

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

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

**Complainant,**

**v.**

**JORDAN LUMBER & SUPPLY, INC.**  
*and its successors*

**Respondent.**

) **DOCKET NO: 2023-6609**  
) **INSPECTION NO: 318265311**  
) **CSHO ID: A2132**

) **FINAL ORDER**

) **FILED**

) **MAY 21 2025**

) **NC OSH Review Commission**

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THIS CAUSE came on for hearing and was heard before the undersigned Richard Koch, Hearing Examiner for the North Carolina Occupational Safety and Health Review Commission, on May 20 and 21, 2025, pursuant to a Notice of Hearing. Rory Agan, Special Deputy Attorney General, North Carolina Department of Justice, appeared for the Complainant. Michael C. Lord, Williams Mullen, Raleigh, North Carolina, appeared for the Respondent. No affected employee of Respondent, or its representative, attended to have a say in, or participate as a party in, the Hearing.

At the time of the Hearing the parties agreed upon and consented to the following Stipulations.

**STIPULATIONS**

1. The Complainant as Commissioner of Labor of the State of North Carolina is charged by law with compliance with and enforcement of the provisions of the Occupational Safety and Health Act of North Carolina, Article 16, Chapter 95 of the General Statutes of North Carolina (hereinafter "the Act"). The Review Commission has jurisdiction over the parties and the subject matter to this action.
2. Respondent is a North Carolina corporation, duly organized and authorized to do business 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 Mount Gilead, North Carolina. Respondent is an "employer" as defined by N.C.G.S. Section 95-127(11) and it maintains employees as defined by N.C.G.S. Section 95-127(10).

3. Starting May 10, 2023, George Thrower, an Occupational Safety and Health Compliance Officer with the North Carolina Department of Labor, conducted an inspection of Respondent's worksite located on 1939 Highway 109 South in Mount Gilead, North Carolina (the "Inspection").

4. As a result of the Inspection, on November 6, 2023, Complainant issued the following Citation and Notification of Penalty (herein collectively referred to as the "Original Citation"):

Citation	Item	Standard	Type	Penalty
1	1	29 CFR 1910.147(c)(4)(i)	Willful Serious	\$156,250.00
2	1	29 CFR 1910.147(c)(7)(i)(A)	Serious	\$15,625.00

5. Respondent submitted a timely Notice of Contest.

6. The Hearing in this matter was scheduled pursuant to the Rules of Procedure of the Safety and Health Review Commission of North Carolina (the "Rules").

7. Complainant and Respondent agreed that the Hearing in this matter shall be conducted via the video conferencing platform known as "Lifesize", the presence of a court reporter during the Hearing is waived, the Hearing's audio and video will be recorded through Lifesize (the "Recording"), the Recording will be the official record of the Hearing, and the Hearing will be deemed to have taken place in Raleigh, North Carolina. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing and both parties consent to the conduct of this Hearing by the Undersigned and to entry of this Final Order.

8. Respondent posted the Original Citation and the Notice of Hearing 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.

9. Respondent confirms that the violations alleged in the Original Citation as amended pursuant to Complainant's Motion have been abated. **No abatement documentation except as described below is required.**

10. The parties agree to bear their 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 Final Order.

11. Complainant and Respondent agree that provided the respective Motions of each party are granted (a) there are no other matters that remain to be decided, and that other than a ruling with respect to the Motions no outstanding issues remain to be resolved by an evidentiary hearing of this matter; (b) this Order is a full and final resolution of the claim set out in the underlying Original Citation, as amended pursuant to Complainant's Motion; (c) 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, (d) none of the 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 waiver of defenses; provided however that in any subsequent proceeding with respect to matters covered by this Order brought directly under the Act by Complainant, this Order shall have the full force and effect of a final order; (e) 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 further 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; and (f) there has been no employee objection to the reasonableness of any abatement period.

