

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

FILED

DEC 9 2022

NC OSH Review Commission

COMMISSIONER OF LABOR OF)
THE STATE OF NORTH CAROLINA,)
)
COMPLAINANT,)
)
v.)
)
Builder’s FirstSource – Atlantic Group,)
and its successors,)
RESPONDENT.)

DECISION AND FINAL ORDER

**OSHANC NO: 2020-6199
INSPECTION NO.: 318181310**

THIS MATTER was duly noticed and came on for hearing before the undersigned on September 28th, 29th, and 30th, 2022 via the Lifesize video platform. The Commissioner of Labor (“Complainant”) was represented by Assistant Attorney General Sage A. Boyd. Builder’s FirstSource – Atlantic Group (“Respondent”) was represented by John W. Ormand, III and Jessi Thaller-Moran, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, Raleigh, NC.

Prior to the hearing the parties stipulated to the facts set out in Appendix A, attached, which are incorporated herein by reference.

EXHIBITS AND WITNESSES

The following Exhibits were admitted into evidence:

For the Complainant: Exhibit #3 (including 3.1- 3.106), #3.14a, #4 (including 4.1 – 4.37), #5, #6, #9, #9A, #10, #11, #14 (including 14.1 – 14.19), #17 (including 17.1 – 17.3)

For the Respondent: Exhibit #1, #3, #4, #5 (pp 2-6), #6, #7A, #8A, #10, #12, #13, #15, #16, #19, #20, #23 (demonstrative), #24 (demonstrative), #25

The following Witnesses testified at the hearing

For the Complainant: Mr. Ted Hendrix, Compliance Safety & Health Officer
For the Respondent: Mr. David Reynolds, Framing Project Manager, Builder’s First Source – Atlantic
Ms. Erin Barker, Attorney, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP

FINAL DECISION

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits received and admitted into evidence, judicially noticed information pursuant to N.C. Gen. Stat. §8C-1-201 and the entire record in this proceeding, the Undersigned makes Findings of Fact and Conclusions of Law. In making the Findings of Fact, the undersigned has weighed all the evidence and assessed the credibility of the witnesses. The undersigned has taken into account the appropriate factors for judging credibility of witnesses, including but not limited to the demeanor of the witness, any interests, bias, or prejudice the witness may have. Further, the undersigned has carefully considered the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case. Based upon the foregoing, the undersigned makes the following:

