

FILED

JUN 17 2024

BEFORE THE NORTH CAROLINA OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
RALEIGH, NORTH CAROLINA
NC OSH Review Commission

COMMISSIONER OF LABOR OF THE STATE OF NORTH CAROLINA,

COMPLAINANT,

v.

CENTURY FURNITURE, LLC
dba CENTURY CASE GOODS
and its successors

RESPONDENT.

) DOCKET NO.: OSHANC 2022-6484
) INSPECTION NUMBER: 318237468
) CSHO ID: P8193

CONSENT ORDER

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. Pursuant to N.C.G.S. §95-135, the Review Commission has jurisdiction over the parties and 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. Respondent is Century Furniture, LLC doing business as Century Case Goods. Century Furniture, LLC, is a North Carolina limited liability company, duly organized and existing under the laws of the State of North Carolina, which does business in the State of North Carolina and maintains a place of business in Hickory, North Carolina.
4. Respondent is in the business of furniture case goods manufacturing.
5. Respondent operates a facility at 420 12th St Drive NW, Hickory, North Carolina.
6. Respondent is an "employer" within the meaning of N.C.G.S. §95-127(11).
7. On and between January 31, 2022 and February 4, 2022, Compliance Safety and Health Officer Beverly Stone inspected Respondent's worksite located at 420 12th St Drive NW, Hickory, North Carolina.
8. On July 26, 2022, as a result of the inspection, Complainant issued the following serious citation items, carrying the following proposed abatement dates and penalties:

CITATION NUMBER ONE (Serious)

<u>Item</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1910.132(c)	Immediately Upon Receipt	\$3,250.00
2a	29 CFR 1910.147(c)(4)(ii)(B)	09/12/2022	\$6,300.00
2b	29 CFR 1910.147(c)(4)(ii)(D)	09/12/2022	Grouped with 2a
3	29 CFR 1910.147(c)(7)(i)(B)	09/12/2022	\$7,000.00
4	29 CFR 1910.213(n)(l)	Immediately Upon Receipt	\$7,000.00

9. The Respondent submitted a timely Notice of Contest, dated August 9, 2022.
10. The parties have mutually agreed to resolve the Citation(s) upon the following terms, and seeks the undersigned's approval of the same.

STIPULATED TERMS OF AGREEMENT:

- a. Respondent confirms that the violations alleged in the Citation and Notification of Penalty as amended 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 One, Items 1, 2a, and 2b, and delete the penalties associated therewith;
 - ii. Reduce the penalty in Citation One, Item 3 from \$7,000.00 to \$2,500.00; and
 - iii. Reduce the penalty in Citation One, Item 4 from \$7,000.00 to \$2,500.00.
- c. Without admitting any allegations of the Citation and Notification of Penalty, or waiving any defense to the Citation(s), Respondent agrees to develop and (or) update Respondent's machine specific energy control procedure for the 140-03 Michael Weinig KG Moulder (Model #U-22-N, Serial #2783/7979), to include the appropriate steps for employees to control hazardous energy sources to include electrical, pneumatic, and kinetic energy associated with any and all rotating parts to include rotating cutter heads. No abatement certification is required.
- d. Respondent agrees to pay the new total penalty of **\$5,000.00** within thirty (30) days of this Consent Order.
- e. 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.

f. 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 Agreement 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.

g. There are no other outstanding matters to be addressed in this proceeding.

11. Neither party has any objection, procedural or otherwise, to this Hearing.
12. No affected employee elected party status and no employee raised an objection to the reasonableness of the abatement time.
13. The foregoing terms are reasonable and supported by the underlying facts.
14. 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; and
2. The parties shall comply with the terms and conditions set out above.

This June 17, 2024.

Mary-Ann Leon
Mary-Ann Leon (Jun 17, 2024 13:33 CDT)
MARY-ANN LEON
Hearing Examiner

CONSENTED TO:

JOSHUA H. STEIN
Attorney General

Sage A. Boyd Digitally signed
by Sage A. Boyd
Date: 2024.06.11
08:32:28 -04'00'

Sage A. Boyd
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629/Labor Section
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sboyd@ncdoj.gov

ATTORNEYS FOR COMPLAINANT

Travis W. Vance Digitally signed by
Travis W. Vance
Date: 2024.06.10
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Travis W. Vance
Fisher & Phillips LLP
227 West Trade Street, Suite 2020
Charlotte, North Carolina 28202

Telephone No. (704) 778-4164
tvance@fisherphillips.com

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

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

TRAVIS W. VANCE
FISHER & PHILLIPS
227 WEST TRADE ST
STE 2020
CHARLOTTE, NC 28202

By depositing a copy of the same in the United States Mail, by certified mail, return receipt requested, postage prepaid at Raleigh, North Carolina, and upon:

SAGE BOYD
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 21 DAY OF June 2024.

PAUL E. SMITH
CHAIRMAN



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