

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

COMMISSIONER OF LABOR OF THE
STATE OF NORTH CAROLINA,

Complainant,

-vs-

TSG FINISHING, LLC dba COMBEAU,
INDUSTRIES
and its successors,

Respondent.

) DOCKET NO.: OSHANC 2022-6491
) INSPECTION NUMBER: 318236718
) CSHO ID:P8193

) CONSENT ORDER

) **FILED**

) SEP -4 2024

) 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 Commission, the undersigned makes the following:

FINDINGS OF FACT:

1. Respondent is a limited liability company duly organized and existing under the laws of the Commonwealth of Pennsylvania and current and registered to conduct business in the State of North Carolina since May 2011.
2. During 2022, Respondent maintained a worksite at 1006 19th Street SW in Hickory, North Carolina.

3. On January 25, 2022, Compliance Safety and Health Officer Beverly Stone, an Occupational Safety and Health Officer with the North Carolina Department of Labor, conducted an inspection of Respondent's worksite at 1006 19th Street SW in Hickory, North Carolina.

4. As a result of the inspection, on July 12, 2022, Complainant issued the following Citations:

CITATION NUMBER ONE SERIOUS

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1a	29 CFR 1910.1200(d)(1)	8/26/2022	\$2100.00
1b	29 CFR 1910.1200(f)(1)	Immediate	Grouped
1c	29 CFR 1910.1200(f)(10)	Immediate	Grouped
1d	29 CFR 1910.1200(g)(1)	8/26/2022	Grouped
1e	29 CFR 1910.1200(g)(6)(i)	8/26/2022	Grouped
1f	29 CFR 1910.1200(g)(8)	Immediate	Grouped
1g	29 CFR 1910.1200(h)(1)	8/26/2022	Grouped

CITATION NUMBER TWO NON-SERIOUS

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1a	29 CFR 1904.29(b)(1)	8/5/2022	\$700.00
1b	29 CFR 1904.30(b)(1)	8/5/2022	Grouped
2a	29 CFR 1910.132(a)	Immediate	\$1050.00
2b	29 CFR 1910.132(d)(1)	8/5/2022	Grouped
3	29 CFR 1910.134(c)(2)(i)	8/5/2022	\$1050.00

5. The Respondent submitted a timely Notice of Contest dated September 7, 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, Items 1a, 1c, 1e, 1f, and 1g and associated penalty;

ii. Rewrite Citation 1, Item 1b as follows:

The chemical manufacturer, importer, or distributor did not ensure that each container of classified hazardous chemicals leaving the workplace was labeled, tagged or marked with the information required in 29 CFR 1910.122(f)(1)(i) through 29 CFR 1910.1200(f)(1)(vi).

Throughout the facility, where containers of the following production compounds or "mixes," which contain at least one chemical component in a hazardous concentration, were not comprehensively labeled, tagged, or marked with the product identifier, signal word, hazard statement(s), pictogram(s), precautionary statement(s) or name, address and telephone number of TSG Finishing: Daikin Unidyne TG-5502.

iii. Rewrite Citation 1, Item 1d as follows:

The chemical manufacturer and importer did not obtain or develop a safety data sheet for each hazardous chemical and for each chemical that posed a hazard not otherwise classified that they produce or import:

Throughout the facility, where containers of the following production compounds or "mixes," which contain at least one chemical component in a hazardous concentration, were mixed and repackaged at another TSG Finishing facility and then shipped to the Combeau Industries facilities where the chemical mixture products are utilized by the Combeau Industries facility employees, and for which Safety Data Sheets (SDS) for the resulting chemical mixture had not been developed, written, and provided to the employees: Daikin Unidyne TG-5502.

iv. Change Citation 1, Item 1b to have a penalty of \$2100.00 that is grouped with Citation 1, Item 1d;

v. Delete Citation 2, Items 1b, 2b, and 3 and associated penalty;

vi. Rewrite Citation 2, Item 1a as follows and reduce the penalty to \$500.00:

A log of all recordable work-related injuries and illnesses was not completed in the detail as required by the regulation

a) Throughout the facility- where the employer did not enter recordable cases in the detail required by the regulation in Section (F) of the 2022 OSHA 300 Log.

b) Throughout the facility- where the employer did not check box (J) for "Other Recordable cases" for the injuries and illnesses which did not involve a death, days away from work, or a job transfer or restriction on the 2022 OSHA 300 Log.

vii. Rewrite Citation 2, Item 2a as follows and reduce the penalty to \$500.00:

Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, was not provided, used and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact:

a) Throughout the facility, where the eyes and hands of employees who perform work have the potential to be exposed to the following compounds or "mixes" that contain at least one chemical component in a hazardous concentration: Daikin Unidyne TG-5502.

viii. Without admitting any allegations of the Citation and Notification of

Penalty, or waiving any defense to the Citations or Penalties,

Respondent represents and agrees that all conditions, if any, giving rise

to the Citations as issued on July 12, 2022, have been abated.