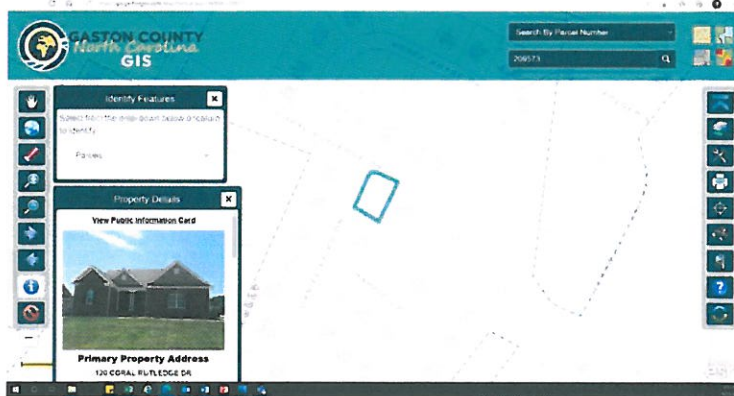
FINDINGS OF FACT

1. Complainant is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Occupational Safety and Health Act of North Carolina. N.C. Gen. Stat. § 95-126 et seq. (“the Act”).
2. Respondent is engaged in the residential construction business and, at all times relevant to this matter, Respondent was an employer within the meaning of N.C. Gen. Stat. §95-127(11) and is subject to the provisions of the Act.
3. On October 17, 2019 Respondent was the first-tier framing contractor for Gordon Builders, the General Contractor, and was engaged to provide framing materials and labor for a residential building located at 120 Coral Rutledge Drive in Mount Holly, North Carolina. Resp. Ex. # 16; Reynolds Test., Rec. 2, 5:50.
4. Respondent had sub-contracted the labor for the framing work to F&C General Construction, Inc. (“F&C”). F&C further sub-contracted some of the labor to AA&T Construction, LLC (“AA&T”).
5. Respondent’s relationship with F&C and its employees, agents, and subcontractors was subject to a written agreement, which included, *inter alia*, the following provisions:
 - a. Section 2(d)(1): “Subcontractor [F&C] will at all times furnish to its agents and employees a safe place of employment.” Resp. Ex. #15.
 - b. Section 2(d)(2): “Regulations have been promulgated by OSHA and EPA (‘Regulations’) that require all contractors and subcontractors to exchange Material Safety Data Sheets (‘MSDS’) and share information about precautionary measures necessary to protect all workers on a building project. Subcontractor

[F&C] agrees . . . [that it] will fully comply with the Regulations and will cooperate with the Contractor and/or Owner and all subcontractors of Owner to assure compliance with the Regulations.” *Id.*

- c. Section 2(d)(4): “If Subcontractor [F&C] fails to immediately comply with safety and environmental regulations after verbal or written notice from the Contractor, Contractor may correct the violation and deduct the cost from any Partial Payment or final payment.” *Id.*
 - d. Section 10(b): “For the purposes of this Agreement, any action of any agent, employee, subcontractor, director, officer, or invitee of Subcontractor [F&C] or any of their agents, employees, subcontractors, officers, or invitees shall be deemed an act of Subcontractor [F&C].” *Id.*
6. At the time of the events relevant to this matter, David Reynolds was employed by Respondent as a Framing Project Manager who was responsible to Respondent for ten to twenty active construction sites in and around the Charlotte, North Carolina area, including the site located at 120 Coral Rutledge Drive in Mount Holly (“the site”). Reynolds Test., Rec. 2, 5:43.
 7. Mr. Reynolds arrived at the site at around noon on October 17th. He was there to confirm that there were sufficient materials at the site and to observe the progress of the framing construction. There is no evidence to indicate that, at the time that Mr. Reynolds arrived there were any workers engaged in any framing construction. Reynolds Test., Rec. 2, 6:00 – 6:07.
 8. A short time after Mr. Reynolds arrived at the site, a foreperson for AA&T sought out Mr. Reynolds to discuss a problem with the trusses above the garage. Reynolds Test. Rec. 2, 6:00 – 6:07.
 9. On October 17, 2019 Complainant received a complaint that employees at the site were exposed to a fall hazard because they were working on the roof without fall protection. Compl. Ex. 9A.
 10. As a result of the complaint received, Complainant’s Compliance Safety and Health Officer, Ted Hendrix, drove to the site to conduct an inspection of the alleged hazards. Mr. Hendrix began documenting the location and structure shortly after 1:00 p.m. using his Nikon digital camera. Hendrix Test.; Resp. Ex. # 1.

11. Complainant's Exhibit #14.5 is a screen shot from the Gaston County Geographic Information System (GIS) database and is useful for providing an orientation for the location of the property as well as various vantage points from which witnesses could observe the relevant construction activities



