUS  
115  
MAY 26 9:07

**BEFORE THE SUPREME COURT OF THE STATE OF IDAHO**

DANIEL R. FLOWERS, )  
Claimant/Respondent, )  
 )  
vs. )  
 )  
SHENANGO SCREEN PRINTING )  
Employer/Appellant, )  
 )  
and )  
 )  
IDAHO DEPARTMENT OF LABOR, )  
Respondent. )

**SUPREME COURT NO. 36367-2009**  
**AMENDED CERTIFICATE OF APPEAL**



Appeal From: Industrial Commission,  
R.D. Maynard, Chairman, presiding.

Case Number: IDOL #0114-2009

Order Appealed from: ORDER DENYING RECONSIDERATION, filed  
March 13, 2009 and ORDER AND DECISION, filed  
January 14, 2009

Representative for Claimant: Daniel R. Flowers, Pro Se  
402 15<sup>th</sup> Street Apt B  
Coeur D'Alene, Idaho 83815

Representative for Employers: Jeffrey A. Child  
Child and Fisher  
Mullan Profession Building  
212 South 11<sup>th</sup> St. Ste 1  
Coeur D Alene, Idaho 83814

Representative for IDOL: Tracey K. Rolfsen  
Deputy Attorney General  
317 W Main St  
Boise ID 83735

Appealed By: Employer/Appellant

**AMENDED CERTIFICATE OF APPEAL - 1**  
**Flowers**



Appealed Against:

Claimant/Respondent  
and  
Idaho Department of Labor/Respondent

Second Amended  
Notice of Appeal Filed:

May 22, 2009

Appellate Fee Paid:

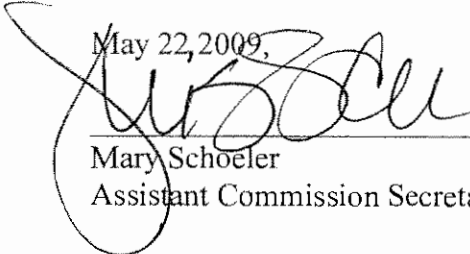
\$86.00

Transcript:

Transcript will be ordered

Dated:

May 22, 2009,

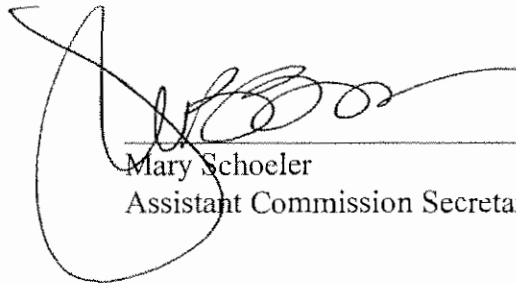
  
\_\_\_\_\_  
Mary Schoeler  
Assistant Commission Secretary



**CERTIFICATION**

I, Mary Schoeler, the undersigned Assistant Commission Secretary of the Industrial Commission of the State of Idaho, hereby CERTIFY that the foregoing is a true and correct photocopy of the Second Amended Notice of Appeal, filed May 21, 2009; and the whole thereof.

DATED: May 22, 2009



Mary Schoeler  
Assistant Commission Secretary

**CERTIFICATION OF RECORD**

I, Carol Haight, the undersigned Assistant Commission Secretary of the Industrial Commission, do hereby certify that the foregoing record contains true and correct copies of all pleadings, documents, and papers designated to be included in the Agency's Record on appeal by Rule 28(3) of the Idaho Appellate Rules and by the Notice of Appeal, pursuant to the provisions of Rule 28(b).

I further certify that all exhibits admitted in this proceeding are correctly listed in the List of Exhibits (i). Said exhibits will be lodged with the Supreme Court after the Record is settled.

DATED this 29<sup>th</sup> day of June, 2009.

Carol J. Haight  
Assistant Commission Secretary



BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

DANIEL R. FLOWERS, )  
 )  
 Claimant, )  
 )  
 vs. )  
 )  
 SHENANGO SCREENPRINTING, )  
 INC., Employer, )  
 )  
 Appellant-Appellant on Appeal, )  
 )  
 and )  
 )  
 IDAHO DEPARTMENT OF LABOR, )  
 )  
 Respondent-Respondent on Appeal. )  
 \_\_\_\_\_ )

SUPREME COURT NO: 36367  
NOTICE OF COMPLETION

TO: STEPHEN W. KENYON, Clerk of the Courts; and  
Jeffrey A. Child for Employer, Appellant-Appellant on Appeal, and  
Tracey Rolfsen for Idaho Department of Labor, Respondent-Respondent on Appeal.

YOU ARE HEREBY NOTIFIED that the Agency’s Record was completed on this date and,  
pursuant to Rule 24(a) and Rule 27(a), Idaho Appellate Rules, copies of the same have been served  
by regular U.S. mail upon each of the following:

**For Employer/Appellant-Appellant on Appeal:**

**Jeffrey A. Child  
Child and Fisher  
Mullan Professional Building  
212 S. 11<sup>th</sup> Street, Suite 1  
Coeur d’Alene, ID 83814**

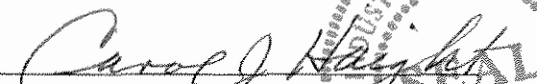
**For Respondent-Respondent on Appeal:**

**Tracey Rolfsen  
Deputy Attorney General  
Idaho Department of Labor  
317 W. Main Street  
Boise, ID 83735**

NOTICE OF COMPLETION - 1

YOU ARE FURTHER NOTIFIED that pursuant to Rule 29(a), Idaho Appellate Rules, all parties have twenty-eight days from the date of this Notice in which to file objections to the Agency's Record or Reporter's Transcript, including requests for corrections, additions or deletions. In the event no objections to the Agency's Record or Reporter's Transcript are filed within the twenty-eight day period, the Agency's Record and Reporter's Transcript shall be deemed settled.

DATED this 29<sup>th</sup> day of June, 2009.

  
Assistant Commission Secretary