12. Respondent agrees to:

- a. Enhance its safety and health program by conducting the following within 90 days:
  - i. a job hazard analysis of the automatic rotating conveyor and addressing any hazard detected, including any lockout tagout procedures;
  - ii. a facility-wide machine audit to ensure proper guarding on each machine or equipment being used in the facility, and addressing any deficiencies found;
  - iii. obtain a third-party consultant to conduct a facility-wide audit of the lockout tagout procedures and associated training program, and address any deficiencies found. For avoidance of doubt, nothing in this agreement shall require Respondent to limit the audit to only lockout tagout procedures. Further, for purposes of this third-party audit, scheduling the audit shall meet the 90-day action period as long as the audit is conducted within 180 days from the date of the signing of this Order.
  - iv. Upon approval of this Consent Order by the Hearing Examiner, the Respondent agrees to pay the new proposed penalty of \$31,250.00 within thirty (30) days following the receipt of the Consent Order.

### **MOTIONS**

Complainant moved to do the following ("Complainant's Motion"):

- a. Reclassify Citation 1, Item 1 from willful serious to serious;

- b. Modify the penalty of Citation 1, Item 1 to \$15,625.00;
- c. Rewrite the AVD of Citation 1, Item 1 to state:
  - i. a) automatic rotating conveyor, where an authorized employee performed service and maintenance activity of clearing an obstruction from the photo electric eye of the scanner frame and energy control procedures were not utilized. On or about May 10, 2023, shortly before the end of the shift, an employee clearing an obstruction from the photo electric eye climbed onto the conveyor without removing energy sources from the conveyor instead of using lockout tagout procedures and devices. The conveyor was not locked out.
- d. Rewrite the AVD of Citation 2, item 1 to state:
  - i. a) automatic rotating conveyor, where a trained and authorized employee was clearing obstructions from photo eyes on the Automatic Rotating Conveyor (ARC) without recognizing the hazardous energy sources and without recognizing the methods and means necessary for energy isolation and control. On or about May 10, 2023, shortly before the end of the shift, an employee climbed onto the conveyor without taking steps showing a recognition of hazardous energy or the means and methods to isolate it. The conveyor was not locked out.
  - ii. Citation 2, Item 1 shall retain the proposed penalty of \$15,625.00;
- e. Regroup Citation 1, Item 1 (as amended) and Citation 2, Item 1 (as amended) as Citation 2, Item 1(a) and Citation 2, Item 1(b), each with a penalty of \$15,625.00.

**Except as set forth in this motion, the Original Citation shall remain unmodified or amended.**

Respondent did not object to Complainant's Motion.

Respondent requested that upon the granting of Complainant's Motion that the Undersigned consider the following motion by the Respondent ("Respondent's Motion"):

- a. To withdraw Respondent's Notice of Contest to the Original Citation as amended pursuant to Complainant's Motion set forth above.

Complainant did not object to Respondent's Motion.

### **FINDINGS OF FACT**

Based on the Stipulations at the time of the Hearing and the record, the Undersigned makes the following Findings of Fact:

1. This Court has jurisdiction over the parties and the subject matter of this Hearing.

2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.
3. Neither party has any objection, procedural or otherwise, to this Hearing.
4. Complainant, Commissioner of Labor of the State of North Carolina, is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Act.
5. The Stipulations are incorporated by reference as Findings of Fact to the extent necessary to give effect to the provisions of this Order.

#### **CONCLUSIONS OF LAW**

The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.

**NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

1. That Complainant's Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**; and
3. The parties shall abide by the terms and stipulations of this Order.

This the 21st day of May, 2025.

**Signature:** Richard M. Koch  
Richard M. Koch, May 21, 2025 14:47 EDT

**Email:** lawoffice@richardkochlaw.com

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Richard Koch  
Hearing Examiner

**CONSENTED TO:**

**Signature:** Rory Agan  
Rory Agan, May 21, 2025 14:08 EDT

**Email:** ragan@ncdoj.gov

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Rory Agan  
Special Deputy Attorney General  
NCDOJ-Labor Section  
114 W. Edenton Street  
Raleigh, North Carolina 27603

**Signature:** Michael Lord

**Email:** mlord@williamsmullen.com

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Michael C. Lord  
Partner  
Williams Mullen  
301 Fayetteville Street, Suite 1700  
Raleigh, North Carolina 27601

**CERTIFICATE OF SERVICE**

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

MICHAEL C LORD  
WILLIAMS MULLEN  
301 FAYETTEVILLE ST STE 1700  
RALEIGH NC 27601

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 23 DAY OF May 2025.

PAUL E. SMITH  
CHAIRMAN



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Karissa B. Sluss  
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NC Occupational Safety &  
Health Review Commission  
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