

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

**COMMISSIONER OF LABOR FOR
THE STATE OF NORTH CAROLINA**

Complainant,

v.

**WINSTON-SALEM/FORSYTH COUNTY
SCHOOLS – TRANSPORTATION
and its successors**

Respondent.

DOCKET NO: 2014 - 5658

**INSPECTION
NO: 317840809**

CSHO ID: T1837

ORDER 10 2016

**NC OCCUPATIONAL SAFETY & HEALTH
REVIEW COMMISSION**

THIS CAUSE came on for hearing and was heard before the undersigned R. Joyce Garrett, Administrative Law Judge for the North Carolina Occupational Safety and Health Review Commission, on November 7th, 2016, at 10:00 A.M. at the Lee House, 422 North Blount Street in Raleigh, North Carolina.

Cara Byrne, Associate Attorney General, North Carolina Department of Justice, appeared for Complainant. Amy Rich, Staff Attorney, Winston-Salem/Forsyth County Board of Education, appeared for the Respondent. No affected employee of Respondent, or its representative, attended to have a say in, or participate as a party in, the Hearing.

Neither Complainant nor Respondent had any objection to this Hearing and both parties consented to the conduct of this Hearing by the Undersigned and to entry of this Order.

On 11/05/2014, as a result of an inspection, Complainant issued two citations as set forth on Schedule 1 attached hereto (collectively referred to herein as the "Original Citation"). Respondent timely submitted a Notice of Contest dated 12/08/2014.

At the Hearing Complainant and Respondent each informed the Undersigned that in lieu of an evidentiary Hearing it wished to make certain Motions in the matter as hereinafter set forth, and that provided such Motions are granted an evidentiary Hearing would not be required and this Order will constitute a Final Order in this matter; and Respondent confirmed that provided such Motions are granted it shall within 2 business days file, pursuant to Rule 37(e)(1) of the North Carolina Rules of Appellate Procedure, a Notice of Withdrawal of Appeal in the Superior Court of Forsyth County, North Carolina thereby withdrawing the Notice of Appeal to the North Carolina Court of Appeals that it filed on July 28, 2016 which appealed the Honorable R. Stuart Albright's Order entered on June 30, 2016 and Respondent shall take all appropriate steps to ensure that such appeal is effectively withdrawn.

Complainant moved to make the following amendments to the Original Citation (“Complainant’s Motion”):

amend Citation 1 Item 1a-b by reducing the amount of the penalty to \$1,000;

amend Citation 1 Item 2a-b by reclassifying from serious to non-serious and deleting the penalty;

amend Citation 1 Item 3 by reclassifying from serious to non-serious and deleting the penalty;

amend Citation 1 Item 4 by reclassifying from serious to non-serious and deleting the penalty;

amend Citation 1 Item 5a-c by reducing the amount of the penalty to \$1,000;

amend Citation 1 Item 6 by reducing the amount of the penalty to \$1,000;

amend Citation 1 Item 7a-b by reducing the amount of the penalty to \$1,000;

amend Citation 1 Item 8 by reducing the amount of the penalty to \$1,000;

amend Citation 1 Item 9 by reducing the amount of the penalty to \$2,000;

amend Citation 1 Item 10a-c by reducing the amount of the penalty to \$3,000;

amend Citation 1 Item 11a-b by reclassifying from serious to non-serious and deleting the penalty;

the amendments set forth in this motion result in a total penalty due of \$10,000.00; except as set forth in this motion, the Original Citation shall remain unmodified or amended; the penalty of \$10,000 shall be paid by Respondent in 12 successive monthly installments of which the first 11 installments will be \$833.33 each and the 12th installment will be \$833.37; each installment will be due and payable on the fifth (5th) day of each calendar month beginning with December 5, 2016; payment is to be by check payable to North Carolina Department of Labor, OSHA Division (identifying Inspection No. 317840809) and mailed to Budget-Collections, North Carolina Department of Labor, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101.