- c. Each party agrees to bear its own attorney's fees, costs and other expenses that have been incurred in connection with these proceedings.
- d. There are no other outstanding matters to be addressed in this proceeding.
- e. Respondent posted the Original Citation and the Hearing Notice as required by the Rules. Neither Complainant nor Respondent have received notification from any affected employee that such employee, or its representative, wishes to have a say in, or participate as a party in, this matter, or has any objections in connection with this matter including without limitation objection to the reasonableness of any abatement period.

- f. 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.
9. Complainant and Respondent agree there are no other matters that remain to be decided, and that no outstanding issues remain to be resolved by an evidentiary hearing of this matter. The parties agree that this Consent Order is a full and final resolution of the claims set out in the underlying Original Citation, as amended pursuant to the Consent Order. The parties further agree that (i) the modification of any portion of the Original Citation by Complainant shall not be deemed to be an admission by Complainant that any such portion was alleged without merit, and (ii) none of the foregoing agreements, statements, stipulations and actions taken by Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Original Citation, as amended, or a waiver of any defenses that Respondent may have; provided, however, that in any subsequent proceeding with respect to matters covered by this Consent Order brought directly under the Act by Complainant, this Consent Order shall have the full force and effect of a final order. The agreements, statements, stipulations and actions herein by Complainant and by Respondent are solely for the purpose of resolving this matter economically and amicably without litigation and shall not be used for any other purpose except for proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes

Based on the foregoing, the undersigned makes the following

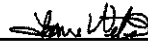
CONCLUSIONS OF LAW

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 \$3,100.00 within 30 days of this Consent Order.

This 08/15/2024

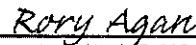


Laura Wetsch (Aug 15, 2024 12:35 EDT)


Laura Wetsch
Hearing Examiner

CONSENTED TO:

JOSHUA H. STEIN, Attorney General



Rory Agan (Aug 15, 2024 11:58 EDT)
By: Rory Agan
Special Deputy Attorney General
North Carolina Department of Justice
P.O. Box 629/Labor Section
Raleigh, NC 27602-0629
Tel. 919-716-6680
Email:: ragan@ncdoj.gov
Counsel for Complainant



Jessi Thaller-Moran (Aug 13, 2024 20:08 EDT)
By: Jessi Thaller-Moran
Partner
Brooks Pierce
1700 Wells Fargo Capitol Center
Raleigh, NC 27601
Tel. 919-573-6227
Email:jthaller-moran@brookspierce.com
Counsel for Respondent











2022-6491 TSG Finishing LLC dba Combeau Industries--Final Consent Order for Signatures

Final Audit Report

2024-08-15

Created:	2024-08-13
By:	Karissa Sluss (karissa.sluss@oshrc.labor.nc.gov)
Status:	Signed
Transaction ID:	CBJGHBCAABAAuN3vNAfBMHcn0mETRYwEup7H8j8OxfUq

"2022-6491 TSG Finishing LLC dba Combeau Industries--Final Consent Order for Signatures" History

-  Document created by Karissa Sluss (karissa.sluss@oshrc.labor.nc.gov)
2024-08-13 - 1:55:23 PM GMT
-  Document emailed to Jessi Thaller-Moran (jthaller-moran@brookspierce.com) for signature
2024-08-13 - 1:55:26 PM GMT
-  Email viewed by Jessi Thaller-Moran (jthaller-moran@brookspierce.com)
2024-08-14 - 0:07:45 AM GMT
-  Document e-signed by Jessi Thaller-Moran (jthaller-moran@brookspierce.com)
Signature Date: 2024-08-14 - 0:08:28 AM GMT - Time Source: server
-  Document emailed to Rory Agan (ragan@ncdoj.gov) for signature
2024-08-14 - 0:08:30 AM GMT
-  Email viewed by Rory Agan (ragan@ncdoj.gov)
2024-08-15 - 3:58:08 PM GMT
-  Document e-signed by Rory Agan (ragan@ncdoj.gov)
Signature Date: 2024-08-15 - 3:58:58 PM GMT - Time Source: server
-  Document emailed to Laura Wetsch (lwetsch@winslow-wetsch.com) for signature
2024-08-15 - 3:59:00 PM GMT
-  Email viewed by Laura Wetsch (lwetsch@winslow-wetsch.com)
2024-08-15 - 4:35:22 PM GMT
-  Document e-signed by Laura Wetsch (lwetsch@winslow-wetsch.com)
Signature Date: 2024-08-15 - 4:35:39 PM GMT - Time Source: server

✔ Agreement completed.

2024-08-15 - 4:35:39 PM GMT

CERTIFICATE OF SERVICE

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

JESSI THALLER-MORAN
BROOKS PIERCE
1700 WELLS FARGO CAPITOL CENTER
RALEIGH, NC 27601

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:

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

via email.

THIS THE 6 DAY OF September 2024.

PAUL E. SMITH
CHAIRMAN



Karissa B. Sluss
Docket Administrator
NC Occupational Safety &
Health Review Commission
1101 Mail Service Center
Raleigh, NC 27699-1101
TEL.: (984) 389-4132
NCOSHRC@oshrc.labor.nc.gov