

**FINAL ORDERS OF THE VIRGINIA COURTS
IN CONTESTED CASES ARISING UNDER THE
VIRGINIA OCCUPATIONAL SAFETY AND HEALTH ACT
2013**

Atlantic Environmental Construction Company, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL12-5430 (Circuit Court of the City of Norfolk)

Carr Contracting Co., LLC, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL13-2442 (Circuit Court of the County of Chesterfield)

Central Virginia Stucco, Incorporated, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL13000391 (Circuit Court of the City of Charlottesville)

Chelsea Environmental Corporation, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL12-131 (Circuit Court of the County of Westmoreland)

D.M. Barbini Contracting, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL13000324-00 (Circuit Court for the City of Suffolk)

D.M. Barbini Contracting, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL13003069-00 (Circuit Court for the City of Norfolk)

D.M. Barbini Contracting, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL13001938-00 (Circuit Court for the City of Virginia Beach)

Del's Roofing and Siding, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL13000835-00 (Circuit Court for the City of Chesapeake)

E.C. Couch Builder, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL10-0001 (Circuit Court for the County of Chesterfield)

Foxcroft, L.P. dba Kensington Square Apartments, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Case No. CL13000876-00 (Circuit Court for the City of Hampton)

Magnate, LLC, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL13000124 (Circuit Court for the County of Shenandoah)

Partlow's Tree Service Corporation, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Case No. CL13-000257 (Circuit Court for the County of Albemarle)

Regional Enterprises, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry v.
Civil Action No. CL07-222 (Circuit Court for the City of Hopewell)

Regional Enterprises, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry v.
Civil Action No. CL07-223 (Circuit Court for the City of Hopewell)

Russell Dodson d/b/a Dodson's Complete Tree Service & Landscaping, Courtney M. Malveaux,
Commissioner of Labor and Industry v.
Civil Action No. CL09-951 (Circuit Court of the County of Arlington)

Salmons, Inc. Courtney M. Malveaux, Commissioner of Labor and Industry v.
Civil Action No. CL11-1365 (Circuit Court for the City of Virginia Beach)

Salmons Specialized Hauling, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry
v.
Civil Action No. CL11-1366 (Circuit Court for the City of Virginia Beach)

T.R. Driscoll, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry v.
Case No. CL-1100319V-04 (Circuit Court of the City of Newport News)

Ugo Benincasa, d/b/a Robert E. Lee Property, LLC, Courtney M. Malveaux, Commissioner of
Labor and Industry v.
Civil Action No. CL12-257 (Circuit Court for the County of Rockbridge)

United Air Lines, Inc., Courtney M. Malveaux, Commissioner of Labor and Industry v.
Case No. CL00079397-00 (Circuit Court for the County of Loudoun)

Vico Construction Corporation, Courtney M. Malveaux, Commissioner of Labor and Industry v.
Civil Action No. CL13000736-00 (Circuit Court of the City of Chesapeake)

William Forkey d/b/a William's Landscaping & Tree Service, Courtney M. Malveaux,
Commissioner of Labor and Industry v.
Chancery No. CL11-2867 (Circuit Court for the County of Henrico)

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

COURTNEY M. MALVEAUX)	
Commissioner of Labor and Industry,)	
<i>Plaintiff,</i>)	
v.	)	Civil Action No. CL12-5430
)	
ATLANTIC ENVIRONMENTAL)	
CONSTRUCTION COMPANY)	
)	
<i>Defendant.</i>)	

ORDER

This matter came before the Court on Commissioner Courtney M. Malveaux's ("Commissioner") Motion for Nonsuit as a matter of right pursuant to Va. Code § 8.01-380, and IT APPEARING that on July 30, 2012, the Commissioner filed a complaint against Atlantic Environmental Construction Company, that no nonsuit has been taken to this cause, and that the defendant, Atlantic Environmental Construction Company, has not filed a cross-claim, it is therefore ADJUDGED, ORDERED AND DECREED that the Commissioner's motion is GRANTED and that this matter be and hereby is nonsuited without prejudice as a matter of right pursuant to Va. Code § 8.01-380, it is FURTHERMORE ORDERED that the Clerk will strike this matter from the docket of this Court, place it among the ended chancery cases, and shall send an attested copy of this Order to both parties.

Enter:

Judge

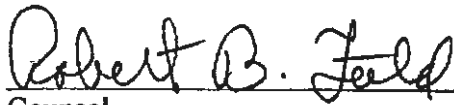
Date:

John R. Doyle, III
John R. Doyle, III, Judge

GEORGE E. SCHAEFER, CLERK
CIRCUIT COURT
Janice O'Hern, Deputy Clerk
Authorized to sign on behalf
of George E. Schaefer
Date: _____

I ask for this:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

A handwritten signature in cursive script that reads "Robert B. Feild". The signature is written in black ink and is positioned above a horizontal line.

Counsel

Robert B. Feild (VSB# 23864)
Special Assistant Commonwealth's Attorney
600 East Main Street, Suite 207
Richmond, VA 23219-4101
804-786-4777, Fax 804-786-8418

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

COURTNEY M. MALVEAUX,)	
Commissioner of Labor and Industry,)	
)	
<i>Plaintiff,</i>)	
v.	)	Civil Action No. CL13-2442
)	
CARR CONTRACTING CO., LLC,)	
)	
<i>Defendant.</i>)	

DEFAULT JUDGEMENT

This cause came to be heard upon Commissioner Courtney M. Malveaux's ("Commissioner's") Motion for Default Judgment against the Defendant, Carr Contracting Co., LLC ("Carr Contracting"), declaring that \$2,950.00 in proposed civil penalties arising from contested Virginia Occupational Safety and Health (VOSH) citations, identified by VOSH Inspection Number 314651886 and as attached to the Commissioner's Complaint, be upheld.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process on Carr Contracting, and that no responsive pleadings have been filed by the same, nor has an appearance been made in this action on Carr Contracting's behalf, it is therefore

ADJUDGED, ORDERED, and DECREED that the Plaintiff Commissioner be awarded judgment by default in this cause against the Defendant, affirming that Carr Contracting Co., LLC be held liable for payment to the Commonwealth of Virginia of \$2,950.00 in civil penalties, arising from the contested Virginia Occupational Safety and Health (VOSH) citations as set out in Inspection Number 314651886. It is also ADJUDGED, ORDERED, and DECREED that the

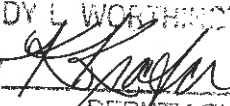
Clerk of this Court shall strike this matter from the docket and place it among the cases. The Clerk shall mail certified copies of this order to the defendant's Registered Agent, John N. Clifford, 909 North Courthouse Road, Richmond, Virginia 23236, and to Courtney M. Malveaux, Commissioner of Labor and Industry, at 600 East Main Street, Suite 207, Richmond, Virginia 23219. Pursuant to *Rule 1:13*, endorsement by defense counsel shall be dispensed with.

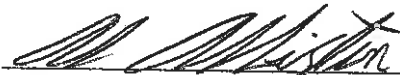
JUDGE: 

ENTER: 11-15-17

I ASK FOR THIS:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

A COPY TESTE:
JUDY L. WORTHINGTON, CLERK
BY 
DEPUTY CLERK

By: 
Alfred B. Albiston (VSB #29851)
Special Assistant Commonwealth's Attorney
Chesterfield County
600 East Main Street, Suite 207
Richmond, Virginia 23219
804-786-6760 *phone*
804-786-8418 *fax*
albiston.alfred@dol.gov

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHARLOTTESVILLE

COURTNEY M. MALVEAUX,)	
Commissioner of Labor and Industry,)	
<i>Plaintiff,</i>)	
v.	)	Civil Action No. CL13000391
CENTRAL VIRGINIA STUCCO INCORPORATED)	
<i>Defendant.</i>)	

AGREED FINAL ORDER

WHEREAS, on or about July 24, 2012, the Commissioner of Labor and Industry issued citations to the defendant, Central Virginia Stucco Incorporated (“Central Va. Stucco”), alleging four serious classified and one non-serious classified violations of the Virginia Occupational Safety and Health Standards (VOSH) for the Construction Industry, and proposing civil penalties of \$3,360.00 (as attached to Complaint as Commissioner’s Exhibit A); and

WHEREAS, Central Va. Stucco filed within 15 working days from the date of the receipt of the citations, a written notice contesting the violations and proposed penalties, as provided for in § 40.1-49.4, of the *Code of Virginia*;

WHEREAS, the Commissioner has filed a Complaint before this Court, requesting adjudication of the above described VOSH citations and penalties;


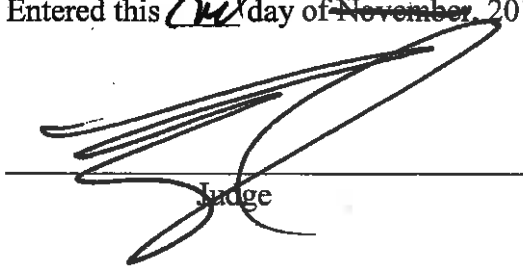
Upon agreement of the parties and for good cause shown, it is hereby ADJUDGED, ORDERED, and DECREED as follows:

1. Central Va. Stucco hereby acknowledges and waives service of the Commissioner’s Complaint filed in this matter.

2. Each of the VOSH violations and civil penalties are amended and affirmed as follows:
 - a. Citation 1, Grouped Item 1a-d is affirmed as Serious and the proposed penalty of \$840.00 is amended to \$675.00;
 - b. Citation 1, Item 2 is affirmed as Serious and the proposed penalty of \$840.00 is amended to \$675.00;
 - c. Citation 1, Item 3 is affirmed as Serious and the proposed penalty of \$840.00 is amended to \$675.00;
 - d. Citation 1, Item 4 is affirmed as Serious and the proposed penalty of \$840.00 is amended to \$675.00; and
 - e. Citation 2, Item 1 is affirmed as a Non-Serious violation with no proposed penalty.
3. Central Va. Stucco shall pay to the Commissioner the adjusted penalty total of \$2700.00, provided in monthly payments of \$300.00 each, made on the first day of each month for the next nine (9) successive months. The initial monthly payment shall be due on the first day of the month that begins at least fifteen days after the entry of this order. Each payment will be made in the form of a check or money order, payable to the Treasurer of Virginia, with VOSH inspection number 316471804 noted on each payment, and directed to the Department of Labor and Industry, Accounting and Finance Office, at 600 East Main Street, Suite 207, Richmond, Virginia 23219.
4. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), Central Va. Stucco shall post a copy of this Order for ten (10) consecutive days at a conspicuous place or location on all its jobsites where notices to its employees generally are posted.
5. Central Va. Stucco certifies that the affirmed violations referenced above in this Order were each corrected and abated.
6. This Order is meant to settle the above contested claims, and is not to be considered an admission of liability by Central Va. Stucco. Pursuant to *Va. Code* §40.1-51.3:2, the fact of an

issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the *Code of Virginia* shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party.