12. Mr. Hendrix parked his vehicle on Chappie Drive while he took photographs. He also drove his vehicle around Moses Rhyne Drive, to Coral Rutledge Drive and around Daniel Efird Drive. Hendrix Test. Rec. 1.
13. Between approximately 1:17 p.m. and 2:25 p.m., while Mr. Hendrix took photographs of various parts of the structure and job site, there were no employees engaged in any construction activity. Compl. Ex. #3.1 - #3.54.
14. Mr. Hendrix's photographs which were time-stamped between 1:41 p.m. and 2:01 p.m. included photographs of David Reynolds depicting Mr. Reynolds looking at the trusses over the garage (while no workers were on the roof) and looking at his ipad inside the structure (also with no workers in the vicinity). Compl. Ex. # 3.42 - #3.50.
15. At 2:08 p.m. Mr. Hendrix video recorded the AA&T foreperson climbing a ladder to measure the garage trusses. There was no violation associated with this conduct. Compl. Ex. #3.51 - 3.52.
16. Between 2:10 p.m. and 2:26 p.m, Mr. Reynolds went to the driveway in front of the residence, where he was engaged in tasks involving his ipad and his cell phone. There were no workers visible on the roof, nor was Mr. Reynolds in a position where he could see inside the back of the roof structure. Compl. Exs. #3.53, 3.55, 3.56, 3.57.
17. At 2:25 p.m. Mr. Hendrix photographed the AA&T foreperson standing on the roof, ostensibly between garage trusses. Mr. Reynolds is not visible in this photograph. Compl. Ex. #3.54.

18. Mr. Reynolds' vehicle was parked near the corner of Daniel Efird Drive and Coral Rutledge Drive. The front of the home faced Coral Rutledge Drive. Compl. Ex. #14.5 – 14.8. The driveway was located on Daniel Efird Drive and the garage door faced Daniel Efird Drive. Resp. Ex. #5. Between Mr. Reynolds' vehicle and the residential structure there was a portajohn. Resp. Ex. #5, pp 3-4; Compl. Ex. #3.81. Reynolds Test. Rec. 2, 7:2133 -
19. At 2:26 p.m. Mr. Reynolds was photographed walking down the driveway in the direction of his parked vehicle. Compl. Ex. #3.57; Reynolds Test., Rec. 2, 7:12:04.
20. At 2:43 p.m. Mr. Reynolds was photographed standing at the back of his vehicle on Daniel Efird Drive with his cell phone to his ear. At 2:44 p.m. Mr. Reynolds was also photographed in the driver's seat of his vehicle. Compl. Ex. #3.81; Resp. Ex. #3, p 16. Reynolds Test., Rec. 2, 7:21:33.
21. Between 2:27 p.m. and 3:05 p.m. Mr. Reynolds made six telephone calls and received two other calls. During that thirty-eight minute period Mr. Reynolds was involved in an active telephone call for seventeen minutes. Resp. Ex. #6.
22. Beginning at 2:35 p.m. through 2:39 p.m. CSHO Hendrix photographed or video recorded AA&T employees working on the roof of the structure on the side of the roof visible from Chappie Drive which was on the opposite side of the structure from the garage and the driveway. See, Compl. Ex. # 3.14-3.19; Hendrix Test. Rec. 1, 1:29:25 (describing the location as the "back of the house"); Compl. Ex. #3.63 – 3.80.
23. Beginning at approximately 2:35 p.m. through 2:39 p.m CSHO Hendrix photographed and videorecorded AA&T employees working on the roof without proper fall protection equipment. Mr. Hendrix's view of the roof was from his vehicle parked on Chappie Drive. Compl. Ex. #3.63-3.65; 3.67-3.80. The employees' lifelines were tied around a roof truss, which was not a proper anchor point. Furthermore, the fall arrest system would not have prevented the employees from free-falling more than six feet and/or from striking the ground because there was too much slack in the lines. Compl. Ex. #4.1-4.13; 4.35-4.37.
24. At approximately 2:38 p.m. CSHO Hendrix photographed and videorecorded AA&T employees working on the ridgeline of the roof, using a pneumatic nail gun without eyeprotection. The photos and video recordings also reflect Mr. Hendrix's view of the roof was from his vehicle parked on Chappie Drive. Compl. Ex. 3.76; 3.78.
25. There was no evidence presented at the hearing that Mr. Reynolds was in a position to see the AA&T employees who were on the roof between 2:35 p.m. and 2:39 p.m. The evidence presented suggested that Mr. Reynolds was on the driveway / garage side of the structure, at or near his vehicle, was using his cell phone and could not have seen the employees on the roof of the structure. Reynolds Test., Rec. 2, 7:21:30. See also Hendrix Test., Rec. 2, 4:25:53 (admitting that he did not know what Reynolds could see from "forty or fifty feet" away from the roof); Hendrix Test., Rec. 2, 3:47:50

(admitting that he did not take any photos in or around Reynolds' vehicle or from where Reynolds was standing in the driveway or in the structure depicting what Reynolds could have seen from either of these locations).

