

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

AUG 27 2019

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

Complainant,

v.

**LIFETIME CARE, INCORPORATED DBA
ROYAL OAKS
and its successors**

Respondent.

DOCKET NO: 2018-5994

INSPECTION NO: 318125861

CSHO ID: # I0931

FINAL ORDER

THIS CAUSE coming on pursuant to a Notice of Hearing on August 21, 2019 at 10:30 a.m. Mr. Rory Agan, Assistant Attorney General, representing Complainant, and Ms. Alfreda Robinson, principal of Respondent, representing Respondent, appeared by teleconference. No affected employee of Respondent attended the Hearing to have a say in, or participate as a party in, the Hearing.

At the Hearing Complainant and Respondent notified the Undersigned that the parties wish to agree upon certain stipulations (“Stipulations”) and to make certain motions (“Motions”). Complainant and Respondent request that the Stipulations and Motions be made part of the Hearing record and that the Undersigned issue a Final Order. The Stipulations and Motions are as follows:

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 subject matter to this action.
2. Respondent is a North Carolina corporation and is active and current in the State of North Carolina, and maintains a place of business in North Carolina. Respondent is an “employer” within the meaning of N.C.G.S. Section 95-127(11); all of Respondent’s employees referred to in this matter are “employees” within the meaning of N.C.G.S. Section 95-127(10).
3. During the period of December 15 through 22, 2017 an Occupational Safety and Health Officer with the North Carolina Department of Labor conducted an inspection of Respondent’s work site (the “Inspection”); on March 21, 2018, Complainant issued two citations with a total proposed penalty of \$7,600 (collectively the “Original Citation”).
4. This Hearing was scheduled and held pursuant to and in accordance with the Rules of Procedure of the Safety and Health Review Commission of North Carolina (the “Rules”). Respondent and Complainant waive the presence of a court reporter and the making of a

transcript of the Hearing. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing and consent to the conduct of this Hearing by the Undersigned and to entry of this Final Order. Respondent shall pay the penalty assessed in this matter within ten (10) days following the receipt of this Final Order.

MOTIONS: Complainant moved to **amend the Original Citation by reducing the total penalty from \$7,600.00 to \$4,940.00, the reduction being on a pro-rata basis.** Respondent did not object to Complainant's Motion.

Respondent, confirming that all alleged violations have been abated, moved to **withdraw Respondent's Notice of Contest to the Original Citation as amended pursuant to Complainant's Motion.** 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. Complainant is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Act.
3. Neither party has any procedural objection to this Hearing.
4. The Stipulations are incorporated by reference as Findings of Fact to the extent necessary to give effect to the provisions of this Final 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 Final Order.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. That Complainant's Motion is hereby **GRANTED**; and
2. That Respondent's Motion is hereby **GRANTED**.

This the 21th day of August, 2019.


R. Joyce Garrett
Administrative Law Judge

CERTIFICATE OF SERVICE

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

ALFREDA ROBINSON
P O BOX 1693
SANFORD, NC 27331

RORY AGAN
NC DEPARTMENT OF JUSTICE
LABOR SECTION
PO BOX 629
RALEIGH, NC 27602-0629

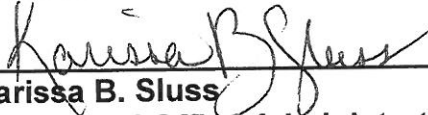
by depositing a copy of the same in the United States Mail, postage prepaid, at Raleigh, North Carolina, and upon:

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 27 DAY OF August, 2019.

ARLENE K. EDWARDS
CHAIRMAN



Karissa B. Sluss
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
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