7. Each party will bear its own costs in this matter.
8. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall send a certified copy of this order to both the Commissioner and to Central Va. Stucco at their addresses provided below.

 Entered this 2nd day of December 2013.


Judge

We ask for this:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

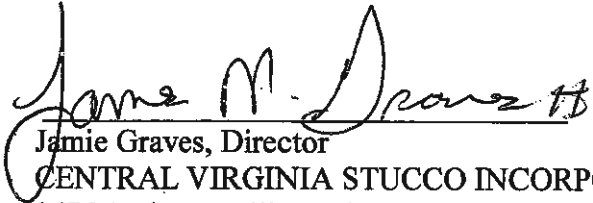


Alfred B. Albiston (VSB No. 29851)
Special Assistant Commonwealth's Attorney
City of Charlottesville
600 East Main Street. Ste. 200
Richmond, Virginia 23219

804.786.6760
804.786.8418 (fax)
albiston.alfred@dol.gov

Seen and Agreed:

CENTRAL VIRGINIA STUCCO INCORPORATED



Jamie Graves, Director

CENTRAL VIRGINIA STUCCO INCORPORATED

~~967 Matthews Mill Road~~

~~Ruckersville, Virginia 22968~~

~~434.531.0052~~

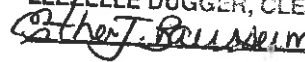
1791 Courthouse Road

Palmyra, VA 22963

434-531-0752

A COPY TESTE:

LLEZELLE DUGGER, CLERK

, DEP. CLERK

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF WESTMORELAND

COURTNEY M. MALVEAUX,)	
Commissioner of Labor and Industry,)	
<i>Plaintiff,</i>)	
v.	)	Civil Action No. CL12-131
)	
CHELSEA ENVIRONMENTAL)	
CORPORATION,)	
<i>Defendant.</i>)	

AGREED ORDER

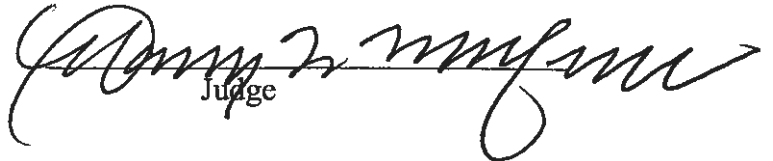
Upon agreement of the parties and for good cause shown, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. Subject to the provisions of paragraph 7, Serious Citation 1, Items 1a, 1b and 1c are affirmed with a penalty of \$1,120.00 for the grouped violations
2. Chelsea Environmental Corporation (Chelsea) upon entry of this Agreed Order, will pay to the Commonwealth \$1,120.00 in payment of the penalties assessed for the above citations within 15 days of the entry of this order. The payment will be made in the form of a check or money order, payable to the Commonwealth of Virginia, with the VOSH inspection number (316054113) noted on the payment.
3. Chelsea certifies that the violations affirmed in this Order have been abated. Such certification by Chelsea is made subject to the provisions of paragraph 7;
4. As further consideration for the modification of the terms of the original citation, Chelsea agrees to withdraw its original notice of contest and waives its right to contest the remaining terms contained in this Order.

5. That the Defendant shall post a copy of this Order for ten consecutive days, beginning from the date of entry of this Order, at its workplaces in Virginia in a conspicuous location where notices to its employees are generally posted;
6. That the Commissioner may use this Order in future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia, or any other authority;
7. The parties agree that this is a settlement of a disputed claim. The parties agree that the citations, as amended, do not make any charges either, expressed or implied, that the conditions set forth were the cause or proximate cause of any accident or damages. All agreements, statements, and findings herein are made for the purpose of settling this matter economically and amicably, and they shall not be used for any other purpose whatsoever, except as herein stated. Nothing in this agreement shall be construed as an admission by Chelsea Environmental Corporation of civil or criminal liability for any violation or penalty alleged by the Commonwealth. By entering into this agreement, Chelsea does not admit the truth of any alleged facts, any of the characterization of its alleged conduct or any conclusions set forth in the citation(s) issued in this matter. Neither this agreement nor the defendant's consent to entry of a final order of the Commissioner pursuant to this agreement shall constitute an admission by the defendant of violation of the Virginia Occupational Safety and Health (VOSH) laws, regulations or standards promulgated thereunder. The defendant is entering into this agreement without any prejudice to its right to assert in any subsequent action or proceeding that any future existing conditions identical or similar to those alleged in the original citations do not violate the VOSH laws, regulations or standards promulgated thereunder.

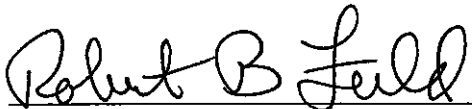
8. The Clerk shall strike this matter from the docket of this Court, place it among the ended cases, and shall send an attested copy of this order to counsel of record.

Entered this 4 day of April 2013.


Judge

WE ASK FOR THIS:

COURTNEY M. MALVEAUX, Commissioner of Labor and Industry

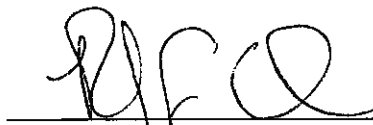

Robert B. Feild, Esq. (VSB # 23864)
Special Assistant Commonwealth's Attorney
County of Westmoreland
600 East Main Street, Suite 207
Richmond, Virginia 23219
Telephone: (804) 786-4777
Facsimile: (804) 786-8418

March 29, 2013
Date

Counsel for Commissioner Malveaux

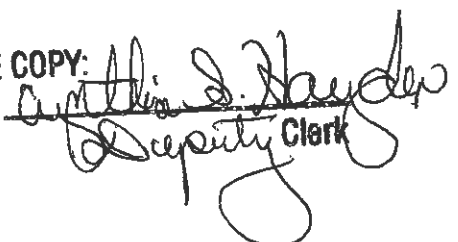
SEEN AND AGREED:

CHELSEA ENVIRONMENTAL CORPORATION


Richard F. Dzubin, Esq. (VSB # 45337)
Rich, Rosenthal, Brincefield, Manitta, Dzubin & Kroeger, LLP
201 North Union Street, Suite 140
Alexandria, VA 22314
Telephone: (703) 299-3440
Facsimile: (703) 299-3441

3/25/13
Date

Counsel for Chelsea Environmental Corporation

A TRUE COPY:
TESTE: 
Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF SUFFOLK

COURTNEY M. MALVEAUX,)
 Commissioner of Labor and Industry,)
)
 Plaintiff,)
 v.)
)
 D. M. BARBINI CONTRACTING, INC.,)
)
 Defendant.)

Civil Action No. CL13000324-00

DEFAULT JUDGEMENT

on September 24, 2013,

This cause came to be heard upon Commissioner Courtney M. Malveaux's

("Commissioner's") Motion for Default Judgment against the Defendant, D. M. Barbini Contracting, Inc. ("Barbini Contracting"), declaring that \$20,000.00 in proposed civil penalties arising from a contested Virginia Occupational Safety and Health (VOSH) citation, identified by VOSH Inspection Number 315150094 and as attached to the Commissioner's Complaint, be

upheld. *The defendant's cooperation appeared in the person of its President, unrepresented by counsel, and testified under oath.*

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process on Barbini Contracting, and that no

responsive pleadings have been filed by the same, nor has an appearance been made in this action *the President of the defendant being allowed to testify nevertheless.* on Barbini Contracting's behalf, it is therefore

ADJUDGED, ORDERED, and DECREED that the Plaintiff Commissioner be awarded judgment by default in this cause against the Defendant, affirming that D. M. Barbini Contracting, Inc. be held liable for payment to the Commonwealth of Virginia of \$20,000.00 in civil penalties, arising from the contested Virginia Occupational Safety and Health (VOSH)

citation as set out in Inspection Number 315150094. It is also ADJUDGED, ORDERED, and DECREED that the Clerk of this Court shall strike this matter from the docket and place it among the ended chancery cases. The Clerk shall mail certified copies of this order to the Defendant's address at 2205 Swaying Limb Lane, Virginia Beach, VA 23456, and to Courtney M. Malveaux, Commissioner of Labor and Industry, at 600 East Main Street, Suite 207, Richmond, Virginia 23219. Pursuant to *Rule 1:13*, endorsement by ~~defense counsel~~ ^{the defendant} shall be dispensed with, *the Court noting the defendant's objection and exception to this Order.*

JUDGE: *Way*

ENTER: *September 24, 2013*

I ASK FOR THIS:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

By: *[Signature]*
Counsel

Alfred B. Albiston (VSB #29851)
Special Assistant Commonwealth's Attorney
City of Suffolk
600 East Main Street, Suite 207
Richmond, Virginia 23219

804-786-6760 phone
804-786-8418 fax
albiston.alfred@dol.gov

TRUE COPY
I certify that the document to which this authentication is affixed is a true copy of a record in the Suffolk Circuit Court, that I have custody of the record, and that I am the custodian of that record.
TESTE: *W. Randolph Carter, Jr.*, CLERK
BY: *[Signature]* D.C.
DATE: *9/24/13*

