



**BEFORE THE NORTH CAROLINA**

**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

**RALEIGH, NORTH CAROLINA**

<b>COMMISSIONER OF LABOR FOR</b>	)	<b>DOCKET NO. OSHANC – 2015-5706</b>
<b>THE STATE OF NORTH CAROLINA,</b>	)	
	)	<b>INSPECTION NO. 317982387</b>
<b>COMPLAINANT,</b>	)	
	)	<b>CSHO ID: A6044</b>
<b>v.</b>	)	
	)	
	)	
<b>ATLANTIC VENTURES dba ATLANTIC</b>	)	<b>FINAL ORDER</b>
<b>STAFFING CONSULTANTS,</b>	)	
<b><i>and its successors,</i></b>	)	
	)	
<b>RESPONDENT.</b>	)	

**THIS CAUSE** came on to be heard pursuant to a Notice of Hearing scheduling the above-styled matter for an administrative hearing on July 12, 2016 at the offices of the North Carolina Safety and Health Review Commission, 422 North Blount Street, Raleigh, NC. Complainant was represented by Larissa S. Williamson, Special Deputy Attorney General for the State of North Carolina, and Respondent was represented by Michael C. Lord, with Williams Mullen. The parties met and conferred prior to the formal opening of the case and subsequently informed this hearing officer that they had reached a settlement of all issues and that a hearing would not be necessary. Counsel for the parties agreed to supply the undersigned with the terms of their settlement within one week of the date of the hearing. The parties timely provided the terms, and the Stipulations below reflect first, the Citation Items and second, the parties' agreement as to their resolution.

**STIPULATIONS**

1. Respondent received one citation with six items, 001a, 001b, 002a, 002b, 003a, 003b. The citation Items were each labeled "Serious" and were respectively as follows:

**DATABASE**  
*BW*

- a. 29 CFR 1910.146(c)(2): The employer did not inform exposed employees, by posting danger signs or by any other equally effective means, of the existence and location of and the danger posed by the permit spaces:
  - i. facility, Bag House – Glass System (Airlock and Cyclone System) – no danger sign or other effective means was provided to warn employees of the hazards of the permit required confined space.
  
- b. 29 CFR 1910.146(c)(7)(iii): The employer did not document the basis for determining that all hazards in a permit space had been eliminated, through a written certification that contained the date, the location of the space, and the signature of the person making the determination:
  - i. facility, Bag House – Glass System (Airlock and Cyclone System) – the employer did not document that all hazards had been eliminated, such as the two 480 VAC electrical energy sources for the Glass Suction System (E-42) and the Rotary Valve (E-43), prior to an authorized employee making entry into the permit required confined space.
  
- c. 29 CFR 1910.147(c)(4)(ii): The energy control procedures did not clearly and specifically outline the scope, purposes, authorization, rules and techniques to be utilized for the control of hazardous energy, including but not limited to Items of this section:
  - i. facility, Bag House – Glass System (Airlock and Cyclone System) – the hazardous energy control procedures were not specific in that they did not specify the two 480 VAC electrical energy sources required to be isolated, the Glass Suction System (E-42) and the Rotary Valve (E-43), during maintenance activities. On or about March 17, 2015, this condition resulted in injuries to an employee who was utilizing this procedure.
  
- d. 29 CFR 1910.147(d)(6): Prior to starting work on machines or equipment that had been locked out or tagged out, the authorized employee did not verify that isolation and deenergization of the machine or equipment had been accomplished:
  - i. facility, Bag House – Glass System (Airlock and Cyclone System) – prior to starting work on the equipment, an authorized employee failed to verify that the isolation and deenergization of the equipment had been accomplished. On or about March 17, 2015, this condition resulted in injuries to an employee.
  
- e. 29 CFR 1910.146(g)(2)(iv): The employer did not provide training to each affected employee whenever the employer had reason to believe either that there were deviations from the permit space entry procedures required by 29 CFR 1910.146(d)(3) or that there



8. The parties agree that none of the foregoing agreements, statements, stipulations and actions taken by the Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Citation and Notification of Penalty or waiver of defenses; the agreements, statements, stipulations and actions herein are made solely for the purpose of settling this matter economically and amicably without further litigation and shall not be used for any other purpose except for proceedings and matters arising under the Occupational Safety and Health Act (the "Act") and Article 21, Chapter 95 of the North Carolina General Statutes.

#### FINDINGS OF FACT

Based on the Stipulations submitted, the Undersigned makes the following Findings of Fact:

1. This Court has jurisdiction over the parties and the subject matter of this Hearing.
2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.
3. Neither party has any procedural objection to this Hearing.
4. Complainant, Commissioner of Labor of the State of North Carolina, is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Act.
5. The Stipulations are incorporated by reference as Findings of Fact to the extent necessary to give effect to the provisions of this Order.

#### CONCLUSIONS OF LAW

The foregoing Finding of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.

**NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED** that the terms as stated herein represent the final resolution of this matter.

This the 26 day of September, 2016.



Reagan H. Weaver  
Hearing Officer

**CERTIFICATE OF SERVICE**

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

MICHAEL C. LORD  
WILLIAMS MULLEN  
301 FAYETTEVILLE ST., SUITE 1700  
RALEIGH, NC 27601

LARISSA S. WILLIAMSON  
NC DEPARTMENT OF JUSTICE  
LABOR SECTION  
P O BOX 629  
RALEIGH, NC 27602-0629

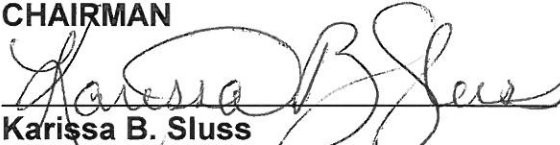
by depositing a copy of the same in the United States Mail, First Class;

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 30 DAY OF September 2016.

ARLENE K. EDWARDS  
CHAIRMAN



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Docket and Office Administrator  
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