

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

COMMISSIONER OF LABOR OF THE
STATE OF NORTH CAROLINA,

Complainant,

-vs-

ONIN STAFFING LLC,
and its successors,

Respondent.

) DOCKET NO.: OSHANC 2020-6314
) INSPECTION NUMBER:318191038
) CSHO ID: L4494

) CONSENT ORDER

FILED

DEC 14 2022

NC OSH Review Commission

The parties having appeared before the undersigned for a duly-noticed hearing, and having informed the undersigned hearing officer that they have reached a resolution of the citations issued in this matter, and the undersigned having reviewed the citations, the documents filed by the parties, and the representations of counsel, now pursuant to Rule .0507 of the Rules of Procedure adopted by the North Carolina Occupational Safety and Health Review Commissions, the undersigned makes the following:

FINDINGS OF FACT:

1. Respondent is a limited liability company duly organized and existing under the laws of the State of Alabama and authorized to do business in the State of North Carolina.
2. Starting around March 2, 2020, Respondent maintained a worksite at Colfax, North Carolina.
3. On March 3, 2020, Compliance Safety and Health Officer Kevin McGuire, an Occupational Safety and Health Officer with the North Carolina Department of Labor, conducted an inspection of Respondent's worksite at 100 Little Santee Road in Colfax, North Carolina.
4. As a result of the inspection, on July 16, 2020, Complainant issued the following Citation(s):

Citation	Item	Standard	Type	Penalty
1	1	95-129(01)	Serious	\$6,300.00

5. The Respondent submitted a timely Notice of Contest dated August 10, 2020.

6. The N.C. Occupational Safety and Health Review Commission issued a Notice of Hearing in this matter on October 21, 2022.

7. The Respondent posted the Notice of Hearing in its workplace at least fifteen (15) days in advance of hearing, in a location that was accessible to its employees.

8. The parties have conferred and mutually agreed to resolve the Citation(s) upon the following terms, and seek the undersigned's approval of the same:

- a. Respondent agrees that the violations alleged in the Citation and Notification of Penalty, as amended below, have been abated, and agrees to continue to use its best efforts to comply with the requirements of the Occupational Safety and Health Act of North Carolina (hereinafter referred to as "the Act").
- b. Complainant agrees to make the following amendments to the Citation items:
 - i. Change the standard cited for Citation 1, Item 1 to 1910.132(d)(1);
 - ii. Reclassify the amended citation to Non-Serious;
 - iii. Amend the penalty for the amended citation to \$5500.00.
- c. The parties agree that this Consent Order is a full and final settlement of the claims set out in the underlying Citation and Notification of Penalty, and 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; provided, however, that in any subsequent proceeding with respect to matters covered by this Consent Order brought directly under the Act by Complainant, this Order shall have the full force and effect of a final order. 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 and Article 21, Chapter 95 of the North Carolina General Statutes.

- d. Each party agrees to bear its own attorney's fees, costs and other expenses that have been incurred in connection with these proceedings.
- e. There are no other outstanding matters to be addressed in this proceeding.
- f. Neither party has received any notification from any employee indicating an intent to participate in or attend the hearing in this matter.

9. The foregoing terms are reasonable and supported by the underlying facts.

10. No outstanding issues remain to be resolved by a hearing of this matter.

Based on the foregoing, the undersigned makes the following

CONCLUSIONS OF LAW

- 1. This Court has jurisdiction over the parties and over the subject matter.
- 2. The parties' proposed resolution of this matter is consistent with the purpose and

objectives of the Act.

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

- 1. The parties' agreement, as set out above, is approved.
- 2. The parties shall comply with the terms and conditions set out above.
- 3. The Respondent shall pay the penalty specified above within 30 days of this

Consent Order.

This the 14 day of December, 2022.

Laura J Wetsch,
Hearing Examiner

Digitally signed by Laura J Wetsch, Hearing Examiner
DN: cn=Laura J Wetsch, Hearing Examiner, o=NC OSH Review Commission, ou=email=lwetsch@winslow-wetsch.com, c=US
Date: 2022.12.14 14:45:16 -05'00'

Hearing Examiner

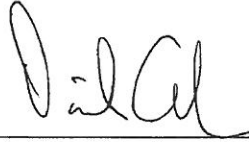
CONSENTED TO:

JOSHUA H. STEIN, Attorney General

**Rory
Agan**

Digitally signed by
Rory Agan
Foxit PhantomPDF
Version: 9.7.5

By: Rory Agan
Special Deputy Attorney General
North Carolina Department of Justice
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Tel. 919-716-0629
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Counsel for Complainant



By: David Anderson
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Counsel for Respondent

CERTIFICATE OF SERVICE

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

DAVID ANDERSON
THE ANDERSON LAW FIRM
4309 YOAKUM
HOUSTON, TX 77006

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


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, 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 21 DAY OF December 2022.



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