26. While at his vehicle, Mr. Reynolds was either standing behind his vehicle or sitting in the driver's seat of his vehicle. Resp. Ex. #3. The portajohn was adjacent to the driver's side window and obstructed Mr. Reynolds' view while he was seated in his vehicle. Resp. Ex. #5. Reynolds Test., Rec. 2, 7:31:03.
27. At no time between his arrival on the site and when the opening conference began at 2:50 p.m. was Mr. Reynolds ever in a location outside of the structure from which he could see the roof's ridgeline. He saw no safety violations at the site. Reynolds Test., Rec. 2 at 7:35:48.
28. Most of the photographs taken by CSHO Hendrix were taken with the camera lens zoomed in, and from positions located a distance away from the house (thus offering a better view of the roofline). See Resp. Ex #25 (containing a print-out of the "camera properties" for the photographs in the OSHA file at DSCN 1649-66 [Compl. Ex. # 3.63 to 3.80]-and includes the 35 mm focal length equivalent for each photo. Those focal lengths range from a low of 294mm to a high of 914 mm with most in the 855 to 914 mm range); Resp. Ex. #24 (demonstrative showing the various locations from which CSHO Hendrix took photos, as well as the photos themselves). Hendrix Test., Rec. 2, 4:25:53.
29. At approximately 2:50 p.m., Mr. Hendrix held the opening conference and Mr. Reynolds joined CSHO Hendrix for a walk-through of the structure. Reynolds was standing next to CSHO Hendrix at 3:01 PM when the AA&T employees began to climb down from the roof. When the AA&T employees first erected a stepladder that did not reach the roof line to climb down from the roof trusses, Mr. Reynolds immediately instructed them to "get the right ladder." Compl. Ex. #4.1; Resp. Ex. #4 (setting forth the "properties" of the videos in the OSHA file and showing that this video was taken at 3:01 p.m.).
30. In the Compl. Ex. #4.1, CSHO Hendrix can be heard saying, "that's the way they got up there," referring to the step ladder and to a time earlier when he had seen employees enter the roof from a scuttle hole that is seen in, for example, Complainant's Exhibit #3.65. Hendrix Test., Rec. 2, 3:47:52.
31. CSHO Hendrix admitted that an extension ladder was in the structure and could have been the manner in which the employees had entered / exited the scuttle hole when he saw the employees on the roof and that the step ladder was not located beneath the scuttle hole when he did the walk-through with Mr. Reynolds. Hendrix Test., Rec. 2, 3:43; 3:52; 4:16:22.
32. Shortly after the employees went to retrieve an extension ladder, Mr. Reynolds got on the phone with the F&C superintendent, at CSHO Hendrix's request, to determine how quickly F&C could get to the Worksite. Compl. Ex. 4.18 (where Reynolds can be heard speaking on the phone). When the employees

switched to an extension ladder while Mr. Reynolds was on the phone with F&C, neither Mr. Reynolds nor CSHO Hendrix could see the top of the extension ladder, nor whether it extended three feet beyond the top of the structure, from where they were standing in the main portion of the house. Hendrix Test., Rec. 2, 4:16:20. CSHO Hendrix had to walk into the next room, after the employees had descended the ladder, to determine that the ladder did not extend three feet above the upper landing surface being accessed. Mr. Reynolds could not have had actual or constructive knowledge of the violation while he was in the next room with CSHO Hendrix prior to or at the time that the violation occurred. Hendrix Test., Rec. 2, 4:20 – 4:21. Compl. Ex. # 4.19; 4.20.

