

3. Respondent, ADM Milling Co., is a Minnesota corporation, which was authorized to do business in North Carolina on May 5, 1970. It is active and current and maintains a registered office address in Raleigh, North Carolina and a place of business in Charlotte, North Carolina. Respondent is in the business of milling operations. Respondent operates a facility at 620 W 10th St. in Charlotte, North Carolina. Respondent is an “employer” within the meaning of N.C.G.S. Section 95-127(11); Respondent’s employees referred to in this matter are “employees” within the meaning of N.C.G.S. Section 95-127(10).

4. During the period on and (or) between March 12, 2024 and June 14, 2024, Compliance Safety and Health Officer Ed Joye, employed by the North Carolina Department of Labor, conducted an inspection of Respondent’s worksite located at 620 W 10th St., Charlotte, North Carolina (the “Inspection”).

5. As a result of the Inspection, on June 17, 2024, Complainant issued the following Citation and Notification of Penalty (herein referred to as the “Original Citation”):

CITATION NUMBER ONE (Serious)

<u>Item</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1910.147(c)(4)(i)	Immediately Upon Receipt	\$14,062.50
2	29 CFR 1910.212(a)(1)	Immediately Upon Receipt	\$14,062.50

6. Respondent submitted a timely Notice of Contest, dated August 8, 2024.

7. 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”).

8. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing; waive the making of a transcript; and consent to the conduct of this Hearing by the Undersigned and consent to entry of this Order.

9. Respondent confirms that the Original Citation and the Hearing Notice have been posted as required by the Rules.

10. 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.

11. Respondent confirms that the violation alleged in the Original Citation, as amended pursuant to Complainant’s Motion, have been abated and Respondent agrees to use best efforts to comply with the Act.

12. Respondent agrees to:

- a. Conduct retraining on safe ladder use and fall protection for all employees who within their job duties could utilize a ladder within ninety-days of this Consent Order. Respondent shall maintain documentation of that training for a period of one year and agrees to provide it to the NCDOL-OSH Division upon request.
- b. Respondent's Plant Manager Katherine Elenberger will attend an OSHA-10 Hour General Industry Training Course and O'Neill Gordon will attend an OSHA-30 Hour General Industry Training Course within six months of this Consent Order. Respondent shall maintain the training certificates throughout the duration their employment and agrees to provide the certificates to the NCDOL-OSH Division upon request.

13. Respondent agrees to pay the new total penalty of **\$14,062.50 within thirty (30) days of the date of this Order**. In the event Respondent does not pay the penalty as agreed upon, Complainant retains the right to institute collection proceedings as allowed by law. Respondent agrees to collection proceedings to collect the debt. Payment is to be by check payable to the North Carolina Department of Labor, OSHA Division (identifying Inspection No. 318287083) and mailed to North Carolina Department of Labor, Financial Services Division. ATTN: Collections Division, 1101 Mail Service Center, Raleigh, NC 27699-1101.

14. The parties agree to bear their own fees, costs and other expenses, including attorney's fees if any, that have been incurred in connection with any stage of these proceedings up to and including the filing of this Consent Order.

15. Complainant and Respondent agree that provided the respective Motion of each party is 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 Consent Order is a full and final resolution of the claims 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 a waiver of any defense, 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;

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 purposes except for proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes.

MOTIONS

Complainant moved to do the following (“Complainant’s Motion”):

1. **Reclassify Citation One, Item 1 from Serious to Non-Serious; and**
2. **Amend Citation One, Item 1 to strike the reference to 29 CFR 1910.147(c)(4)(i) and amend the Standard Alleged Violation Elements (SAVE) and Alleged Violation Description (AVD) language to state as follows:**

29 CFR 1910.9(b): *Training.* Standards in this part requiring training on hazards and related matters, such as standards requiring that employees receive training or that the employer train employees, provide training to employees, or institute or implement a training program, impose a separate compliance duty with respect to each employee covered by the requirement. The employer must train each affected employee in the manner required by the standard, and each failure to train an employee may be considered a separate violation.

a) **On March 12, 2024, the employer failed to fully document its training not to use a ladder and reach into the Henry Simon M4000 “C” Mill Machine” while performing servicing and maintenance.**

3. **Delete Citation One, Item 2 and delete the penalty associated with it.**

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”):

1. **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 record and the Stipulations at the time of the Hearing as memorialized herein, the Undersigned makes the following Findings of Fact:

1. 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.
2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.
3. This Court has jurisdiction over the parties and the subject matter of this Hearing.
4. Neither party has any objection, procedural or otherwise, to this Hearing. No affected employee elected party status and no employee raised an objection to the reasonableness of the abatement time.
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**;
3. That Respondent shall pay the penalty of **\$14,062.50 within thirty (30) days of this Order**; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations.

This the 02/10/2026

Signature: R. Joyce Garrett

R. Joyce Garrett (02/10/2026 10:21 EST)

Email: rjg.rjg@aol.com

R. Joyce Garrett
Hearing Examiner

CONSENTED TO:

Signature: Katherine Elenberger

Katherine Elenberger (Feb 10, 2025 12:23:23 EST)

Email: katherine.elenberger@adm.com

Katherine Elenberger
Plant Manager
katherine.elenberger@adm.com

ADM MILLING CO.

REPRESENTATIVE FOR RESPONDENT

Signature: Sage A. Boyd

Sage A. Boyd (Feb 10, 2025 12:29:52 EST)

Email: sboyd@ncdoj.gov

Sage A. Boyd
Special Deputy Attorney General
North Carolina Department of Justice

sboyd@ncdoj.gov

ATTORNEY FOR COMPLAINANT

Signature: /s/ Adam R. Young

/s/ Adam R. Young (Feb 10, 2025 12:37:36 CST)

Email: ayoung@seyfarth.com

Adam R. Young
Partner
Seyfarth Shaw LLP
pro hac vice

ayoung@seyfarth.com

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

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

ADAM R. YOUNG
SEYFARTH SHAW
ayoung@seyfarth.com

SAGE A. BOYD
NC DEPARTMENT OF JUSTICE
sboyd@ncdoj.gov

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION

via email.

THIS THE 11 DAY OF February 2026.

PAUL E. SMITH
CHAIRMAN



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