

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

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

COMPLAINANT,

v.

**R.E. BENGEL SHEET METAL COMPANY
*and its successors***

RESPONDENT.

**DOCKET NO.: OSHANC 2025-6735
INSPECTION NO.: 318302072
CSHO ID: F9081**

CONSENT ORDER

FILED

SEP 22 2026

NC OSH Review Commission

THIS CAUSE came on pursuant to the Notice of Pre-Hearing Conference (“Hearing Notice”) on September 22, 2026, at 10:00 a.m., via Lifesize teleconferencing platform before the undersigned, Mary-Ann Leon, Hearing Examiner for the North Carolina Occupational Safety and Health Review Commission. Joy C. Burnett, Assistant Attorney General, North Carolina Department of Justice, Raleigh, North Carolina, appeared as counsel for the Complainant. Brandon S. Neuman, Partner, Nelson Mullins, appeared as counsel for Respondent.

Pursuant to the Hearing Notice, a pre-hearing conference (the “Hearing”) was held for the purpose of considering matters which would simplify the issues and expedite the proceedings in the above referenced case including considering such matters that may be necessary or advisable for the completion of the case, and if possible, to reach a resolution without the necessity of further hearing. No affected employee of Respondent attended to have a say in, or participate as a party in, the Hearing.

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. Respondent is R.E. Bengel Sheet Metal Company, a North Carolina corporation, 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 New Bern, North Carolina. Respondent is in the business of repairing residential and commercial roofs. 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).
4. On and between February 19, 2025, and August 15, 2025, Compliance Safety and Health Officers Sheldon Joseph, Tyler Bobo, and CHSO Trainee Alexandra Romfoe, employed by the North Carolina Department of Labor (NCDOL), inspected Respondent’s worksite (“the Inspection”) located at 103 Belltown Road in Havelock, North Carolina (“the Inspected Worksite”).
5. As a result of the Inspection, on August 15, 2025, Complainant issued two citations with one repeat serious item and two nonserious 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 (Repeat Serious)

<u>Item</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1926.501(b)(10)	Corrected During Inspection	\$9,930.00

CITATION NUMBER TWO (NonSerious)

<u>Item</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1904.39(a)(2)	Corrected During Inspection	\$2,000.00
002	29 CFR 1926.503(b)(1)	Immediately Upon Receipt	No Penalty

6. Respondent submitted a timely Notice of Contest dated October 6, 2025.
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 items 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 complete the following:**
 - a. **Ensure that all fall protection related injuries and illnesses meeting the criteria under 29 CFR 1904 are recorded on the OSHA 300 log within seven calendar days, and conduct a monthly audit of the OSHA 300 log to verify that all fall protection related cases have been accurately recorded, classified, and updated as required, for three years following the date of this Order.**
 - b. **Implement and enforce a written fall related incident report protocol requiring that all fall protection related events, including injuries, illnesses, near misses, unsafe conditions, or observations of employees working without required fall protection be reported to NCDOL within 24 hours of occurrence or discovery, for two years following the date of this Order. Maintain a centralized log of all fall-related incident reports which shall be made available to NCDOL upon request.**
 - c. **Conduct daily toolbox talks at the start of each shift to review specific hazards employees may encounter during that day's tasks, including elevated work, leading edges, unprotected sides, roof work, scaffold work, or ladder use, for three years following the date of this Order. Include a mandatory reminder that employees are required to use fall protection in accordance with the employer's written fall protection policy and OSHA standards.**
 - d. **Develop and implement a construction stage fall protection inspection schedule that increases inspection frequency as the project progresses and hazards change. Document each inspection using a standardized checklist, for three years following the date of this Order. At a minimum, the employer shall conduct fall protection inspections as follows:**
 - i. **Foundation/slab stage: weekly**
 - ii. **Framing structural stage: three times per week, including verification of guardrails, leading edge controls, and personal fall arrest systems**
 - iii. **Roofing, elevated decks, and exterior envelop stage: daily, including documentation of anchor point, harness usage, and controlled access zones**
 - iv. **Interior finishing stage (if elevated work remains): twice weekly**

- v. **Any work above five feet at any stage: daily, including task specific fall protection verification prior to the start of each shift**
 - e. **Retain a qualified third-party safety consultant to conduct an annual fall protection audit, including a review of training, inspections, incident logs, and disciplinary actions, and observation of elevated work activities, for two years following the date of this Order. The written audit report must be completed and retained for at least two years.**
 - f. **Conduct regular meetings with employees where employees may safely communicate safety complaints or suggestions. Respondent agrees that all employees who make suggestions or complaints shall have the same protection provided employees under Article 21, Chapter 95 of the North Carolina General Statutes.**
13. Respondent agrees to pay the total penalty of **\$11,930.00 in twelve (12) equal monthly installments of \$994.17 each, with the first installment due and payable on the first business day of the second month immediately following the signing of this Consent Order.** All subsequent installments shall be due and payable on the first business day of each month following payment of the first installment. In no event shall the payment term extend beyond a consecutive twelve (12) month period, unless agreed upon by Complainant. In the event that the Respondent does not pay each monthly installment as agreed upon, all remaining installments become immediately due and payable, and the Commissioner retains the right to institute collection proceedings as allowed by law. Respondent agrees to pay attorneys' fees to Complainant in the event that the Complainant has to institute collection proceedings to collect the debt. 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. **318302072**) 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 attorneys' 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 the 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 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 moves to do the following (“Complainant’s Motion”):

Reclassify Citation One, Item 001 from Repeat Serious to NonSerious.

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

Respondent does not object to Complainant’s Motion.

Respondent requests 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 does 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 **\$11,930.00 pursuant to the payment plan outlined in this Order**; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations.

This the 22nd day of September 2026.

Signature:

Email: maleon@leonlaw.org

Mary-Ann Leon
Hearing Examiner

CONSENTED TO:

Nicole H. Brown

Digitally signed by Nicole H. Brown
Date: 2026.09.22 10:55:06 -04'00'

Nicole H. Brown
Bureau Chief, OSH Division
North Carolina Department of Labor

JEFF JACKSON

Attorney General

Joy C. Burnett

Digitally signed by Joy C. Burnett
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ATTORNEY FOR COMPLAINANT

STEVE BENGEL STEVE BENGEL

/s/ Employer Representative

Name: STEVE BENGEL

Title: PRESIDENT

Brandon Neuman

Digitally signed by: Brandon Neuman
DN: CN = Brandon Neuman
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Brandon S. Neuman

Partner

Nelson Mullins

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brandon.neuman@nelsonmullins.com

ATTORNEY FOR RESPONDENT

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 **\$11,930.00 pursuant to the payment plan outlined in this Order**; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations.

This the 22nd day of September 2026.

Signature: Mary-Ann Leon
Mary-Ann Leon (Sep 22, 2026 13:46:13 CDT)

Email: maleon@leonlaw.org

Mary-Ann Leon
Hearing Examiner

CERTIFICATE OF SERVICE

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

BRANDON S NEUMAN
NELSON MULLINS LLP
brandon.neuman@nelsonmullins.com

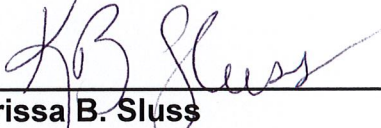
JOY C BURNETT
NC DEPARTMENT OF JUSTICE
LABOR SECTION
jburnett@ncdoj.gov

NC DEPARTMENT OF LABOR
GENERAL COUNSEL'S OFFICE

via email.

THIS THE 22 DAY OF September 2026.

PAUL E. SMITH
CHAIRMAN



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