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

COURTNEY M. MALVEAUX,)	
Commissioner of Labor and Industry,)	
)	
<i>Plaintiff,</i>)	
v.	)	Civil Action No. CL13003069-00
)	
D. M. BARBINI CONTRACTING, INC.,)	
)	
<i>Defendant.</i>)	

DEFAULT JUDGMENT

This cause came to be heard upon Commissioner Courtney M. Malveaux's ("Commissioner's") Motion for Default Judgment against the Defendant, D. M. Barbini Contracting, Inc. ("Barbini Contracting"), declaring that the contested Virginia Occupational Safety and Health (VOSH) citation, and associated \$5,600.00 proposed civil penalty, jointly identified by VOSH Inspection Number 316571330 and as attached to the Commissioner's Complaint, be upheld.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process on Barbini Contracting, and that no responsive pleadings have been filed by the same, nor has an appearance been made in this action on Barbini Contracting's behalf, it is therefore

ADJUDGED, ORDERED, and DECREED that the Plaintiff Commissioner be awarded judgment by default in this cause against the Defendant, affirming the VOSH citation, and that D. M. Barbini Contracting, Inc. be held liable for payment to the Commonwealth of Virginia of a \$5,600.00 civil penalty, arising from the contested VOSH citation as set out in Inspection Number 316571330. It is also ADJUDGED, ORDERED, and DECREED that the Clerk of this

Court shall strike this matter from the docket and place it among the ended chancery cases. The Clerk shall mail certified copies of this order to the Defendant's address at 2205 Swaying Limb Lane, Virginia Beach, VA 23456, and to Courtney M. Malveaux, Commissioner of Labor and Industry, at 600 East Main Street, Suite 207, Richmond, Virginia 23219. Pursuant to *Rule 1:13*, endorsement by defense counsel shall be dispensed with.

JUDGE: 

ENTER: Oct, 11, 2013

J. A. CLARKSON, Judge

I ASK FOR THIS:


COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

J. A. CLARKSON, Judge

By: 

Alfred B. Albiston (VSB #29851)
Special Assistant Commonwealth's Attorney
City of Norfolk
600 East Main Street, Suite 207
Richmond, Virginia 23219

804-786-6760 phone
804-786-8418 fax
albiston.alfred@dol.gov

COPY FILED
GEORGE E. SCHAEFER, CLERK
NORFOLK CIRCUIT COURT
BY 
Tracey Staples, Deputy Clerk
Authorized to sign on behalf
of George E. Schaefer
Date: 10/11/13

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

COURTNEY M. MALVEAUX,)	
Commissioner of Labor and Industry,)	
)	
<i>Plaintiff,</i>)	
v.	)	Civil Action No. CL13001938-00
)	
D. M. BARBINI CONTRACTING, INC.,)	
)	
<i>Defendant.</i>)	

DEFAULT JUDGMENT

This cause came to be heard upon Commissioner Courtney M. Malveaux's ("Commissioner's") Motion for Default Judgment against the Defendant, D. M. Barbini Contracting, Inc. ("Barbini Contracting"), declaring that the contested Virginia Occupational Safety and Health (VOSH) citation, and associated \$84,000.00 in proposed civil penalties, jointly identified by VOSH Inspection Number 316419415 and as attached to the Commissioner's Complaint, be upheld.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process on Barbini Contracting, and that no responsive pleadings have been filed by the same, nor has an appearance been made in this action on Barbini Contracting's behalf, it is therefore

ADJUDGED, ORDERED, and DECREED that the Plaintiff Commissioner be awarded judgment by default in this cause against the Defendant, affirming the VOSH citation, and that D. M. Barbini Contracting, Inc. be held liable for payment to the Commonwealth of Virginia of an \$84,000.00 civil penalty, arising from the contested VOSH citation as set out in Inspection Number 316419415. It is also ADJUDGED, ORDERED, and DECREED that the Clerk of this

Court shall strike this matter from the docket and place it among the ended chancery cases. The Clerk shall mail certified copies of this order to the Barbini Contracting's Registered Agent David M. Barbini, at 2205 Swaying Limb Lane, Virginia Beach, VA 23456, and to Courtney M. Malveaux, Commissioner of Labor and Industry, at 600 East Main Street, Suite 207, Richmond, Virginia 23219. Pursuant to *Rule 1:13*, endorsement by defense counsel shall be dispensed with.

JUDGE: 11/22/13

ENTER: AB Sturkey

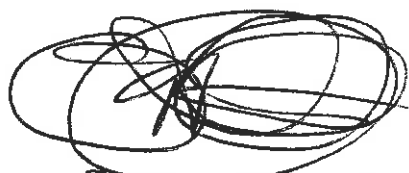
I ASK FOR THIS:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

By: [Signature]
Alfred B. Albiston (VSB #29851)
Special Assistant Commonwealth's Attorney
City of Virginia Beach
600 East Main Street, Suite 207
Richmond, Virginia 23219

804-786-6760 phone
804-786-8418 fax
albiston.alfred@dol.gov

CERTIFIED TO BE A TRUE COPY
OF RECORD IN MY CUSTODY
TINA E. SINNEN, CLERK
CIRCUIT COURT, VIRGINIA BEACH, VA
BY [Signature]
DEPUTY CLERK



SEEN & OBJECTED:

the fine is disproportionate to
the job value and potential danger,
as well as history.

~~Richard J. Conrad, Sr.~~
CONRAD & COMPANY LAW FIRM
101 N. LYNNHAVEN ROAD
SUITE 104
VIRGINIA BEACH, VA. 23452

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF CHESAPEAKE

COURTNEY M. MALVEAUX)	
Commissioner of Labor and Industry)	
)	
<i>Plaintiff,</i>)	
)	
v.)	
	)	Civil Action No. CL13000835-00
)	
DEL'S ROOFING AND SIDING, INC.,)	
)	
<i>Defendant.</i>)	

AGREED FINAL ORDER

WHEREAS, on or about April 14, 2011, the Commissioner of Labor and Industry issued citations to the defendant, Del's Roofing and Siding, Inc. ('Del's Roofing and Siding'), alleging two serious classified and one non-serious classified violations of the Virginia Occupational Safety and Health Standards (VOSH) for the Construction Industry, and proposing civil penalties of \$1,050.00 (as attached to Complaint as Commissioner's Exhibit A); and

WHEREAS, Del's Roofing and Siding filed within 15 working days from the date of the receipt of the citations, a written notice contesting the violations and proposed penalties, as provided for in § 40.1-49.4, of the *Code of Virginia*;

Upon agreement of the parties and for good cause shown, it is hereby **ADJUDGED, ORDERED, and DECREED** as follows:

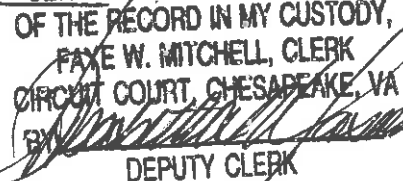
1. That each of the violations and civil penalties are amended and affirmed as follows:
 - a. Citation 1, Item 1 and Citation 1, Item 2 are grouped into one serious violation, re-identified now as Items 1-1a and 1-1b, respectively. The assessed combined penalty of \$1,050 is reduced to \$525; and,
 - b. Citation 2, Item 1 is affirmed as a non-serious violation with no proposed penalty.

2. Del's Roofing and Siding shall pay the adjusted penalty of \$525.00 within thirty (30) days of the date of entry of this order. Payment shall be presented to any office of the Department of Labor and Industry, and made by check or money order, payable to the Treasurer of Virginia, with VOSH inspection number 315489989 noted on the payment.
3. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), Del's Roofing and Siding shall post a copy of this order for ten (10) consecutive days at a conspicuous place or location on all its jobsites where notices to its employees generally are posted.
6. Del's Roofing and Siding certifies that the affirmed violations referenced above in this Order were each corrected and abated.
7. This Order is meant to settle the above contested claims, and is not to be considered an admission of liability by Del's Roofing and Siding. Pursuant to *Va. Code* §40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the *Code of Virginia* shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party.
6. Each party will bear its own costs in this matter.
7. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall send a certified copy of this order to the Special Assistant Commonwealth's Attorney and to the Defendant at its address provided below.

Entered this 14th day of June, 2013.



Judge

CERTIFIED TO BE A TRUE COPY
OF THE RECORD IN MY CUSTODY,
FAYE W. MITCHELL, CLERK
CIRCUIT COURT, CHESAPEAKE, VA
BY 
DEPUTY CLERK

We ask for this:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry



Alfred B. Albiston (VSB No. 29851)
Special Assistant Commonwealth's Attorney
Virginia Department of Labor & Industry
600 East Main Street. Ste. 200
Richmond, Virginia 23219
804.786.6760
804.786.8418 (fax)
Alfred.albiston@doli.virginia.gov

Seen and Agreed:

DEL'S ROOFING AND SIDING, INC.



Terrie J. DelMontier
Registered Agent and Director
DEL'S ROOFING AND SIDING, INC.
120 Red Oak Trail
Chesapeake, VA 23320

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

COURTNEY M. MALVEAUX,)	
Commissioner of Labor and Industry,)	
<i>Plaintiff,</i>)	
v.	)	Civil Action No. CL10-0001
)	
E. C. COUCH BUILDER, INC.,)	
<i>Defendant.</i>)	

AGREED ORDER

Upon agreement of the parties and for good cause shown, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. Willful Citation 1, Item 1 is affirmed with a reduced penalty of \$5,000.00.
2. a. E. C. Couch Builder, Inc. (Couch) upon entry of this Agreed Order, will pay to the Commonwealth \$3,000.00 in partial payment of the penalties assessed for the above citations to be paid as follows: One Hundred (\$100.00) of this payment must be remitted to the Commonwealth with the signed agreed order to be deposited on the day the order is entered. Two thousand Nine Hundred dollars (2,900.00) is to be paid in twenty-nine (29) payments of One Hundred dollars (\$100.00) each, payable on the first day of each month for the next twenty-nine (29) successive months. The first monthly payment shall be due on the first day of the month that begins at least fifteen days after the entry of this order. The payments will be made in the form of a check or money order, payable to the Commonwealth of Virginia, with the VOSH inspection number (312568041) noted on the payment.