33. As a result of the inspection, on October 31, 2019, Complainant issued to BFS-Atlantic one citation with six items carrying the following proposed abatement dates and penalties:

CITATION NUMBER ONE (Serious)

Item No.	Standard	Abatement Date	Penalty
1	29 CFR 1926.102(a)(1)	Corrected During Inspection	\$2700.00
2	29 CFR 1926.502(d)(15)	Immediately Upon Receipt	\$7000.00
3	29 CFR 1926.502(d)(16)(iii)	Corrected During Inspection	\$7000.00
4a	29 CFR 1926.1051(a)	Corrected During Inspection	\$7000.00
4b	29 CFR 1926.1053(b)(13)	Corrected During Inspection	Grouped with
4a			
5	29 CFR 1926.1053(b)(1)	Corrected During Inspection	\$4500.00

34. Respondent timely contested the Citation and Notification of Penalty.
35. Respondent had a safety program and submitted a record of inspections both from the subdivision and pertaining to the subcontractor F&C. Resp. Ex. #1, pp 16-23; 30;

CONCLUSIONS OF LAW

- To the extent that the foregoing Findings of Fact contain conclusions of law, or that these Conclusions of Law are findings of fact, they are intended to be considered without regard to their given labels. *Charlotte v. Heath*, 226 N.C. 750, 755, 40 S.E.2d 600, 604 (1946); *Peters v. Pennington*, 210 N.C. App. 1, 15, 707 S.E.2d 724, 735 (2011). *Warren v. Dep't of Crime Control*, 221 N.C.App. 376, 377, 726 S.E.2d 920, 923, *disc. rev. den.*, 366 N.C. 408, 735 S.E.2d 175 (2012). 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.
- Pursuant to N.C.G.S. §95-135, the Review Commission has jurisdiction over the parties and the subject matter to this action.
- North Carolina has adopted the multi-employer doctrine for analyzing employer liability on construction worksites such as the site at issue in this matter. *Commissioner of Labor v. Weekley Homes*, 169 N.C. App. 17, 28 (2005). Under that

doctrine, a controlling employer is liable for violations created by a subcontractor if the controlling employer had actual or constructive knowledge of the violation.

4. A controlling employer is one “who has general supervisory authority over the worksite, including the power to correct safety and health violations itself or require others to correct them.” CPL 2-00.124, X(E).
5. An employer may also be liable if it is a correcting employer. A correcting employer is one who is engaged in a common undertaking on the same worksite as an exposing employer and who is responsible for correcting a hazard. CPL 2-00.124 X(D).
6. Respondent was a controlling employer as well as a correcting employer under Complainant’s multi-employer work site policy. CPL 2-00.124 et. seq.. (Compl. Ex. #5)
 - a. Although Respondent had a written contract with F&C requiring F&C to maintain a safe worksite and to follow applicable OSHA safety regulations, Respondent retained the authority to stop work and remedy any unsafe conditions or to require F&C to remedy unsafe conditions or assess safety violation penalties. Resp. Ex. #15.
 - b. Furthermore, Respondent’s contract with F&C established the same control over any subcontractor of F&C, which would have included the employees of F&C’s subcontractor, AA&T.
 - c. AA&T’s foreperson recognized Mr. Reynolds as the person to whom issues with the garage trusses should be directed.
 - d. Respondent’s manager, David Reynolds, actually exercised correcting authority during the course of the inspection when he instructed employees to “get the right ladder.”
7. Constructive knowledge of a violation may be shown by evidence that the violative conditions were open and obvious or that the employer failed to exercise reasonable diligence in preventing or detecting the violative conditions. *In Re NDC Constr. Co.*, OSHRC Docket No. 17-1689, 2020 OSAHRC LEXIS 24, *93 (Sept. 4, 2020), *Affirmed* 2022 U.S. App. LEXIS 18088 (11th Cir. June 30, 2022) (citing *ComTran Group v. U.S. DOL*, 722 F.3d 1304, 1307-08 (11th Cir. 2013)).
8. The controlling employer’s duty is one of reasonableness and not strict liability. The North Carolina Occupational Safety & Health Review Commission has previously recognized that a supervising contractor cannot anticipate all hazards which others may create as the work progresses and is not required to constantly inspect the jobsite to detect violations that its subcontractors may create. *Comm’r of Labor v. Sears Contract Inc.*, No. OSHANC 2020-6343, Slip Op. at p 8 (10/18/2021)(quoting *Comm’r of Lab. v. Romeo Guest Assocs., Inc.*, OSHANC 96-3513, Slip Op. at 6-7 (RB 1998)).

