

FILED

JAN 18 2024

NC OSH Review Commission

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

COMMISSIONER OF LABOR OF THE)	DOCKET NO.: OSHANC 2022-6447
STATE OF NORTH CAROLINA)	
)	INSPECTION NUMBER: 318226156
COMPLAINANT,)	
)	CSHO ID: E7152
v.)	
)	
EDWARDS WOOD PRODUCTS, INC.,)	<u>CONSENT ORDER</u>
<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 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 corporation duly organized and existing under the laws of the State of North Carolina with a location in Marshville, North Carolina.
2. During August 2021, Respondent maintained a worksite at 19500 Old Lumberton Road in Laurinburg, North Carolina.
3. On August 12, 2021, Compliance Safety and Health Officer Horace Dozier, Jr., an Occupational Safety and Health Officer with the North Carolina Department of Labor, conducted an inspection of Respondent's worksite.

4. As a result of the inspection, on February 10, 2022, Complainant issued the following Citation:

CITATION NUMBER ONE - SERIOUS

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1910.147(c)(4)(ii)	Corrected	\$5,600.00
2	29 CFR 1910.147(c)(7)(i)(A)	Corrected	\$5,600.00
3	29 CFR 1910.212(a)(1)	Corrected	\$3,500.00

CITATION NUMBER TWO - NON-SERIOUS

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1910.22(a)(1)	Corrected	\$0.00

5. The Respondent submitted a timely Notice of Contest dated April 4, 2022.

6. The parties have 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. Delete Citation 1, Item 1 and the associated \$5,600.00 penalty; and,
 - ii. Reclassify Citation 1, Item 2 to Non-Serious;
- c. Without admitting any allegations of the Citation and Notice of Penalty, or waiving any defense to the Citation, Respondent agrees to the following:
 - i. Respondent agrees to continue to use its best efforts to comply with the OSH Act of North Carolina; and,

- ii. Respondent agrees that it already paid the penalty associated with Citation 1, Item 3.
- 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. 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.
- f. There are no other outstanding matters to be addressed in this proceeding.
- g. Neither party has received any notification from any employee indicating an intent to participate in or attend the hearing in this matter.
- 7. The foregoing terms are reasonable and supported by the underlying facts.
- 8. 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 of \$5,600.00 within 60 days of the entry of this Consent Order.

This the 18th day of January, 2024.

Mary-Ann Leon
Mary-Ann Leon (Jan 18, 2024 10:35 CST)

Mary-Ann Leon
Hearing Examiner

CONSENTED TO:

JOSHUA H. STEIN, Attorney General

Rory Agan
Rory Agan (Jan 18, 2024 11:32 EST)

Rory Agan
Special Deputy Attorney General
North Carolina Department of Justice
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Counsel for Complainant

Chris Harrington
Chris Harrington (Jan 18, 2024 14:21 EST)

Chris Harrington
Director, Environmental Health and Safety
Edwards Wood Products, Inc.
PO Box 219
Marshville, NC 28102
Tel. 704-624-5098
Email: chrisharrington@ewpi.com
for Respondent

CERTIFICATE OF SERVICE

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

CHRIS HARRINGTON
EDWARDS WOOD PRODUCTS INC
PO BOX 219
MARSHVILLE NC 28102

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

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
carla.rose@labor.nc.gov

via email.

THIS THE 19 DAY OF January 2024.



Karissa B. Sluss
Docket Administrator
NC Occupational Safety & Health Review Commission
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Raleigh, NC 27699-1101
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NCOSHRC@labor.nc.gov