Respondent requested that upon the granting of Complainant’s Motion that the Undersigned consider the following motion by the Respondent (“Respondent’s Motion”), and Respondent confirmed that the violations alleged in the Original Citation as amended have been abated:


to withdraw Respondent's Notice of Contest to the Original Citation as amended pursuant to Complainant's Motion set forth above.

Neither party objected to the other party's Motion.

IT IS ORDERED, ADJUDGED AND DECREED:

1. That Complainant's Motion as set forth above is hereby **GRANTED**; and
2. That Respondent's Motion is hereby **GRANTED**. Respondent shall (1) withdraw the Notice of Appeal, and (2) pay the penalty of \$10,000 in the manner set forth in Complainant's Motion.

This 7th day of November , 2016.



R. Joyce Garrett
Administrative Law Judge


CONSENTED TO:

For Complainant



Cara Byrne, Associate Attorney General,
North Carolina Department of Justice

For Respondent



Amy Rich, Staff Attorney,
Winston-Salem/Forsyth County Board of Education

Schedule 1

Citation Number One (Serious)		
001(a)	29 CFR 1910.23 (c)(1)	\$2,400
001(b)	29 CFR 1910.27(d)(4)	Grouped
002(a)	29 CFR 1910.178(l)(1)(i) or alternative 1910.178(1)(6)	\$4,400
002(b)	29 CFR 1910.178(q)(7)	Grouped
003	29 CFR 1910.212(a)(5)	\$4,000
004	29 CFR 1910.212(b)	\$1,200
005(a)	29 CFR 1910.215(b)(9)	\$2,400
005(b)	29 CFR 1910,215(a)(4)	Grouped
005(c)	29 CFR 1910.215(d)(3)	Grouped
006	29 CFR 1910.219(d)(1)	\$2,400
007(a)	29 CFR 1910.134(e)(1)	\$2,400
007(b)	29 CFR 1910.134(f)(2)	Grouped
008	29 CFR 1910.136(a)	\$1,200
009	29 CFR 1910.147(c)(1)	\$6,300
010(a)	29 CFR 1910.1030(c)(1)(i)	\$4,000
010(b)	29 CFR 1910.1030(f)(1)(i)	Grouped
010(c)	29 CFR 1910.1030(g)(2)(i)	Grouped
011(a)	29 CFR 1910.1200(e)(1)	\$2,400
011(b)	29 CFR 1910.1200(h)(1)___	Grouped
Citation Number Two (Nonserious)		
001	29 CFR 1910.22(d)(1)	No Penalty
002	29 CFR 1910.23(d)(1)(iii)	No Penalty
003	29 CFR 1910.37(b)(2)	No Penalty
004	29 CFR 1910.132(d)(1)	No Penalty
006	29 CFR 1910.157(g)(2)	No Penalty
007	29 CFR 1910.178(a)(6)	No Penalty
008	29 CFR 1910.303(b)(2)	No Penalty
009	29 CFR 1910.305(g)(2)(iii)	No Penalty

CERTIFICATE OF SERVICE

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

AMY RICH
WINSTON-SALEM/FORSYTH COUNTY BOARD OF EDUCATION
PO BOX 2513
WINSTON-SALEM, NC 27102

CARA BYRNE
NC DEPARTMENT OF JUSTICE
LABOR SECTION
P O BOX 629
RALEIGH, NC 27602-0629

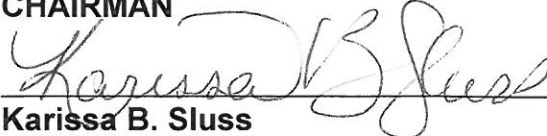
by depositing a copy of the same in the United States Mail, First Class;

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 10 DAY OF November 2016.

ARLENE K. EDWARDS
CHAIRMAN



Karissa B. Sluss
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
1101 Mail Service Center
Raleigh, NC 27699-1101
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