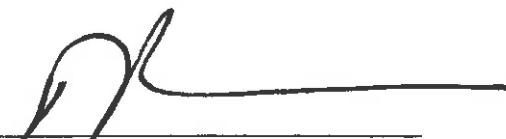
b. Should Couch, between the entry of this order and one year from the entry of this order, violate any of the sections of the Virginia Occupational Safety and Health (VOSH) Standards for the Construction Industry or the general duty clause, Code §40.1-51.1(a) that deal with studs in bearing walls, Couch will pay a second partial payment of the total penalties assessed for the above citations in the amount of \$2,000.00 upon entry of a final order for such repeat or willful violation by the Commissioner of Labor and Industry. This penalty payment is in addition to and separate from any penalties that the Commissioner we may assess for the subsequent repeat or willful violations which trigger the partial payments addressed above. Couch's obligation to pay this partial payment will cease one year from the entry of this order, if Couch has satisfied all the requirements of this agreement and no triggering event has occurred. On that date, the remaining amount of the second partial penalty that has not yet become due and payable to the Commonwealth because of subsequent violations will be waived. The payment will be made in the form of a check or money order, payable to the Commonwealth of Virginia, with the VOSH inspection number (312568041) noted on the payment.

3. Couch certifies that the violation affirmed in this Order has been abated;
4. As further consideration for the modification of the terms of the original citation, Couch agrees to withdraw its original notice of contest and waives its right to contest the remaining terms contained in this Order.
5. That the Defendant shall post a copy of this Order for ten consecutive days, beginning from the date of entry of this Order, at its workplaces in Virginia in a conspicuous location where notices to its employees are generally posted;

enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia.

9. The Clerk shall strike this matter from the docket of this Court, place it among the ended cases, and shall send an attested copy of this order to counsel of record.


Entered this 18 day of June 2013.



Judge

WE ASK FOR THIS:


COURTNEY MALVEAUX, Commissioner of Labor and Industry


Robert B. Feild
Special Assistant Commonwealth's Attorney
County of Chesterfield
13 South Thirteenth Street
Richmond, Virginia 23219
Telephone: (804) 786-4777
Facsimile: (804) 786-8418

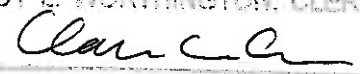
Counsel for Commissioner Malveaux

SEEN AND AGREED:

E. C. COUCH BUILDER, INC.



David Couch
President
E.C. Couch Builder, Inc.

A COPY TESTE:
JUDY L. WORTHINGTON, CLERK
BY 
DEPUTY CLERK

June 13, 2013
Date

6-11-2013
Date

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF HAMPTON

COURTNEY M. MALVEAUX
Commissioner of Labor and Industry

Plaintiff,

v.

FOXCROFT, L.P., d/b/a
KENSINGTON SQUARE APARTMENTS,

Defendant.

)
)
)
)
)
)
) Civil Action No. CL13000876-00
)
)
)
)
)
)
)

AGREED FINAL ORDER

WHEREAS, on or about August 5, 2010, the Commissioner of Labor and Industry issued citations to the defendant, Foxcroft, L.P., doing business as Kensington Square Apartments (“Kensington”), alleging sixteen (16) serious and one non-serious violations of the Virginia Occupational Safety and Health Standards (VOSH) for General Industry, and proposing civil penalties of \$20,370.00, as set out in inspection number 314668260, issued by the Commissioner on August 5, 2010 (as attached to Complaint as Commissioner’s Exhibit A), and;

WHEREAS, Kensington filed within 15 working days from the date of the receipt of the citations, a written notice contesting the violations and proposed penalties, as provided for in § 40.1-49.4, of the *Code of Virginia*;

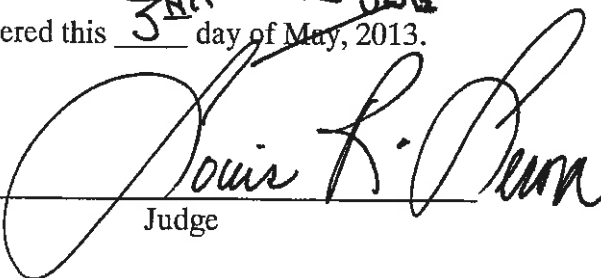
Upon agreement of the parties and for good cause shown, it is hereby ADJUDGED, ORDERED, and DECREED as follows:

1. That each of the violations are affirmed as issued, and the civil penalties are amended as follows:

- a. Citation 1, Item 1 is affirmed as a serious violation. The proposed penalty of \$2,100 is reduced to \$700;
- b. Citation 1, Item 2 is affirmed as a serious violation. The proposed penalty of \$630 is reduced to \$100;
- c. Citation 1, Item 3 is affirmed as a serious violation. The proposed penalty of \$2,100 is reduced to \$700;
- d. Citation 1, Item 4 is affirmed as a serious violation. The proposed penalty of \$1,050 is reduced to \$160;
- e. Citation 1, Item 5 is affirmed as a serious violation. The proposed penalty of \$2,100 is reduced to \$1,000;
- f. Citation 1, Item 6 is affirmed as a serious violation. The proposed penalty of \$840 is reduced to \$100;
- g. Citation 1, Item 7 is affirmed as a serious violation. The proposed penalty of \$1,050 is reduced to \$160;
- h. Citation 1, Item 8 is affirmed as a serious violation. The proposed penalty of \$840 is reduced to \$100;
- l. Citation 1, Item is 9 affirmed as a serious violation. The proposed penalty of \$840 is reduced to \$100;
- j. Citation 1, Item is 10 affirmed as a serious violation. The proposed penalty of \$840 is reduced to \$100;
- k. Citation 1, Item is 11 affirmed as a serious violation. The proposed penalty of \$840 is reduced to \$100;
- l. Citation 1, Item is 12 affirmed as a serious violation. The proposed penalty of \$840 is reduced to \$100;
- m. Citation 1, Item is 13 affirmed as a serious violation. The proposed penalty of \$1,050 is reduced to \$160;
- n. Citation 1, Item is 14 affirmed as a serious violation. The proposed penalty of \$2,100 is reduced to \$700;
- o. Citation 1, Item is 15 affirmed as a serious violation. The proposed penalty of \$1,050 is reduced to \$160;
- p. Citation 1, Item is 16 affirmed as a serious violation. The proposed penalty of \$2,100 is reduced to \$700;

- q. Citation 2, item 1 is upheld as a non-serious violation, with no penalty.
2. Kensington shall pay the total adjusted penalties of \$5,140 within thirty (30) days of the date of entry of this order. Payment shall be made by check or money order, payable to the Treasurer of Virginia, with VOSH inspection number 314668260 noted on the payment.
 3. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), Kensington shall post a copy of this order for ten (10) consecutive days at a conspicuous place or location where notices to its employees generally are posted.
 4. Kensington certifies that the affirmed violations referenced above in this Order were each corrected and abated.
 5. This Order is meant to settle the above contested claims, and is not to be considered an admission of liability of Kensington. Pursuant to *Va. Code* §40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the *Code of Virginia* shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party.
 6. Each party will bear its own costs in this matter.
 7. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall send a certified copy of this order to the Special Assistant Commonwealth's Attorney and to the Defendant's general partner John Mair.

Entered this 3rd day of June May, 2013.



Judge

We ask for this:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry



Alfred B. Albiston (VSB No. 29851)
Special Assistant Commonwealth's Attorney
Virginia Department of Labor & Industry
600 East Main Street, Ste. 200
Richmond, Virginia 23219
804.786.6760
804.786.8418 (fax)

I certify that the document to which
this authentication is affixed is a
true copy of an original record in
the Hampton Circuit Court, that I
have the custody of the record and I
am the custodian of that record.

Linda Batchelor Smith, Clerk

By 
Deputy Clerk

Seen and Agreed:

FOXCROFT, L.P., d/b/a
KENSINGTON SQUARE APARTMENTS



John B. Mair *VICE PRESIDENT*
~~General Partner for Foxcroft, LP~~ *KELLMAIR INC, GENERAL PARTNER FOR*
2534 E. Ocean View Avenue *FOXCROFT LP*
Norfolk, VA 23518
757.340.7035

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF SHENANDOAH

COURTNEY M. MALVEAUX,)
Commissioner of Labor and Industry,)
Plaintiff,)
v.) Civil Action No. CL13000124-00
)
MAGNATE, LLC)
)
Defendant.)

DEFAULT JUDGMENT

This cause came to be heard upon Commissioner COURTNEY M. MALVEAUX 's Motion for Default Judgment against Magnate, LLC, (Magnate) declaring that \$18,900.00 in proposed civil penalties arising from a contested Virginia Occupational Safety and Health (VOSH) citation, identified by VOSH Inspection Number 315462379 and as attached to the Commissioner's Complaint, be upheld.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process on the Defendant and that no responsive pleadings have been filed by the Defendant, nor has an appearance been made in this action on its behalf, it is therefore

ADJUDGED, ORDERED, and DECREED that Plaintiff be awarded judgment by default in this cause against the Defendant, affirming the citations and that Magnate be held liable for payment to the Commonwealth of Virginia of \$18,900.00 in civil penalties, arising from contested Virginia Occupational Safety and Health (VOSH) citations as set out in Inspection Number 315462379. It is also ADJUDGED, ORDERED, and DECREED that the Clerk of this Court shall strike this matter from the docket and place it among the ended chancery cases. The

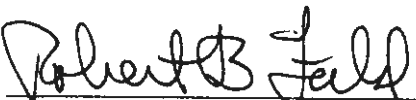
Clerk shall mail certified copies of this order to the Defendant's Owner/President, Darryl Bates at 3102 Headley Road, Maurertown, Virginia 22644 and to Courtney M. Malveaux, Commissioner of Labor and Industry, at 600 East Main Street, Suite 207, Richmond, Virginia 23219. Pursuant to *Rule 1:13*, endorsement by defense counsel shall be dispensed with.

