

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

COMMISSIONER OF LABOR OF THE)	DOCKET NO.: OSHANC 2021-6421
STATE OF NORTH CAROLINA,)	INSPECTION NUMBER: 318221595
)	CSHO ID: S0054
COMPLAINANT,)	
)	
v.)	
)	<u>CONSENT ORDER</u>
J & T WOODWORKS CONSTRUCTION,)	
INC.)	
<i>and its successors</i>)	
)	
RESPONDENT.)	

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 citation issued in this matter, and the undersigned having reviewed the citation, 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 Commission, the undersigned makes the following:

FINDINGS OF FACT

1. Respondent is a corporation duly organized and existing under the laws of the State of North Carolina and maintains a place of business in Reidsville, North Carolina.
2. Complainant is an agency of the State of North Carolina charged by law with the administration and enforcement of the provisions of the North Carolina Occupational Safety and Health Act.

3. On June 7, 2021, Compliance Safety and Health Officer Lynn Stephenson, an Occupational Safety and Health Officer with the North Carolina Department of Labor, inspected Respondent's worksite located at 1048 Cotton Springs Drive, Wendall, North Carolina.
4. As a result of the inspection, on September 8, 2021, Complainant issued the following citation carrying the following proposed abatement date and penalty:

CITATION NUMBER ONE

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1926.20(b)(2)	Immed. Upon Receipt	\$2,100.00
2	29 CFR 1904.39(a)(2)	Corrected During Inspection	\$1,000.00

5. The Respondent submitted a timely Notice of Contest, dated November 4, 2021.
6. On, February 21, 2024, the Commission issued a Notice of Hearing in this matter, and Respondent confirms that Respondent has posted the Notice in Respondent's workplace in at least one location where all affected employees had an opportunity to read it, and informed these employees of their right to participate as a party in this matter by sending a written request prior to commencement of the hearing to the Safety and Health Review Commission of North Carolina, 1101 Mail Service Center, Raleigh, NC 27699-1101.
7. Neither party has any objection, procedural or otherwise, to this Hearing.
8. Neither party has received notice that any employee intends to participate in this matter as a party, nor has the Commission received any document from an employee indicating such intent.
9. The parties have mutually agreed to resolve the Citation upon the following terms, and seek the undersigned's approval of the same:

- a. Respondent confirms that the violations alleged in the Citation and Notification of Penalty have been abated and agrees to continue 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 item:
 - i. Delete Citation 1, Item 1 and the associated penalty; and
 - ii. Delete Citation 1, Item 2 and the associated penalty.
- c. Respondent withdraws its Notice of Contest and agrees to:
 - i. Ensure that as part of Respondent’s jobsite inspections Respondent verifies subcontractors have the correct equipment to perform the job. At the initial start of the job, the Respondent will be onsite to affirm that safety equipment is being worn or utilized for the work being performed at that time by Respondent’s employees or its subcontractors.
 - ii. Ensure that if a hazard is observed in the jobsite inspection that Respondent documents how it was corrected prior to the subcontractor being allowed to continue to work.
 - iii. Ensure that safety and health rules are enforced through regular, scheduled or unscheduled, worksite inspections and established, documented disciplinary procedures. These inspections and disciplinary actions will be directed towards both employees and subcontractors of the Respondent. The Respondent will maintain records of all worksite inspections and disciplinary actions associated with safety and health issues

for a period of three (3) years. These records will be forwarded to the OSH Division upon request related to an OSHA inspection.

- d. Each party agrees to bear its 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 Consent Order.
- e. 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. In any subsequent proceeding with respect to matters covered by this Consent Order brought directly under the Act by Complainant, this Agreement shall have the full force and effect of a final order.
- f. Neither party is aware of outstanding matters to be resolved by a hearing of this matter.

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

11. 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 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.

This Apr 10, 2024.

Richard M. Koch
Richard M. Koch (Apr 10, 2024 10:46 EDT)

RICHARD KOCH
Hearing Examiner

CONSENTED TO:

JOSHUA H. STEIN
Attorney General

Madison Beveridge
Madison Beveridge (Apr 10, 2024 10:32 EDT)

Madison L. Beveridge
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629/Labor Section
Raleigh, North Carolina 27602-0629
Telephone No. (919) 716-6680
mbeveridge@ncdoj.gov

ATTORNEY FOR COMPLAINANT

Greg Ahlum
Greg Ahlum (Apr 10, 2024 10:32 EDT)

Greg Ahlum
Johnston Allison Hord
1065 East Morehead Street
Charlotte, North Carolina 28204
Telephone No. (704) 998-2319
gahlum@jahlaw.com

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

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

GREG AHLUM
JOHNSTON ALLISON HORD
1065 E MOREHEAD ST
CHARLOTTE NC 28204

MADISON BEVERIDGE
NC DEPARTMENT OF JUSTICE
LABOR SECTION
PO BOX 629
RALEIGH NC 27602

By depositing a copy of 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
carla.rose@labor.nc.gov

By email.

THIS THE 12 DAY OF April, 2024.

KB Sluss

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