

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

VOLUME XV
JULY 1, 1993 - JUNE 30, 1994



The Virginia Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, Virginia 23219

PREFACE

This publication contains the orders of the Virginia General District and Circuit Courts in contested cases from July 1, 1993, through June 30, 1994, arising under Title 40.1 of the Code of Virginia, 1950, as amended. The Department of Labor and Industry is responsible for publishing the final orders by virtue of §40.1-49.7 which states, "The Commissioner of Labor shall be responsible for the printing, maintenance, publication and distribution of all final orders of the General District and Circuit Courts. Every Commonwealth's Attorney's office shall receive at least one copy of each such order (1979, C. 354)."

The Table of Contents provides an alphabetical listing of the reported cases for the fiscal year. Reference is made to Title 29 of the Code of Federal Regulations, Parts 1910 and 1926. These regulations were adopted by the Virginia Safety and Health Codes Board pursuant to section 40.1-22 of the Code of Virginia, as amended.

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VIRGINIA

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

CAROL A. AMATO, Commissioner of)	
Labor and Industry,)	
)	
Plaintiff,)	
)	
v.)	Chancery No. 129918
)	
B & W EXCAVATING AND LAND)	
CLEARING COMPANY,)	
)	
Defendant.)	

AGREED ORDER

Comes now Carol Amato, the Commissioner of Labor and Industry, (Commissioner), by counsel, and the B & W Excavating and Land Clearing Company, Inc., (B & W Excavating) in order to provide for the safety, health and welfare of B & W Excavating's employees and to conclude this matter without the necessity for further litigation, and represent that this case is settled in accordance with the attached agreement.

WHEREFORE, upon the agreement of the parties and for good cause shown, it is hereby ORDERED that the Virginia Occupational Safety and Health Citations issued to the Defendant are AFFIRMED and become a final order of this Court in accordance with Code § 40.1-49.4.E (1992 Suppl.).

The Clerk shall mail certified copies of this Agreed Order to the parties listed below, and to the Commissioner of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219.

Enter: Marcus D. Williams
Judge

March 11, 1994
Date

We ask for this:

CAROL A. AMATO, Commissioner
of Labor and Industry

By: John R. Murphy
John R. Murphy
Assistant Commonwealth's Attorney
Courthouse
4110 Chain Bridge Road
Room 123
Fairfax, VA. 22030-4047

Seen and Agreed:

B & W EXCAVATING AND LAND CLEARING COMPANY

By: James R. Tate, Esq.
James R. Tate, Esq. (VSB # 6341)
Attorney for B & W Excavating and Land Clearing Company.
TATE & BYWATER, LTD.
2740 Chain Bridge Road
Vienna, Virginia 22181
(703) 938-5100

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

CAROL A. AMATO, Commissioner of)	
Labor and Industry,)	
)	
Plaintiff,)	
v.)	Chancery No. CH93-33102
)	
G. L. WILSON BUILDING COMPANY,)	
)	
Defendant.)	

AGREED ORDER

Comes now the Commissioner of Labor and Industry (Commissioner) by counsel, Jennifer T. Stanton, Assistant Commonwealth's Attorney, and the G. L. Wilson Building Company (Employer), in order to provide for the health, safety, and welfare of defendant's employees and to conclude this matter without the necessity for further litigation, do stipulate and agree as follows.

TERMS AND CONDITIONS OF AGREEMENT

1. The parties are before this Court pursuant to Virginia Code § 40.1-49.4.E (1992 Supp.), to be heard on Employer's contest of certain Virginia Occupational Safety and Health (VOSH) Violations and Proposed Penalties, arising from inspection number 112395355, and issued to Employer by Commissioner on January 21, 1993, (copy of the citations attached). This case was brought before this Court pursuant to Code § 40.1-49.4.E, establishing jurisdiction effective July 1, 1992. The citation alleged the following Serious violations of VOSH Standards for the

Construction Industry:

- a. **§ 1926.28(a)** - Employees were working from girders erected 24 feet above the ground without wearing safety belts, lanyards, or other fall protection devices. Penalty \$1,500.00.
- b. **§ 1926.100(a)** - Employees were observed receiving steel girders from a crane hook without wearing hard hats. Penalty \$525.00.
- c. **§ 1926.701(b)** - A row of unprotected rebar rising 26 inches from the ground were observed underneath employees who were working from girders 24 feet overhead. Penalty \$375.00.
- d. **§ 1926.706(b)** - A 24 feet high masonry wall was observed standing without bracing. Penalty \$375.00.
- e. **§ 1926.1051(a)** - An access ladder was not provided for egress from the girders erected at an elevation of 24 feet. Penalty \$375.00.

TOTAL PROPOSED PENALTY \$3,150.00.

2. The above citation is amended by agreement as follows:

- a. Serious Citation 1, item 1 is affirmed with a penalty of \$750.00.
- b. Serious Citation 1, item 2 is affirmed with a penalty of \$262.50.
- c. Serious Citation 1, item 3 is affirmed with a penalty of \$187.50.
- d. Serious Citation 1, item 4 is affirmed with a penalty of \$187.50.
- e. Serious Citation 1, item 5 is affirmed with a penalty of \$187.50.

TOTAL AGREED PENALTY \$1,575.00.

3. In accordance with Title 40.1 of the Code of Virginia, and in consideration of the actions of the Commissioner regarding the instant citation, Employer agrees to pay and judgment is hereby entered for \$1,575.00 in lieu of the penalties originally proposed in the citation. The total penalty due is to be remitted to the Department of Labor and Industry within fifteen (15) days

after entry of this Order.

