

**BEFORE THE SAFETY AND HEALTH REVIEW BOARD
OF NORTH CAROLINA
RALEIGH, NORTH CAROLINA**

COMMISSIONER OF LABOR FOR
THE STATE OF NORTH CAROLINA,

COMPLAINANT,

DOCKET NO. OSHANC 99-3853, 99-3867
OSHA INSPECTION NO. 302869466,
302866637
CSHO ID NO. W0633, W4297

v.

MILLER BUILDING CORP.
and its successors,

CONSENT ORDER

RESPONDENT.

This cause comes on to be heard before the undersigned Hearing Examiner (the Court) and being heard upon consent of the parties hereto, upon consideration of the Stipulation and Notice of Settlement submitted by the parties (the Agreement), the Court makes the following:

FINDINGS OF FACT

1. That the Agreement is reasonable and supported by the underlying facts.
2. That no outstanding issues remain to be resolved by a hearing of this matter.

CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties to this action and over the subject matter.
2. That the Agreement is consistent with the purpose and objectives of the Occupational Safety and Health Act of North Carolina (The Act), and complies with Rule .0701 of the Rules of Procedure of the Safety and Health Review Board.

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

1. That the Agreement is approved.
2. That both parties are hereby required to comply with the terms and conditions stipulated in the agreement.

This the 19th day of June, 2002.

OSCAR A. KELLER, CHAIRMAN

RICHARD G. PEARSON, MEMBER

JANICE SMITH GERALD, MEMBER

BY CONSENT:

ROY COOPER
Attorney General

Linda Kimbell
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
Telephone No. (919) 716-6680
ATTORNEYS FOR COMPLAINANT

Michael C. Lord
Maupin Taylor & Ellis PA

Post Office Drawer 19764
Raleigh, North Carolina 27619-9764
Telephone No. (919) 981-4000
ATTORNEY FOR RESPONDENT

**BEFORE THE SAFETY AND HEALTH REVIEW BOARD
OF NORTH CAROLINA
RALEIGH, NORTH CAROLINA**

COMMISSIONER OF LABOR FOR
THE STATE OF NORTH CAROLINA,

COMPLAINANT,

v.

MILLER BUILDING CORP.
and its successors,

RESPONDENT.

DOCKET NO. OSHANC 99-3853, 99-3867
OSHA INSPECTION NO. 302869466,
302866637
CSHO ID NO. W0633, W4297

**STIPULATION AND
NOTICE OF SETTLEMENT**

NOW COME the parties in the above-captioned action, pursuant to Rule .0701 of the Rules of Procedure adopted by the Safety and Health Review Board of North Carolina, and respectfully show unto the Board as follows:

1. Respondent, Miller Building Corporation, has ceased business operations.
2. In consideration of this, the parties agree to the following resolution of the above-captioned matters:
 - a) Complainant and Respondent withdraw their respective Petitions and Cross-Petitions for Review.
 - b) Respondent withdraws its Notices of Contest.
 - c) Complainant amends the citations by dismissing all proposed penalties.

3. Respondent agrees that the alleged violations in all of the above-captioned matters have been abated by the cessation of its business operations.

4. 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 Stipulation and Notice of Settlement.

5. The parties agree that this Stipulation and Notice of Settlement is a full and final settlement of the claims set out in all of the above-captioned Citations and Notifications of Penalty, and 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 Citations and Notifications of Penalty or waiver of defenses; provided, however, that in any subsequent proceeding with respect to matters covered by this Stipulation and Notice of Settlement brought directly under the Act by Complainant, this Agreement shall have the full force and effect of a final order. The agreements, statements, stipulations and actions herein are made solely for the purpose of settling 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 Occupational Safety and Health Act and Article 21, Chapter 95 of the North Carolina General Statutes.

6. Respondent has no employees for whom or business location in which to post this Notice.

WHEREFORE, the parties to this action hereby respectfully request approval of this Stipulation and Notice of Settlement.

This the 6th day of May, 2002.

APPROVED BY:

Kevin Beauregard
Assistant Director
Occupational Safety and Health Division

ROY COOPER
Attorney General

Linda Kimbell
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
Telephone No. (919) 716-6680
ATTORNEYS FOR COMPLAINANT

Michael C. Lord
Maupin Taylor & Ellis PA
Post Office Drawer 19764
Raleigh, North Carolina 27619-9764
Telephone No. (919) 983-4093
ATTORNEYS FOR RESPONDENT