9. While the deficient fall protection systems used by the AA&T employees constituted a dangerous condition which violated safety standards, there was no evidence presented at the hearing that Respondent's manager had either actual or constructive knowledge of any violations.
- a. Citation One, Items #1, #2, and #3 refer to conduct which took place on the roof of the structure prior to the opening conference, specifically between 2:35 p.m. and 2:39 p.m. The conduct involved employees working on the roof with deficient fall protection and/or fall arrest equipment. Complainant did not establish that Respondent's manager, David Reynolds, either saw or could have seen any of these violations.¹
 - b. Citation One, Items 4a and 4b refer to the alleged insufficiency of a ladder used by employees to access the roof through the roof sheathing (also referred to as a "scuttle hole") between 2:35 p.m. and 2:39 p.m. Here Complainant did not establish that the employees seen accessing the roof prior to the opening conference were using only a step ladder, as alleged. The inspector did not see the employees climb the step ladder. Complainant also did not establish that the step ladder was in a position that could be seen by Mr. Reynolds between 2:35 p.m. and 2:39 p.m. and which would have led a reasonable person to infer that the step ladder was being used to access the roof. Instead, the evidence showed that Mr. Reynolds could not see through the walls of the building or through the opaque housewrap where he was photographed during that period of time. Furthermore, there was no evidence that Mr. Reynolds saw or could have seen the employees ascend to the roof through the scuttle hole
 - c. Citation One, Item 5 refers to the AA&T employees' use of an extension ladder that did not extend three feet above the upper landing surface being accessed. The video, audio and photographic evidence indicate that Mr. Reynolds could not have seen this violation, nor should he have anticipated the violation given that the ladder itself was the appropriate size.
10. It is generally recognized that an employer lacks constructive knowledge if it exercises reasonable diligence to ensure that its subcontractors are not violating safety standards. *Horne Plumbing & Heating Co. v. Occupational Safety & Health Rev. Comm'n*, 528 F.2d 564, 569-71 (5th Cir. 1976). The evidence entered into the record indicated that Respondent had a safety program and conducted regular safety inspections of F&C employees and its subcontractors and that the AA&T employees had received appropriate safety training.

¹ Although Complainant contends that Mr. Reynolds should have been alerted to potential violations by various ropes and where they were hanging while the employees were on their lunch break, this assertion is unpersuasive. There was still no evidence that Mr. Reynolds was in a position to see these items much less draw an inference that the items were being used for fall protection.

11. A judge is not required to find all the facts shown by the evidence, but only sufficient material facts to support the decision. *Green v. Green*, 284 S.E.2d 171, 174, 54 N.C. App. 571, 575 (1981); *In re Custody of Stancil*, 179 S.E.2d 844, 847, 10 N.C. App. 545, 549 (1971). Specific findings are not required on each piece of evidence presented. See *Flanders v. Gabriel*, 110 N.C. App. 438, 440, 429 S.E.2d 611, 612 (1993) (stating that the tribunal “need only find those facts which are material to the resolution of the dispute.”)

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby **ORDERED** that Complainant’s Citation 01, Items #1, #2, #3, #4a, #4b and #5 in this matter are **DISMISSED**.

This the 9th day of December 2022.

