

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

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

COMPLAINANT,

v.

**ROOF XPRESS LLC
*and its successors,***

RESPONDENT.

) **DOCKET NO.: OSHANC 2024-6671**
) **INSPECTION NUMBER: 318288768**
) **CSHO ID: Y3077**

CONSENT ORDER FILED

JUN 20 2025

NC OSH Review Commission

THIS CAUSE came on for a hearing before the undersigned, Richard Koch, Hearing Examiner for the North Carolina Occupational Safety and Health Review Commission pursuant to the Notice of Hearing (“Hearing Notice”) at 10:00 a.m. on June 18, 2025, via Lifesize teleconferencing platform. Monique D. Nketah, Assistant Attorney General, North Carolina Department of Justice, Raleigh, North Carolina, appeared as counsel for the Complainant. Miguel Palapa, Owner, appeared as representative for Respondent.

At the Hearing, Complainant and Respondent agreed upon and consented to certain stipulations (“Stipulations”) and motions (“Motions”). This Hearing was not an evidentiary hearing and the specific facts and circumstances relevant to the Inspection (hereinafter defined) and the Original Citation (hereinafter defined) were not introduced of record, and such facts and circumstances are not included in the Stipulations hereinafter set forth.

At the Hearing, Complainant and Respondent requested that the Stipulations and Motions be made part of the Hearing record and that the Undersigned issue a Consent Order. The Stipulations and Motions are as follows:

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”).
2. The Review Commission has jurisdiction over the parties and the subject matter to this action.

3. On June 5, 2024, Compliance Safety and Health Officers (CSHO) Lisa Rayborn and Jim Dempsey, employed by the North Carolina Department of Labor (NCDOL), inspected Respondent's worksite located at 1923 Allyson Ave, Greensboro, North Carolina, pursuant to a complaint ("the Inspection").
4. Respondent, Roof Xpress LLC, is a limited liability company organized and existing under the laws of North Carolina. It is active and current and maintains a place of business in Stokesdale, North Carolina. Respondent is in the business of construction through roofing. Respondent is an "employer" within the meaning of N.C.G.S. § 95-127(11); and Respondent's employees referred to in this matter were "employees" within the meaning of N.C.G.S. § 95-127(10).
5. As a result of the Inspection, on June 25, 2024, Complainant issued two citations each with two items carrying the following proposed abatement dates and penalties in the Citation and Notification of Penalty (hereafter referred to as the "Original Citation"):

CITATION NUMBER ONE (Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001a	29 CFR 1926.501(b)(13)	Corrected During Inspection	\$4,687.50
001b	29 CFR 1926.503(b)(1)	Corrected During Inspection	<u>\$0.00</u>
SUBTOTAL:			\$4,687.50

CITATION NUMBER TWO (Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1926.102(a)(1)	Corrected During Inspection	\$3,000.00
002	29 CFR 1926.1053(b)(1)	Corrected During Inspection	<u>\$1,950.00</u>
TOTAL:			\$9,637.50

6. Respondent submitted a timely Notice of Contest dated August 6, 2024.
7. The Hearing in this matter was scheduled pursuant to 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 all violations alleged in the Original Citation have been abated.
12. Respondent agrees to continue to use its best efforts to comply with the requirements of the Act.
13. Respondent agrees to pay the total penalty of **\$4,176.75 within thirty (30) months of the date of this Order, at a total monthly payment of \$140.00**. 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. **318288768**) 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 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 additional 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 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 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 Consent Order shall have the full force and effect of a final order; and

- (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 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

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

- a) **Reduce the Citation One, Item 001a penalty to \$2,031.75.**
- b) **Reduce the Citation Two, Item 001 penalty to \$1,300.00.**
- c) **Reduce the Citation Two, Item 002 penalty to \$845.00.**

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

Respondent did not object to Complainant’s Motion.

2. Respondent requested that upon the granting of Complainant’s Motion, that the Undersigned consider the following motion by the Respondent (“Respondent’s Motion”):

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 **\$4,176.75 within thirty (30) months of this Order, with a total monthly payment of \$140.00**; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations.

This 06/20/2025.

Signature: Richard M. Koch

Richard M. Koch | Jun 20, 2025 11:35 EDT

Email: lawoffice@richardkochlaw.com

Richard Koch
Hearing Examiner

CONSENTED TO:

Signature: Monique D. Nketah

Monique D. Nketah | Jun 20, 2025 09:47 EDT

Email: mnketah@ncdoj.gov

Monique D. Nketah
Assistant Attorney General
North Carolina Department of Justice
mnketah@ncdoj.gov

ATTORNEY FOR COMPLAINANT

Signature: Miguel Palapa

Miguel Palapa | Jun 19, 2025 17:31 EDT

Email: xpressroofnc@gmail.com

Miguel Palapa
Owner

xpressroofnc@gmail.com

REPRESENTATIVE FOR RESPONDENT

CERTIFICATE OF SERVICE

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

MIGUEL PALAPA
ROOF EXPRESS, LLC
2007 BOULEVARD ST., STE B
GREENSBORO, NC 27407

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:

MONIQUE NKETAH
NC DEPARTMENT OF JUSTICE
LABOR SECTION
PO BOX 629
RALEIGH NC 27602

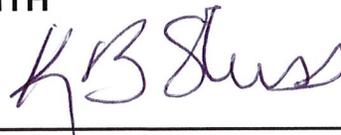
By depositing a copy of the same in the United States Mail, first class, postage prepaid at Raleigh, North Carolina, and upon:

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION
1101 MAIL SERVICE CENTER
RALEIGH, NC 27699-1101

via email.

THIS THE 25 DAY OF June 2025.

PAUL E. SMITH
CHAIRMAN



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