~~JUDGE~~ DATE JUL 18 2013

ENTER: 

I ASK FOR THIS:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

By: 
Counsel

Robert B. Feild.
Special Assistant Commonwealth's Attorney
County of Shenandoah
600 East Main Street, Suite 207
Richmond, Virginia 23219
Phone 804-786-4777
Fax 804-786-8418

A True Copy Teste:
DENISE B. ESTEP, CLERK

By:  D.C.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

COURTNEY M. MALVEAUX)
Commissioner of Labor and Industry)

Plaintiff,)

v.)

PARTLOW'S TREE SERVICE CORPORATION)

Defendant.)

Civil Action No. 13-000257

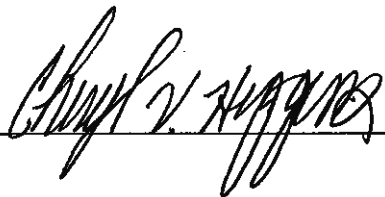
DEFAULT JUDGMENT

This cause came to be heard upon Commissioner COURTNEY M. MALVEAUX 's Motion for Default Judgment against Partlow's Tree Service Corporation, (Partlow's) declaring that \$28,500.00 in proposed civil penalties arising from a contested Virginia Occupational Safety and Health (VOSH) citation, identified by VOSH Inspection Number 315487678 and as attached to the Commissioner's Complaint, be upheld.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process on the Defendant and that no responsive pleadings have been filed by the Defendant, nor has an appearance been made in this action on its behalf, it is therefore

ADJUDGED, ORDERED, and DECREED that Plaintiff be awarded judgment by default in this cause against the Defendant, affirming that Partlow's Tree Service Corporation be held liable for payment to the Commonwealth of Virginia of \$28,500.00 in civil penalties, arising

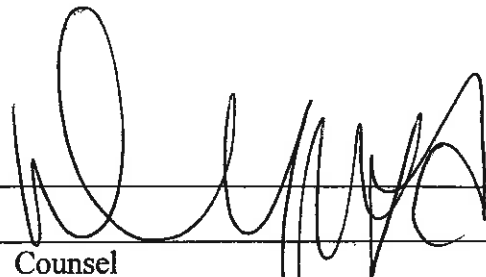
from contested Virginia Occupational Safety and Health (VOSH) citations as set out in Inspection Number 315487678. It is also ADJUDGED, ORDERED, and DECREED that the Clerk of this Court shall strike this matter from the docket and place it among the ended chancery cases. The Clerk shall mail certified copies of this order to the Defendant's registered agent, Wayne G. Scott, Jr., at P.O. Box 93, Brandy Station, Virginia 22714 and to Courtney M. Malveaux, Commissioner of Labor and Industry, at 600 East Main Street, Suite 207, Richmond, Virginia 23219. Pursuant to *Rule 1:13*, endorsement by defense counsel shall be dispensed with.

JUDGE: 

ENTER: 9.9.13

I ASK FOR THIS:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

By: 
Counsel

Denise Lunsford, Esq
Commonwealth's Attorney
County of Albemarle
410 East High Street
Charlottesville, Virginia 22902
434-972-4072, Fax 434-972-4093

a true copy TESTE:
DEBRA M. SHIPP, CLERK
by: 
Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF HOPEWELL

COURTNEY MALVEAUX, Commissioner)
of Labor and Industry,)
)
Plaintiff,)
)
v.)
)
REGIONAL ENTERPRISES, INC.,)
)
Defendant.)
_____)

Civil Action No. CL07-222

E#3428
309248425

FINAL ORDER

On September 25, 2012, the parties appeared by counsel and by their representatives for trial without a jury of all matters of law and fact. Upon consideration of the evidence heard *ore tenus*, the exhibits and argument of counsel, the Court is of the opinion that Plaintiff has not met his burden of proof and it is therefore ORDERED, ADJUDGED and DECREED that final judgment be entered for Defendant and this action be dismissed with prejudice.

ENTER: 2 08, 13



Judge

I ask for this:



C. Jay Robbins, IV (VSB No. 22847)

Midkiff, Muncie & Ross, P.C.

300 Arboretum Place, Suite 420

Richmond, Virginia 23236

(804) 560-9600

Counsel for Defendant

Seen and objected to:



Diane L. Duell (VSB No. 27285)

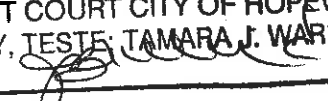
Special Assistant Commonwealth's Attorney

600 East Main Street, Room 207

Richmond, Virginia 23219

(804) 786-4289

Counsel for Plaintiff

CIRCUIT COURT CITY OF HOPEWELL
A COPY, TESTE: TAMARA J. WARD, CLERK
BY  D.C.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF HOPEWELL

COURTNEY MALVEAUX, Commissioner)
of Labor and Industry,)
)
Plaintiff,)
)
v.)
)
REGIONAL ENTERPRISES, INC.,)
)
Defendant.)

Civil Action No. CL07-223

E# 3446
309463461

FINAL ORDER

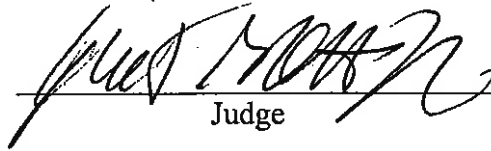
On September 27, 2012, the parties appeared by counsel and by their representatives for trial without a jury of all matters of law and fact. Before the presentation of evidence, Plaintiff vacated Citation 1, Item 1 (failure to provide respirators), and Citation 1, Item 4 (exposure to hydrogen sulfide gas).

The parties proceeded to trial on Citation 1, Item 2 (failure to evaluate respiratory hazards), and Citation 1, Item 3 (failure to perform confined space evaluation).

Upon consideration of the evidence heard *ore tenus*, the exhibits, argument and post-trial memoranda of counsel and for the reasons expressed in the Court's Memorandum Opinion of January 25, 2013, the Court is of the opinion that Defendant is not in violation of Citation 1, Item 2 (failure to evaluate respiratory hazards) and Citation 1, Item 3 (failure to perform confined space evaluation) and it is therefore ORDERED, ADJUDGED and DECREED that final judgment be entered for Defendant and this action be dismissed with prejudice.

4/2/13
R. [Signature]

ENTER: 4/2/13

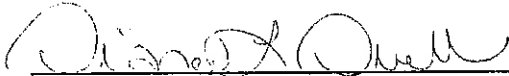

Judge

I ask for this:




C. Jay Robbins, IV (VSB No. 22847)
Midkiff, Muncie & Ross, P.C.
300 Arboretum Place, Suite 420
Richmond, Virginia 23236
(804) 560-9600
Counsel for Defendant

Seen and objected to:



Diane L. Duell (VSB No. 27285)
Special Assistant Commonwealth's Attorney
13 South 13th Street
Richmond, Virginia 23219-2430
(804) 786-4289
Counsel for Plaintiff

CIRCUIT COURT CITY OF HOPEWELL
A COPY, TESTE: TAMARA J. WARD, CLERK
BY  D.C.

4/2/13


FEB 5 '13 PM 9:07

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF ARLINGTON

**COURTNEY M. MALVEAUX, Commissioner of)
Labor and Industry,)**

Plaintiff,)

v.)

Civil Action No. CL09-951

**RUSSELL DODSON, D/B/A DODSON'S)
COMPLETE TREE SERVICE &)
LANDSCAPING,)**

Defendant.)

DEFAULT JUDGEMENT

This cause came to be heard upon Commissioner Courtney M. Malveaux's Motion for Default Judgement against Russell Dodson, D/B/A Dodson's Complete Tree Service & Landscaping (Dodson's), declaring that \$77,900.00 in proposed civil penalties arising from a contested Virginia Occupational Safety and Health (VOSH) citation, identified by VOSH Inspection Number 312332489 and as attached to the Commissioner's Complaint, be upheld.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process on the Defendant and that no responsive pleadings have been filed by the Defendant, nor has an appearance been made in this action on its behalf, it is therefore

ADJUDGED, ORDERED, and DECREED that Plaintiff be awarded judgment by default in this cause against the Defendant, affirming that Russell Dodson, D/B/A Dodson's Complete Tree Service & Landscaping be held liable for payment to the Commonwealth of Virginia of

\$77,900.00 in civil penalties, arising from contested Virginia Occupational Safety and Health (VOSH) citations as set out in Inspection Number 312332489. It is also ADJUDGED, ORDERED, and DECREED that the Clerk of this Court shall strike this matter from the docket and place it among the ended chancery cases. The Clerk shall mail certified copies of this order to the Defendant's address at 9183 Carver School Lane, Rapidan, VA 22733 and to Courtney M. Malveaux, Commissioner of Labor and Industry, at 600 East Main Street, Suite 207, Richmond, Virginia 23219. Pursuant to *Rule* 1:13, endorsement by defense counsel shall be dispensed with.

JUDGE:

Gillian J. Hume

ENTER:

May 25th, 2013

I ASK FOR THIS:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

By:

Robert B. Feild

Counsel

Robert B. Feild (VSB # 23864)
Special Assistant Commonwealth's Attorney
County of Arlington
600 East Main Street, Suite 207
Richmond, Virginia 23219
804-786-4777, Fax 786-8418



VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

COURTNEY M. MALVEAUX)
 Commissioner of Labor and Industry,)
Plaintiff,)
 v.)
 SALMONS, INC.)
Defendant.)

