

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

FILED

MAR 26 2018

COMMISSIONER OF LABOR FOR  
THE STATE OF NORTH CAROLINA

Complainant,

v.

CMH MANUFACTURING, INC., DBA SCHULT  
HOLMES – PLANT #958  
and its successors

Respondent.

DOCKET NO: 2017-5885

INSPECTION NO: 318085693

CSHO ID: Q8086

ORDER

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 February 20, 2018, at 10:30 A.M. pursuant to a Notice of Hearing, continued to March 21, 2018 at 10:00 A.M. by Order to Continue. Jason Rosser, Assistant Attorney General, North Carolina Department of Justice, appeared for Complainant. Michael C. Lord, attorney with Williams Mullen, Raleigh, North Carolina, 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.

At the time of the Hearing the parties agreed upon and consented to the following Stipulations.

**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, Article 16, Chapter 95 of the General Statutes of North Carolina (hereinafter "the Act"). The Review Commission has jurisdiction over the parties and the subject matter to this action.
2. Respondent is a Tennessee corporation issued a Certificate of Authority to transact business in North Carolina by the North Carolina Secretary of State in April 1988. and is designated "Current-Active" in North Carolina, and maintains a place of business in Richfield, North Carolina. Respondent is an "employer" as defined by N.C.G.S. Section 95-127(11) and it maintains employees as defined by N.C.G.S. Section 95-127(10).
3. During the period of August 23, 2016 through August 29, 2016, C. Kay Knezevich, an Occupational Safety and Health Officer with the North Carolina Department of Labor, conducted an inspection of Respondent's worksite located at 304 E. Church Street, Richfield, North Carolina (the "Inspection").

4. As a result of the Inspection, on November 30, 2016, Complainant issued the following Citation and Notification of Penalty (herein referred to collectively as the "Original Citation"):

**CITATION 01 (Serious)**

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	NCGS 95-129(1)	Immediately Upon Receipt	\$7,000.00
002	29 CFR 1910.28(a)(4)	Immediately Upon Receipt	\$7,000.00
003	29 CFR 1910.28(a)(12)	Immediately Upon Receipt	\$7,000.00
004	29 CFR 1910.28(a)(17)	Immediately Upon Receipt	\$1,950.00

**CITATION 02 (Non-Serious)**

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1904.39(a)(2)	Immediately Upon Receipt	\$1,625.00

5. The 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. Respondent and Complainant waive the presence of a court reporter at the Hearing and the making of a transcript of the Hearing. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing and both parties consent to the conduct of this Hearing by the Undersigned and to entry of this Order.
8. Respondent posted the Original Citation, the Hearing Order, and the Order to Continue as required by the Rules. Neither Complainant nor Respondent have received notification from any affected employee that such employee, or its representative, wishes to have a say in, or participate as a party in, this matter, or has any objections in connection with this matter including without limitation objection to the reasonableness of any abatement period.
9. Respondent confirms that the violations alleged in the Original Citation as amended pursuant to Complainant's Motion have been abated.
10. The parties agree to bear their own attorney's fees, costs and other expenses that have been incurred in connection with any stage of these proceedings up to and including the filing of this Order.
11. Complainant and Respondent agree that provided the respective Motions of each party are granted (a) there are no other matters that remain to be decided, and that other than a ruling with respect to the Motions no outstanding issues remain to be resolved by an evidentiary

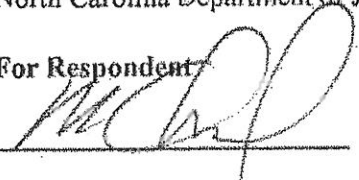
CMH Manufacturing, Inc. 2017-5885

**CONSENTED TO:**

**For Complainant**

\_\_\_\_\_  
Jason Rosser, Assistant Attorney General  
North Carolina Department of Justice

**For Respondent**

  
\_\_\_\_\_  
Michael C. Lord, Attorney at Law  
Williams Mullen

**CONSENTED TO:**

**For Complainant**



Jason Rosser, Assistant Attorney General  
North Carolina Department of Justice

**For Respondent**

---

Michael C. Lord, Attorney at Law  
Williams Mullen

Complainant did not object to Respondent's Motion.

**FINDINGS OF FACT**

Based on the Stipulations at the time of the Hearing and the record, 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 objection, procedural or otherwise, 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 Findings 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:**

1. That Complainant's Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**; Respondent shall pay the penalty of \$9,000.00 in the manner set forth in the Stipulations.

This 21<sup>st</sup> day of March, 2018.

  
\_\_\_\_\_  
R. Joyce Garrett  
Administrative Law Judge