FILED
OCT 20 2026
NC Occupational Safety & Health Review Commission

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

COMMISSIONER OF LABOR OF THE STATE OF NORTH CAROLINA **COMPLAINANT,** **v.** **MBI BUILDERS, LLC** ***and its successors,*** **RESPONDENT.**	)	**DOCKET NO.: OSHANC 2024-6693** **INSPECTION NUMBER: 318286994** **CSHO ID: D1051** **CONSENT ORDER**

THIS CAUSE came on pursuant to the Notice of Hearing (**"**Hearing Notice") on October 20, 2026 at 10:00 a.m., via Lifesize teleconferencing platform before the undersigned, Richard Koch, Hearing Examiner for the North Carolina Occupational Safety and Health Review Commission. Sage A. Boyd, Special Deputy Attorney General, North Carolina Department of Justice, Raleigh, North Carolina, appeared as counsel for the Complainant. Travis W. Vance, Regional Managing Partner, Fisher & Phillips LLP, appeared as counsel for Respondent.

At the Hearing, Complainant and Respondent agreed upon and requested that the Stipulations and Motions be made part of the Hearing record and that the Undersigned issue a Consent Order. 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. 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 and between May 10, 2024 and November 4, 2024, Compliance Safety and Health Officer (CSHO) Ushang Desai, accompanied by CSHO Christina Medina and CSHO Adam Key, employed by the North Carolina Department of Labor (NCDOL), inspected Respondent's worksite located at 201 Canyon Gap, Building #F in Blowing Rock, North Carolina (hereafter referred to as "the Inspection").

4. Respondent, MBI BUILDERS, LLC, is a North Carolina limited liability company, duly organized and existing 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 North Wilkesboro, North Carolina. Respondent is a general construction contractor engaged in the business of constructing buildings and other structures and managing or supervising subcontractors engaged in such construction work. Specifically, Respondent is in the business of residential construction. Respondent is an "employer" within the meaning of N.C.G.S. §95-127(11); and Respondent's employees referred to in this matter are "employees" within the meaning of N.C.G.S. §95-127(10).

5. As a result of the Inspection, on November 7, 2024, Complainant issued one citation with six serious items, carrying the following proposed abatement date and penalty in the Citation and Notification of Penalty (hereafter referred to as the "Original Citation"):

CITATION NUMBER ONE (Serious)

Item No.	Standard	Abatement Date	Penalty
1	29 CFR 1926.451(a)(1)	Immediately Upon Receipt	$4,839.30
2a	29 CFR 1926.451(b)(2)	Immediately Upon Receipt	$3,226.20
2b	29 CFR 1926.451(b)(4)	Immediately Upon Receipt	grouped w/2a
3	29 CFR 1926.451(f)(3)	Immediately Upon Receipt	$3,226.20
4	29 CFR 1926.451(g)(1)	Immediately Upon Receipt	$4,839.30
5	29 CFR 1926.451(f)(15)	Immediately Upon Receipt	$3,226.20
		TOTAL:	$19,357.20

6. Respondent submitted a timely Notice of Contest dated December 18, 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 the violations alleged in the Original Citation, as amended pursuant to Complainant's Motion have been abated, and agrees to provide the confirmation of abatement form, the OSHA-2D, for the remaining three citations noted below, and supporting documents to the NCDOL-OSH Division within thirty (30) days of the date of this Consent Order.**

12. **Respondent agrees to:**

    a. **Ensure that safety and health rules are enforced by the Respondent through regular, scheduled and unscheduled, worksite inspections and established, documented progressive disciplinary procedures. Respondent will ensure that the worksite inspections are conducted on at least a daily basis and are documented at least weekly.**

    b. **Within 90 days of this Consent Order, conduct retraining for Respondent's employees tasked with jobsite safety and health inspections in accordance with the Act. The aforementioned records will be made available to the NCDOL-OSH Division upon request.**

    c. **Develop and implement a review process of subcontractor safety and health programs and training. As part of the subcontractor selection process, Respondent will review the subcontractor's programs and training records for standards applicable to that trade group. This review will be documented, as well as any corrective actions made as a part of the review.**

13. **Respondent agrees to pay the total penalty of $11,000.00 within thirty (30) days of the date of this Consent 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. **318286994)** and mailed to North Carolina Department of Labor, Financial Services 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. Provided the respective Motions of each party are granted, Complainant and Respondent agree as follows:

(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

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

1. **For Citation One, Items 1, 2a, 2b:**

    a. **Delete Citation One, Items 1, 2a, 2b in their entirety.**

2. **For Citation One, Item 3:**

    a. **Amend the classification to Non-Serious;**

b. Amend the penalty to $3,700.00; and

c. Amend the Standard Alleged Violation Elements (SAVE) and Alleged Violation Description (AVD) to state the following:

> **29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to their work environment to control or eliminate any hazards or other exposure to illness or injury:**
>
> **a) jobsite, Building #F - where subcontractor's employees worked from ladders, and were not provided training on hazards, such as, but not limited to: ladders.**

3. For Citation One, Item 4:

a. Amend the classification to Non-Serious;

b. Amend the penalty to $3,700.00; and

c. Amend the Alleged Violation Description (AVD) to state the following:

> **a) jobsite, elevator shaft of Building #F - no steps were taken by the subcontractor to prevent falls from the elevated platform.**

4. For Citation One, Item 5:

a. Amend the classification to Non-Serious;

b. Amend the penalty to $3,600.00; and

c. Amend the Alleged Violation Description (AVD) to state the following:

> **a) jobsite, Building #F - no steps were taken by the subcontractor to determine the stability and structural integrity of the area where a ladder was used by the subcontractor.**

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. **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 **$11,000.00 within thirty (30) days of this Consent Order**; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations.

This the 10/20/2026.

Signature: Richard M. Koch
Richard M. Koch (Oct 20, 2026 11:17:06 EDT)
Email: lawoffice@richardkochlaw.com

Richard Koch
Hearing Examiner

CONSENTED TO:

Signature: Sage A. Boyd
Sage A. Boyd (Oct 20, 2026 11:03:36 EDT)
Email: sboyd@ncdoj.gov

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

sboyd@ncdoj.gov

ATTORNEY FOR COMPLAINANT

Signature:
Travis Vance (Oct 20, 2026 10:58:52 EDT)
Email: tvance@fisherphillips.com

Travis W. Vance
Regional Managing Partner
Fisher & Phillips LLP

tvance@fisherphillips.com

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

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

TRAVIS W VANCE
FISHER & PHILLIPS LLP
tvance@fisherphillips.com

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

NC DEPARTMENT OF LABOR
GENERAL COUNSEL'S OFFICE

Via email.

THIS THE 20th DAY OF OCTOBER 2026.

PAUL E. SMITH
CHAIRMAN

KB Sluss

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