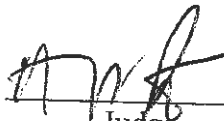
Civil Action No. CL11-1365

313998452

ORDER

This matter came before the Court on Commissioner Courtney M. Malveaux's ("Commissioner") Motion for Nonsuit as a matter of right pursuant to Va. Code § 8.01-380, and IT APPEARING that on March 1, 2011, the Commissioner filed a complaint against Salmons, Inc., that no nonsuit has been taken to this cause, and that the defendant, Salmons, Inc., has not filed a cross-claim, it is therefore ADJUDGED, ORDERED AND DECREED that the Commissioner's motion is GRANTED and that this matter be and hereby is nonsuited without prejudice as a matter of right pursuant to Va. Code § 8.01-380, it is FURTHERMORE ORDERED that the Clerk will strike this matter from the docket of this Court, place it among the ended chancery cases, and shall send an attested copy of this Order to both parties.

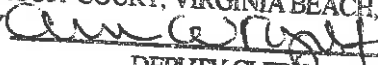
Enter:



 Judge

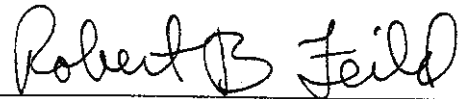
Date:

4-22-2013

CERTIFIED TO BE A TRUE COPY
 OF RECORD IN MY CUSTODY
 TINA E. SINNEN, CLERK
 CIRCUIT COURT, VIRGINIA BEACH, VA
 BY 
 DEPUTY CLERK

I ask for this:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

A handwritten signature in cursive script that reads "Robert B Feild". The signature is written in black ink and is positioned above a horizontal line.

Counsel

Robert B. Feild (VSB# 23864)
Special Assistant Commonwealth's Attorney
600 East Main Street, Suite 207
Richmond, VA 23219-4101
804-786-4777, Fax 804-786-8418

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

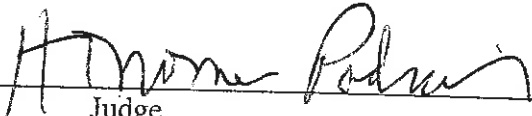
COURTNEY M. MALVEAUX)
 Commissioner of Labor and Industry,)
Plaintiff,)
 v.)
 SALMONS SPECIALIZED HAULING, INC.)
Defendant.)

Civil Action No. CL11-1366
 314423658

ORDER

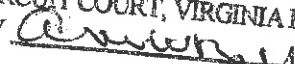
This matter came before the Court on Commissioner Courtney M. Malveaux's ("Commissioner") Motion for Nonsuit as a matter of right pursuant to Va. Code § 8.01-380, and IT APPEARING that on December 15, 2011, the Commissioner filed a complaint against Salmons Specialized Hauling, Inc., that no nonsuit has been taken to this cause, and that the defendant, Salmons Specialized Hauling, Inc., has not filed a cross-claim, it is therefore ADJUDGED, ORDERED AND DECREED that the Commissioner's motion is GRANTED and that this matter be and hereby is nonsuited without prejudice as a matter of right pursuant to Va. Code § 8.01-380, it is FURTHERMORE ORDERED that the Clerk will strike this matter from the docket of this Court, place it among the ended chancery cases, and shall send an attested copy of this Order to both parties.

Enter:


 Judge

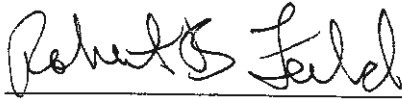
Date:

4-22-2013

CERTIFIED TO BE A TRUE COPY
 OF RECORD IN MY CUSTODY
 TINA E. SINNEN, CLERK
 CIRCUIT COURT, VIRGINIA BEACH, VA
 BY 
 DEPUTY CLERK

I ask for this:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

A handwritten signature in cursive script that reads "Robert B. Feild". The signature is written in black ink and is positioned above a horizontal line.

Counsel

Robert B. Feild (VSB# 23864)
Special Assistant Commonwealth's Attorney
600 East Main Street, Suite 207
Richmond, VA 23219-4101
804-786-4777, Fax 804-786-8418

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

COURTNEY MALVEAUX,
Commissioner of Labor & Industry

Plaintiff,

v.

T. R. DRISCOLL, INC.,

Defendant.

)
)
)
)
)
)
)
)
)
)

Case No. CL-1100319V-04

AGREED ORDER

Upon agreement of the parties and for good cause shown, it is hereby ORDERED,
ADJUDGED, and DECREED as follows:

1. In settlement of the matters alleged in this action, the citation attached to the
Complaint is hereby amended as follows:

- a. Citation 1, Item 1, remains serious as cited. The assessed penalty of \$1260.00 is reduced to \$0;
- b. Citation 1, Item 2, remains serious as cited. The assessed penalty of \$1260.00 is reduced to \$0;
- c. Citation 1, item 3, remains serious as cited. The assessed penalty of \$2100.00 is reduced to \$0;
- d. Citation 1, Item 4 remains serious as cited. The assessed penalty of \$1260.00 is reduced to \$0;
- c. Citation 1, item 5, remains serious as cited. The assessed penalty of \$4200.00 is reduced to \$0; and
- d. Citation 2, item 1, remains willful as cited. The assessed penalty of \$15,000 is reduced to \$0.

2. As further consideration for the modification of the terms of the original citation,

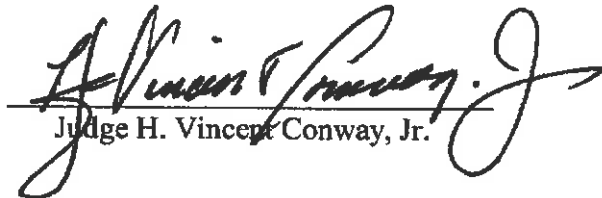
T. R. Driscoll, Inc., agrees to withdraw its original notice of contest and waives its right to

contest the remaining terms contained in this Order.

3. This Order is meant to settle the above contested claims, and is not to be considered an admission of liability by T. R. Driscoll, Inc. Pursuant to Va. Code §40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the Code of Virginia shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party. This Order may be used for future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia.

4. The Clerk shall strike this matter from the docket of this Court, place it among the ended civil cases, and shall send an attested copy of this Order to counsel for the plaintiff and the pro se defendant.

Entered this 12th ~~November~~ ^{December} day of ~~November~~, 2013.


Judge H. Vincent Conway, Jr.

WE ASK FOR THIS:

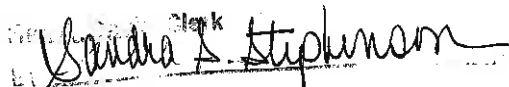
Courtney Malveaux,
Commissioner of Labor and Industry

By: 

Diane L. Duell (VSB No. 27285)
Special Assistant Commonwealth's Attorney
600 East Main Street, Suite 207
Richmond, Virginia 23219
804.786.4289
804.786.8418 (fax)
diane.duell@doli.virginia.gov

I certify that the documents to which this authentication is affixed are true copies of a record in the Newport News Circuit Court, custody of the record and that today of that record.

Page 2

Clerk


SEEN AND AGREED:

By: 

Stuart Driscoll

P.O. Box 1549

Lumberton, North Carolina 28359

103 Greenock Place

Lumberton, North Carolina 28358

Pro Se Defendant

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ROCKBRIDGE

COURTNEY M. MALVEAUX)
Commissioner of Labor and Industry)
)
<i>Plaintiff,</i>)
)
v.)
)
	) Civil Action No. CL12-257
)
UGO BENINCASA, D/B/A)
ROBERT E. LEE PROPERTY, LLC.)
)
)
<i>Defendant.</i>)

ORDER

This matter came before the Court on Commissioner Courtney M. Malveaux’s (“Commissioner”) Motion for Nonsuit as a matter of right pursuant to Va. Code § 8.01-380, and IT APPEARING that on November 20, 2012, the Commissioner filed a complaint against Ugo Benincasa, d/b/a Robert E. Lee Property, LLC, that no nonsuit has been taken to this cause, and that the defendant, Ugo Benincasa, d/b/a Robert E. Lee Property, LLC, has not filed a cross-claim, it is therefore ADJUDGED, ORDERED AND DECREED that the Commissioner’s motion is GRANTED and that this matter be and hereby is nonsuited without prejudice as a matter of right pursuant to Va. Code § 8.01-380, it is FURTHERMORE ORDERED that the Clerk will strike this matter from the docket of this Court, place it among the ended chancery cases, and shall send an attested copy of this Order to both parties.

Enter:

MJ

Judge

Date:

January 22, 2013

I ask for this:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

Robert B. Feild

Robert B. Feild (VSB# 23864)

Special Assistant Commonwealth's Attorney

600 East Main Street, Suite 207

Richmond, VA 23219

804-786-4777, Fax 804-786-8418

A COPY TESTE:

D. BRUCE PATTERSON, CLERK

ROCKBRIDGE COUNTY CIRCUIT COURT

BY: [Signature] DEPUTY CLERK

COURTNEY M. MALVEAUX
Commissioner of Labor and Industry

ROBERT E. LEE PROPERTY, LLC,
Inspection Number 316230457

SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into by the Commonwealth of Virginia, Commissioner of Labor and Industry (Commissioner) and Robert E. Lee Property, LLC (Employer).

WHEREAS, on or about January 12, 2012, the Commissioner issued citations to the Employer alleging two serious violations of the Virginia Occupational Safety and Health (VOSH) Standards for General Industry and assessing a \$1,050.00 proposed penalty (copy of citation attached);

WHEREAS, the Employer filed a notice of contest of all violations and penalties contained in the citation within 15 working days from the date of the receipt of the citations, as provided by §40.1-49.4 of the Code of Virginia; and

WHEREAS, the parties want to settle this case short of litigation in a way that will further, protect and promote the safety and health of the employees of the Employer and avoid the time and expense of litigation without any admission of guilt or culpability on the part of the Employer;

NOW, THEREFORE, the parties agree to the following:

TERMS AND CONDITIONS OF AGREEMENT

1. Upon full execution of the agreement the Commissioner will modify the citations and penalties as follows:
 - a. Serious Citation 1, Item 1 is affirmed with a reduced penalty of 262.50
 - b. Serious Citation 1, Item 2 is reduced in classification to other than serious affirmed with a reduced penalty of \$262.50.

