

BEFORE THE NORTH CAROLINA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
RALEIGH, NORTH CAROLINA



COMMISSIONER OF LABOR FOR
THE STATE OF NORTH CAROLINA

Complainant,

v.

HARDISON BUILDING INC
and its successors

Respondent.

) DOCKET NO: 2013 - 5545
)
) INSPECTION
) NO: 317290567
)
) CSHO ID: A6044
)
)
) ORDER
)

Appearances: Melissa H. Taylor, Esquire
NC Department of Labor
Raleigh, North Carolina
For the Complainant

Michael C. Lord, Esquire
Williams Mullen PC
Raleigh, North Carolina
For the Respondent

Before: R. Joyce Garrett
Administrative Law Judge
for the North Carolina Occupational
Safety and Health Review Commission

THIS MATTER came on for hearing and was heard before the undersigned on August 5, 2014, at the Lee House, 422 North Blount Street, Raleigh, North Carolina.

Complainant was represented by Melissa H. Taylor, Assistant Attorney General and Respondent was represented by Michael C. Lord, Williams Mullen PC. Present for the Hearing were the following persons: associated with the Complainant: Linda Kimbell, Lafayette Atkinson, Howard Laurie, and Corey Partridge; associated with the Respondent: Larry Villarreal and Jeremy Maready.

Prior to the Hearing Complainant and Respondent entered into certain Joint Stipulations, a copy of which is attached hereto. At the time of the Hearing Complainant and Respondent made the following motions:

Complainant moved:

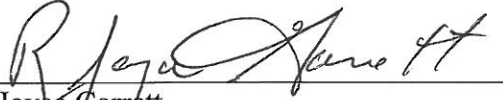
- That Citation 1 Item 1a be reclassified from 'Repeat Serious' with a penalty of \$1,800.00 to a classification of 'Serious' with a penalty of \$600.00;
- That the remaining citations (i.e. Citation 1, Items 1b, 2a, 2b, and 3; Citation 2 Item 1) and corresponding penalties be deleted;
- That the date of the Inspection which was 9/17/2013 shall be deemed to be the date of the Final Order in this matter;
- That the following agreement between Complainant and Respondent be accepted and made part of the record: Respondent agrees (1) to conduct frequent and regular inspections according to OSH standard 29 CFR 1926.20(b)(2) and to document each such inspection (together with any corrective action taken) in a written report (each such report is herein referred to as a "Jobsite Inspection Checklist"); each such report shall be site specific (per lot, not per neighbor or project) during all phases of construction; and (2) for the period commencing August 5, 2014 through January 31, 2015 Respondent shall combine the Jobsite Inspection Checklists prepared during each calendar month into a "Monthly Report" and deliver each Monthly Report to the Wilmington Branch Office of the OSH Division on the 1st business day of each calendar month commencing in September 2014 and continuing through February 2015.

Respondent had no objection to Complainant's Motion, and Complainant's Motion is **GRANTED**.

Respondent made a Motion that Respondent's Notice of Contest to the Citations, as amended pursuant to Complainant's Motion, be withdrawn. Complainant had no objection to Respondent's Motion, and Respondent's Motion is **GRANTED**.

Upon granting of Complainant's Motion and Respondent's Motions, the parties agreed that there were no other matters to be heard at an evidentiary Hearing, and the Hearing was concluded.

This the 6th day of August, 2014.



R. Joyce Garrett
Administrative Law Judge

**BEFORE THE NORTH CAROLINA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
RALEIGH, NORTH CAROLINA**

COMMISSIONER OF LABOR FOR THE STATE OF NORTH CAROLINA)	DOCKET NO: 2013 - 5545
)	
)	INSPECTION
)	NO: 317290567
Complainant,)	
)	CSHO ID: A6044
v.)	
HARDISON BUILDING INC)	JOINT STIPULATIONS
and its successors)	
Respondent.)	

The undersigned parties hereby enter into and agree to the stipulations set forth below with respect to the above captioned matter.

STIPULATIONS

1. The Complainant as Commissioner of Labor of the State of North Carolina is charged by law with compliance with and enforcement of the provisions of the Occupational Safety and Health Act of North Carolina (the "Act"). The Review Commission has jurisdiction over the parties and the subject matter to this action.
2. Respondent is a North Carolina corporation, active and in good standing under the laws of the State of North Carolina, which does business in the State of North Carolina and maintains a place of business in Wilmington, North Carolina. Respondent is in the business of residential construction. Respondent is an "employer" within the meaning of N.C.G.S. Section 95-127(10); all of the employees referred to in the Citations issued to Respondent are "employees" within the meaning of N.C.G.S. Section 95-127(9).
3. On September 17, 2013, Howard Laurie, an Occupational Safety and Health Compliance Officer with the North Carolina Department of Labor, conducted an inspection (the "Inspection")

of Respondent's worksite located at 212 Gilcrest Court, Jacksonville, North Carolina (the "Worksite") where construction work was taking place.

4. As a result of the Inspection, on October 11, 2013, Complainant issued two citations ("Citation 1" and "Citation 2"). Citation 1 pertained to 5 alleged Repeat Serious violations and Citation 2 pertained to an alleged Nonserious violation.

5. Respondent submitted a timely Notice of Contest.

6. A Hearing in this matter was scheduled pursuant to the Rules of Procedure of the Safety and Health Review Commission of North Carolina (the "Rules").

7. Neither party has any objection, procedural or otherwise, to this Hearing.

8. 29 CFR 1926.100(a) does apply to Respondent.

9. 29 CFR 1926.501(c) does apply to Respondent.

10. 29 CFR 1926.501(b)(11) does apply to Respondent.

11. 29 CFR 1926.20(b)(2) does apply to Respondent.

12. 29 CFR 1926.1053(b)(1) does apply to Respondent.

13. 29 CFR 1926.404(f)(6) does apply to Respondent.

These Stipulations are entered into this the 4th day of August, 2014.

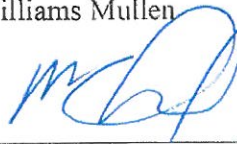
For Complainant:

ROY COOPER
Attorney General

By: Melissa H. Taylor, Esquire

For Respondent:

Williams Mullen



By: Michael C. Lord

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date served a copy of the foregoing ORDER, upon:

MICHAEL C LORD
WILLIAMS MULLEN PC
PO BOX 1000
RALEIGH NC 27602

by depositing same the United States Mail, Certified Mail, postage prepaid, at Raleigh, North Carolina, and upon:

MELISSA TAYLOR
NC DEPARTMENT OF JUSTICE
LABOR SECTION
P O BOX 629
RALEIGH NC 27602-0629

by depositing a copy of the same in the United States Mail, First Class;

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION
1101 MAIL SERVICE CENTER
RALEIGH NC 27699-1101

by depositing a copy of the same in the NCDOL Interoffice Mail.

THIS THE 11th DAY OF August 2014.

OSCAR A. KELLER, JR.
CHAIRMAN


Nancy D. Swaney
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
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Raleigh, NC 27699-1101
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