Mary-Ann Leon

Mary-Ann Leon
Hearing Examiner
maleon@leonlaw.org

APPENDIX A: PARTIES JOINT STIPULATIONS²

1. Pursuant to N.C.G.S. §95-135, the Review Commission has jurisdiction over the parties and the subject matter to this action.
2. Complainant is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Act, including making inspections and issuing citations and other pleadings, and brings this action pursuant to N.C.G.S. §§95-133 et seq.
3. The North Carolina Department of Labor-Occupational Safety and Health Division (“NCOSHD”) conducted an inspection numbered **318181310** by NCOSHD.
4. The inspection took place in an emphasis county, Gaston County, included in the Construction Special Emphasis Program (SEP) in an Operational Policy Notice (OPN).
5. On October 17, 2019, Compliance Safety and Health Officer Ted Hendrix, who is employed by the North Carolina Department of Labor, inspected the worksite located at 120 Coral Rutledge Drive, Mount Holly, North Carolina.
6. As a result of the inspection, on October 31, 2019, Complainant issued to BFS-Atlantic one citation with six items carrying the following proposed abatement dates and penalties:

CITATION NUMBER ONE (Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1926.102(a)(1)	Corrected During Inspection	\$2700.00
2	29 CFR 1926.502(d)(15)	Immediately Upon Receipt	\$7000.00
3	29 CFR 1926.502(d)(16)(iii)	Corrected During Inspection	\$7000.00
4a	29 CFR 1926.1051(a)	Corrected During Inspection	\$7000.00
4b	29 CFR 1926.1053(b)(13)	Corrected During Inspection	Grouped with 4a
5	29 CFR 1926.1053(b)(1)	Corrected During Inspection	\$4500.00

7. Respondent contested the Citation and Notification of Penalty dated November 22, 2019.
8. This matter was docketed as OSHANC 2019-6199.
9. A Notice of Hearing was filed in this matter on July 22, 2022.
10. A pre-hearing Order was filed in this matter on August 8, 2022.

² Duplicate numbering has been corrected

11. Citation Number One, Item 1 alleged a serious violation of 29 CFR 1926.102(a)(1).
12. Citation One, Item 1 carried a proposed penalty of \$2,700.00.
13. Citation Number One, Item 2, alleges a serious violation of 29 CFR 1926.502(d)(15).
14. Citation One, Item 2 carried a proposed penalty of \$7,000.00.
15. Citation Number One, Item 3, alleges a serious violation of 29 CFR 1926.502(d)(16)(iii).
16. Citation One, Item 3 carried a proposed penalty of \$7,000.00.
17. Citation Number One, Item 4a, alleges a serious violation of 29 CFR 1926.1051(a).
18. Citation One, Item 4a carried a proposed penalty of \$7,000.00.
19. Citation Number One, Item 4b, alleges a serious violation of 29 CFR 1926.1053(b)(13).
20. Citation One, Item 4b was grouped with Citation One, Item 4a.
21. Citation Number One, Item 5, alleges a serious violation of 29 CFR 1926.1053(b)(1).
22. Citation One, Item 5 carried a proposed penalty of \$4,500.00.

CERTIFICATE OF SERVICE

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

JOHN ORMAND, III
BROOKS, PIERCE
PO BOX 1800
RALEIGH, NC 27602

By depositing same in the United States Mail, Certified Mail, Return Receipt Requested, postage prepaid at Raleigh, North Carolina, and upon:

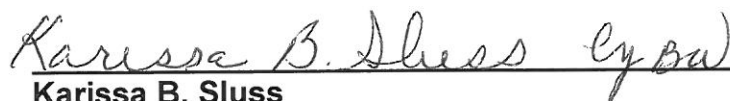
SAGE A. BOYD
NC DEPARTMENT OF JUSTICE
LABOR SECTION
PO BOX 629
RALEIGH, NC 27602-0629

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

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

via email to carla.rose@labor.nc.gov.

THIS THE 14 DAY OF December 2022.



Karissa B. Sluss
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
1101 Mail Service Center
Raleigh, NC 27699-1101
TEL.: (919) 733-3589
NCOSHRC@labor.nc.gov