This monetary amendment will be made, provided the Employer complies with requirements listed in paragraphs 2 and 3 below.

2. The Employer will pay the assessed negotiated sum as follows:

The Employer, upon execution of this settlement agreement, will pay to the Commonwealth **\$525.00** in payment of the penalty for the above citations. The Employer will **make the checks or money orders payable to the "Treasurer of Virginia," with the VOSH inspection number noted on the payment.**

3. The Employer will post a copy of this settlement agreement for ten (10) days at each work site in Virginia in a conspicuous location where it generally posts notices to its employees.
4. Unless otherwise provided in this agreement, the negotiated sum under this agreement is due and payable within 30 calendar days of the effective date of this agreement. It is expressly understood that any modifications to citation classification or negotiated sum, or any vacating of a citation or negotiated sum in lieu of such penalty in this agreement are contingent upon the Employer's full payment of the negotiated sum due. Failure by the Employer to substantially comply with the terms of this agreement or to pay the negotiated sum by the due date constitutes a breach of this agreement. Any breach shall mean that all originally proposed citations and penalties shall be reinstated and affirmed as a final order of the Commissioner, and all unpaid amounts shall become due and payable 15 calendar days following the breach.
5. As consideration for the modification of the terms of the original citations, the Employer agrees to withdraw its original notice of contest filed with respect to the above-styled case and waives its right to contest the remaining terms contained in this agreement. **If not already provided**, the Employer agrees to provide to the Commissioner within thirty (30) days of the effective date of this agreement documentation verifying abatement of each violation affirmed in this agreement. The documentation shall comply with §307.E.2. of the Virginia Occupational Safety and Health (VOSH) Administrative Regulations Manual, which states that "Documents demonstrating that abatement is complete may include, but are not limited to, evidence of purchase or repair of equipment, photographic or video evidence of abatement, or other written records." The documentation shall be provided to:

Paul Saunier
Compliance Manager
Roanoke Regional Office
3013 Peters Creek Road
Roanoke, VA 24019

6. This agreement settles the above contested claims. Under Va. Code §40.1-51.3:2. The fact of an issuance of a citation under Chapter 3 of Title 40.1 of the Code of Virginia will not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party. This agreement may

be used for future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia.

7. Except for this agreement and matters arising out of this agreement, and any subsequent VOSH proceedings between the parties, nothing in this agreement nor any foregoing statements, findings or actions taken by the Employer shall be deemed an admission by the Employer of the allegations of the citation, said allegations having been specifically denied. The agreements, statements, findings and actions taken herein are made for the purpose of compromising and settling this matter economically and amicably, and they shall not be used for any other purpose whatsoever, except as herein stated.
8. The citations and penalty, as modified above, and any new obligations contained in this agreement, are a final order of the Commissioner of Labor and Industry. The Employer certifies that the violations alleged in this agreement have been corrected and abated.

ROBERT E. LEE PROPERTY, LLC

By: *Ugo Benincasa*
Ugo Benincasa
Principal

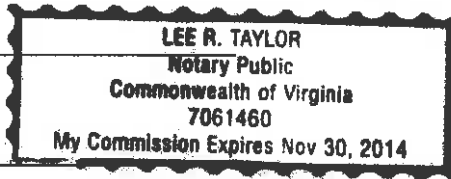
1-7-13
Date

State of Virginia, AT LARGE, to wit:

The foregoing instrument was acknowledged before me this 7th day of January, 2013, by Ugo Benincasa, Principal of Robert E. Lee Property, LLC.

Lee R. Taylor
Notary Public

My commission expires:



Commission Number:

**COURTNEY M. MALVEAUX,
COMMISSIONER OF LABOR AND INDUSTRY**

By: Ronald L. Graham
Ronald L. Graham, Director
Division of Occupational Health Compliance

1/14/13
Date

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF LOUDOUN

COURTNEY M. MALVEAUX)	
Commissioner of Labor and Industry)	
)	
<i>Plaintiff,</i>)	
)	
v.	)	Civil Action No. CL00079397-00
)	
UNITED AIR LINES, INC.)	
)	
<i>Defendant.</i>)	

AGREED FINAL ORDER

WHEREAS, on or about September 15, 2011, Courtney M. Malveaux, Commissioner of Labor and Industry (Commissioner) issued a citation to the defendant, United Air Lines, Inc. (United Air), alleging two Serious violations of Virginia Occupational Safety and Health (VOSH) law and regulations, and proposing civil penalties of \$9,275.00; and

WHEREAS, United Air filed within 15 working days from the date of the receipt of the citation, a written notice contesting the violations and proposed penalties, as provided for in §40.1-49.4, of the *Code of Virginia*;

Upon agreement of the parties and for good cause shown, it is hereby ADJUDGED, ORDERED, and DECREED as follows:

1. That the two violations and proposed civil penalties are amended as follows:
 - a. Citation 1, Item 1 and the proposed penalty of \$7,000.00 are vacated;
 - b. Citation 1, Item 2 is amended as described in Agreed Order Appendix A (attached), and is affirmed in amended form as a serious violation. The originally proposed penalty of \$2,275.00 is amended to \$7,000.00;
2. United Air shall pay the amended total penalty of \$7,000.00 within thirty (30) days of the

date of entry of this order. Payment shall be made by check or money order, payable to the Treasurer of Virginia, with VOSH inspection number 315456699 noted on the payment.

3. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), United Air shall post a copy of this order for ten (10) consecutive days at United's workplace at the Dulles International Airport, at a conspicuous place or location where notices to its employees generally are posted.

4. As described in Agreed Order Attachment B (attached), United Air certifies that the affirmed violation, as amended and referenced above in this Order, has been corrected and abated.

5. This Order is meant to settle the above contested claims, and is not to be considered an admission of liability of United Air. Pursuant to *Va. Code* §40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the *Code of Virginia* shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party.

6. Nothing in this order shall be construed to restrict in any way the Commissioner's right to issue citations to United Air or any other employer in future Virginia Occupational Safety and Health (VOSH) inspections for *Va. Code* §40.1-51.1(a) or the *VOSH Standards for General Industry*, for the same or similar fact situations that were the basis for the violations as originally issued to United Air in this case.

7. Nothing in this order shall be construed to restrict in any way United Air's right in future Virginia Occupational Safety and Health (VOSH) inspections to argue the inapplicability of *Va. Code* §40.1-51.1(a) or the *VOSH Standards for General Industry* to the same or similar fact situations that were the basis for the violations as originally issued to United Air in this case.

8. Each party will bear its own costs in this matter.

9. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall send a certified copy of this order to the Special Assistant Commonwealth's Attorney and the Defendant's counsel.

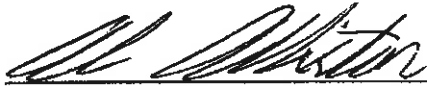
Entered this 14 day of ^{AUG} July, 2013.



Judge

We ask for this:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry



Alfred B. Albiston (VSB No. 29851)
Special Assistant Commonwealth's Attorney
Virginia Department of Labor & Industry
600 East Main Street, Ste. 200
Richmond, Virginia 23219
804.786.6760
804.786.8418 (fax)

Counsel for Plaintiff

Seen and Agreed:

UNITED AIR LINES, INC.

C. Michael DeCamps

C. Michael DeCamps (VSB No. 15066)
Stephen E. Baril (VSB No. 19604)
Sands Anderson PC
Bank of America Center
1111 East Main Street, Ste. 2400 (23219)
P. O. Box 1998
Richmond, VA 23218
804.648.1636
804.783.7291 (fax)

Lawrence P. Postol
Seyfarth Shaw, LLP
975 F Street, NW
Washington, DC 20004
202.828.5385
202.641.9186 (fax)

Counsel for Defendant

A COPY-TESTE
Gary M. Clemens, Clerk
By *Robert J. [Signature]*
Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF LOUDOUN

COURTNEY M. MALVEAUX)	
Commissioner of Labor and Industry)	
<i>Plaintiff,</i>)	
)	
v.	)	Civil Action No. CL00079397-00
)	
UNITED AIR LINES, INC.)	
<i>Defendant.</i>)	

AGREED ORDER ATTACHMENT A

Relating to VOSH Inspection Number 315456699, new violation description of Citation 1, Item 2, as amended:

1910.145(c)(3): The employer, United Air Lines, Inc., did not ensure safety instruction signs were used where there is a need for general instructions relative to safety measures.

At Washington Dulles International Airport, the FMC Commander Container/Pallet Loader, serial CR96034, identification number CL348, during opening and closing operations of the cargo doors of a Boeing 777 airplane to unload cargo from the airplane, was not equipped with a safety instruction sign on the folding wing, instructing the operator to secure the folding wing locks before use. Operators were exposed to fall hazards and struck-by hazards if the bridge of the unit was elevated with the folding wing up and not fully secured by the manual latch/lock bar and spring-loaded latch pin.

On April 1, 2011, an employee was fatally injured when he fell approximately 8' 4" off of the folding wing/wing extension between the front of the loader's bridge platform and the left

rear cargo door of the airplane. Ground clearance data for the Boeing 777 reveals the ground clearance can vary between approximately 127" and 134" for the Aft Cargo Compartment. Based on the above measurements, the bridge of the container/pallet loader was lowered between approximately 27" and 34" below the doorsill of the cargo door at the time of the accident.

The loader is equipped with two large platforms, which are operated independently by scissor lifts. The platform closest to the airplane cargo door is referred to as the bridge. The bridge can be tilted to reach a cargo door independently of the scissor lift mechanism. The operator maneuvers the loader from an operator's station which is provided with a guard rail. The loader is equipped with a folding wing/wing extension at the front of the bridge, which is designed to line up with base of the cargo door so that large containers and pallets can be unloaded from the airplane. Because different model airplanes can have cargo doors of different widths, the folding wing/wing extension is adjustable in either an up or down position. When in the "up" position, the folding wing/wing extension allows the loader to accommodate a wider cargo door, and when in the "down" position it accommodates a narrower cargo door. When in the "up" position, the folding wing/wing extension is held in place by a manual latch/lock bar that slides from the bridge and is held in place by a spring-loaded latch pin that fits into a detent located in the manual latch/lock bar.

