

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

**COMMISSIONER OF LABOR OF THE
STATE OF NORTH CAROLINA,
COMPLAINANT,**

v.

**SOUTHERN SIDING AND GUTTERS LLC,
and its successors,
RESPONDENT.**

**DOCKET NO.: OSHANC 2023-6549
INSPECTION NUMBER: 318260676
CSHO ID: S3158**

**CONSENT ORDER
FILED**

AUG 16 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 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 Georgia-based company that provides siding installations. Respondent was authorized to do business in North Carolina on August 2, 2021.
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 February 22, 2023, Compliance Safety and Health Officer Michael Greer, an Occupational Safety and Health Officer with the North Carolina Department of Labor,

inspected Respondent's worksite located at 154 Marathon Lane in Candler, Buncombe County, North Carolina.

4. As a result of the inspection, on March 22, 2023, 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	\$7,251.00

5. The Respondent submitted a timely Notice of Contest, dated May 15, 2023.
6. On June 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. Reclassify Citation One, Item 1 from Serious to Non-serious but retain the penalty of \$7,251.00.
- c. Respondent withdraws its Notice of Contest and agrees to:
 - i. Initiate and maintain programs which provide for frequent and regular inspections of the job sites, materials, and equipment to be made by competent persons so designated by Respondent.
- 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 08/16/2024

Richard M. Koch
Richard M. Koch (Aug 16, 2024 09:54 EDT)

RICHARD KOCH
Hearing Examiner

CONSENTED TO:

JOSHUA H. STEIN
Attorney General

Madison Beveridge
Madison Beveridge (Aug 16, 2024 09:51 EDT)

Madison L. Beveridge
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ATTORNEYS FOR COMPLAINANT



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ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

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

STEPHEN T. PARASCANDOLA
SMITH ANDERSON
PO BOX 2611
RALEIGH, NC 27602-2611

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:

MADISON BEVERIDGE
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 19 DAY OF Aug 2024.

PAUL E. SMITH
CHAIRMAN



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