When the scissors supporting the bridge are fully lowered and the tilt feature is fully lowered at the front, the folding wing/wing extension comes to rest on a fixed roller stop. The roller stop holds the folding wing/wing extension in the "up" position, level with the bridge and allows the manual latch/lock bar to freely move under the folding wing/wing extension, because there is no downward pressure on the manual latch/lock bar from the tilt feature. Adjustment of the manual latch/lock bar is completed from the ground.

If the scissors supporting the bridge are not fully lowered or the tilt feature is not fully lowered at the front, the manual latch/lock bar may not freely move under the folding wing/wing extension. It is possible for the manual latch/lock bar to be partially under the folding wing/wing extension, with the spring-loaded latch pin not engaged in the detent, and provide enough support to hold the folding wing/wing extension up when the bridge is lifted. If this condition occurs, the folding wing/wing extension can fall to the down position if the manual latch/lock bar travels towards the rear position while the bridge is elevated.

a. The investigation revealed that a near miss accident occurred on April 24, 2010, when an operator stepped from an elevated bridge onto a folding wing/wing extension and it collapsed causing him to be caught between the folding wing/extension wing and the side of the plane. As a result of the April 24, 2010, accident, the employer added a yellow line on the manual latch/lock bar and the frame to assist operators in determining whether the manual latch/lock bar is fully under the folding wing/wing extension and the spring loaded latch pin is lined up with detent in the manual latch/lock bar.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF LOUDOUN

COURTNEY M. MALVEAUX)	
Commissioner of Labor and Industry)	
<i>Plaintiff,</i>)	
)	
v.	)	Civil Action No. CL00079397-00
)	
UNITED AIR LINES, INC.)	
<i>Defendant.</i>)	

AGREED ORDER ATTACHMENT B

Described abatement measures by United Air relating to Citation 1, Item 2, as amended:

As an immediate measure, as of April 8, 2011, all of United Air's cargo loaders system-wide were inspected to ensure the wing extension was properly functioning, including the "locking arm" for setting the wing. As an intermediate measure, a secondary lock feature was installed on all cargo loaders, thereby providing additional assurance the locking arm was properly engaged (completed May 26, 2011). As a permanent measure, a hydraulic piston controlling the wing was installed on all cargo loaders system-wide, along with an indicator observable while on top of the cargo loader. The order for the hydraulic wing pistons was placed April 8, 2011, the majority of installation was installed by July 31, 2011, and all installations were completed by September 30, 2011 (except for the loader involved in the April 1, 2011, incident, which will be upgraded prior to being put back into service).

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

COURTNEY M. MALVEAUX,)
 Commissioner of Labor and Industry,)
)
) *Plaintiff,*)
 v.)
)
 VICO CONSTRUCTION CORPORATION,)
)
) *Defendant.*)

Civil Action No. CL13000736-00

AGREED FINAL ORDER

WHEREAS, on or about March 22, 2011, plaintiff Commissioner of Labor and Industry (“Commissioner”) issued citations to the defendant, Vico Construction Corporation (“Vico”), alleging one Willful and one serious violation of the Virginia Occupational Safety and Health Standards (VOSH) for the Construction Industry, and proposing civil penalties of \$41,680.00; and

WHEREAS, Vico filed within 15 working days from the date of the receipt of the citation, a written notice contesting the violations and proposed penalties, as provided for in § 40.1-49.4, of the *Code of Virginia*;

Upon agreement of the parties and for good cause shown, it is hereby ADJUDGED, ORDERED, and DECREED as follows:

- 1. That each of the violations and civil penalties are amended and affirmed as follows:
 - a. Citation 1, Item 1 is amended from serious to an other than serious violation. The proposed penalty of \$1,680 is reduced to \$0;
 - b. Citation 2, Item 1 is affirmed as a willful violation. The proposed penalty of \$40,000 is provisionally reduced to \$12,500 pursuant to conditions set out below.

2. Within one week of the entry of this Agreed Order, Vico will pay to the Commonwealth \$4,167.00 in partial payment of the penalties assessed for the above citations. Payment shall be presented to any office of the Department of Labor and Industry, in the form of a check or money order, payable to the Treasurer of Virginia, with the VOSH inspection number (314716259) noted on the instrument. Within thirty (30) days of this Order's entry, a second payment of \$4,167.00 shall be presented the Commissioner in similar fashion. Within sixty (60) days of this Order's entry, a third and final payment of \$4,166.00 shall be presented the Commissioner in similar fashion.

3. Vico shall require each lead person or foreman it currently employs to attend an OSHA approved 30-Hour Construction Industry Outreach Training Program within one hundred twenty (120) days of the execution of this Agreed Order. At the end of this 120 day period, Vico shall forward all Student Completion Cards, or other certification of such completed training to: Jeannie Buckingham, VOSH Safety Director, Department of Labor and Industry, 6363 Center Drive, Suite 101, Norfolk, VA 23502, with VOSH inspection number 315176867 noted on the correspondence. Vico will also require any lead person or foreman hired or promoted in the next two years to attend this same training, within sixty (60) days of their hiring.

4. Should Vico, between the entry of this Order and one year from the entry of this Order, fail to provide for and/or report any of the safety training requirements agreed to in this Order, then it will owe and pay within 10 days of written demand, \$10,000.00 as additional penalty for Citation 2, Item 1. If, however, Vico has satisfied all the requirements described above, then Vico's provisional obligation to pay any additional penalty will cease, and that provisional penalty amount will be waived.

5. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), Vico shall post a copy of this order for ten (10) consecutive days at a conspicuous place or location where notices to its

employees generally are posted.

6. Vico certifies that the affirmed violations referenced above in this Order were corrected and abated.

7. This Order is meant to settle the above contested claims, and is not to be considered an admission of liability by Vico. Pursuant to *Va. Code* §40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the Code of Virginia shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party.

6. Each party will bear its own costs in this matter.

7. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall send a certified copy of this Order to the Special Assistant Commonwealth's Attorney and to the Defendant at their addresses provided below.

Entered this 23rd day of September, 2013.



Judge

CERTIFIED TO BE A TRUE COPY
OF THE RECORD IN MY CUSTODY,
FAYE W. MITCHELL, CLERK
CIRCUIT COURT, CHESAPEAKE, VA.
BY: Karen M. Holland
DEPUTY CLERK

We ask for this:

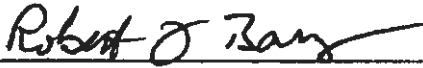
COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry



Alfred B. Albiston (VSB No. 29851)
Special Assistant Commonwealth's Attorney
City of Chesapeake
600 East Main Street. Ste. 207
Richmond, Virginia 23219
804.786.6760
804.786.8418 (fax)
albiston.alfred@dol.gov

Seen and Agreed:

VICO CONSTRUCTION CORPORATION



Robert J. Barry
Legal counsel for Vico Construction Corporation
Kaufman & Canoles, P.C.
P. O. Box 3037
Norfolk, VA 23514-3037
757.624.3268
757.624.3169 (fax)
rjbarry@kaufcan.com

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF HENRICO

WILLIAM P. BURGE,)	
Commissioner of Labor and Industry,)	
)	
Plaintiff,)	
)	
v.	)	Chancery No. CL11-2867
)	
WILLIAM FORKEY d/b/a WILLIAM'S)	
LANDSCAPING & TREE SERVICE)	
)	
Defendant.)	

DEFAULT JUDGEMENT

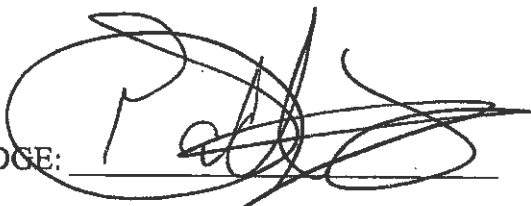
This cause came to be heard upon Commissioner William P. Burge's Motion for Default Judgment against William Forkey d/b/a Williams' Landscaping & Tree Service declaring that \$15,400.00 in proposed civil penalties arising from a contested Virginia Occupational Safety and Health (VOSH) citation, identified by VOSH Inspection Number 314421249 and as attached to the Commissioner's Complaint, be upheld.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process on the Defendant and there has been no answer filed, it is therefore

ADJUDGED, ORDERED, and DECREED that Plaintiff be awarded judgment by default in this cause against the Defendant, affirming that William Forkey d/b/a William's Landscaping & Tree Service be held liable for payment to the Commonwealth of Virginia of \$15,400.00 in civil penalties, arising from contested Virginia Occupational Safety and Health (VOSH) citations as set out in


Inspection Number 314421249.

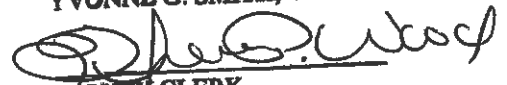
It is also ADJUDGED, ORDERED, and DECREED that the Clerk of this Court shall strike this matter from the docket and place it among the ended cases. The Clerk shall mail certified copies of this order to the Defendant at 864 Seville Road, Madison, Virginia 22727-2669 and to William P. Burge, Commissioner of Labor and Industry at 600 East Main Street, Suite 207, Richmond, Virginia 23219. Pursuant to *Rule* 1:13 endorsement by defense counsel shall be dispensed with.

JUDGE: 
ENTER: 12-13-2013

I ASK FOR THIS:

WILLIAM P. BURGE
Commissioner of Labor and Industry

By: 
Robert B. Feild (VSB # 23864)
Special Assistant Commonwealth's Attorney
Department of Labor and Industry
600 East Main Street, Suite 207
Richmond, Virginia 23219
Telephone: 804-786-4777
Facsimile: 804-371-6524

A COPY TESTE:
YVONNE G. SMITH, CLERK

DEPUTY CLERK