4. The Employer withdraws its original notice of contest filed with respect to the above-styled case and waives its right to contest the terms contained in this agreement.

EMPLOYEE SAFETY PROGRAM

I. DEVELOPMENT AND IMPLEMENTATION OF A WRITTEN PROGRAM

5. Within three months of the effective date of this Settlement Agreement the Employer shall develop, implement and maintain a written safety program (or revise any such existing program) which establishes policies and procedures for recognizing and protecting employees from safety and health hazards. This program, at a minimum, shall address the following subjects:

- (a) management commitment to safety and a mechanism for employee involvement;
- (b) worksite analysis;
- (c) hazard recognition, prevention and control; and
- (d) safety and health training.

This Safety program shall emphasize hazard prevention and control. An essential component of this program shall be that hazards which are detected must be corrected in a timely and reasonable manner.

6. The Employer shall make the safety and health of their employees one of its top corporate priorities and require all management and supervisory personnel to treat the subject accordingly.

7. The safety program shall list and discuss the respective responsibilities of management and supervisors, lead persons and field employees with respect to safety on the worksite.

Authority and responsibilities must be given to supervisors and lead persons for the enforcement of safety rules. The safety officer and job superintendents must have authority delegated to them

by management to issue internal employer citations, or reports, for violations of safety and health rules. Additionally, this must include the authority to halt unsafe work which is likely to cause injury or death, when it is observed by them on the jobsite.

8. The Employer shall also initiate within the written safety program, an internal system of enforcement of the Employer's and Virginia's safety and health rules and regulations, which provides for progressively severe internal penalties culminating in the option of removal of the unsafe employee from his or her employment upon occurrence of a third repeat violation. This system of enforcement shall apply equally to all the Employer's employees, both management and field personnel.

9. As part of the above safety and health program, the Employer agrees to insure periodic monitoring of its jobsites by a qualified person to determine that its employees, including its supervisors, are in compliance with all applicable VOSH regulations, including those regulations that deal specifically with fall protection and steel erection safety.

10. Copies of this written safety program including all the requirements of paragraphs (5) through (9) shall be provided to the Department for review within three months of the effective date of this Settlement Agreement. This shall be mailed to:

Elizabeth B. Tomlin
VOSH Safety Supervisor
Department of Labor and Industry
2551 Eltham Ave., Suite H
Norfolk, Virginia 23513

II. EMPLOYEE TRAINING

11. § 1926.21(b)(2) Training Programs - The Employer shall develop and conduct training programs, as required by VOSH Standard § 1926.21(b)(2), within three months of the date of

execution of this Settlement Agreement, for all supervisory and nonsupervisory employees in the recognition and avoidance of unsafe conditions on their worksite and the regulations to control or eliminate recognized hazards. The Employer will also provide to the Department for review at the end of this three month period, a copy of the written records of the training provided to employees, including the outline of the contents of the sessions, the names of the persons who attended, the dates of the sessions and the names and qualifications of the persons conducting the training sessions. This shall be sent to the address provided in paragraph (10).

12. New Employee Training - The Employer shall institute a policy which provides that new employees receive a basic safety briefing prior to being employed at a jobsite. In addition, a system of in-depth training relating to basic jobsite safety shall be established for all new employees within thirty (30) days of the employee's initial employment. This employee training shall include the discussion of Employer safety rules and general hazards associated with the Employer's industry, including fall hazards and safe steel erection methods.

13. Supervisory Training - The Employer shall require the attendance of all supervisory employees, including the owner of the corporation, to a minimum of one safety seminar each on fall protection for construction sites during the next twelve month period. In addition, as a routine practice the employer agrees to require the attendance of all supervisory employees to a minimum of one safety seminar during each subsequent calendar year, targeting the programs of special need to their work activities. The employer will also provide to the Department written records documenting the attendance and participation of the Employer's Superintendents in these training seminars including the date of the course, the names of the attendees, the topics covered or course title, the location and the name of the instructor(s). This will be provided on a quarterly

basis, supplementing the records required under paragraph (14) below. These records shall be sent to the address provided in paragraph (10).

14. Weekly Meetings - The Employer shall institute weekly safety meetings for each jobsite to discuss the hazards employees are exposed to while performing their individual job duties and the corresponding safe practices. As a part of these meetings, employees will be encouraged to notify management, without fear of reprisal, of any unsafe condition which may exist in their work area. Management shall address such concerns within a reasonable time period. Management shall also provide for investigation of accidents and "near miss" incidents so that their causes and means for prevention can be identified and discussed with employees at these meetings.

Documentation of these weekly meetings shall be forwarded to the Department on a quarterly basis, beginning on **October 1, 1993** and continuing thereafter for a minimum of one year. On **October 1, 1994**, upon application of the Employer, the Department shall determine whether the Employer shall thereafter be required to continue sending such documentation. If the Employer is so required, said documentation and time period will be specified at that time. The Employer will be notified of this decision in writing.

15. The Employer shall post a copy of this Agreed Order for a period of thirty (30) days at all its current jobsites at a conspicuous location where notices to its employees are generally posted.

16. 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 agreement may

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

WHEREFORE, upon the agreement of the parties and for good cause shown, it is hereby ORDERED that the Virginia Occupational Safety and Health Citations as amended above, and the total penalty of \$1,575.00, are AFFIRMED and become a final order of this Court in accordance with Code § 40.1-49.4.E, (1992 Suppl.).

The Clerk shall mail certified copies of this Agreed Order to the parties listed below, and to the Commissioner of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219.

Enter: September 22, 1993
Date

Russell I. Townsend, Jr.
Judge

We ask for this:

CAROL A. AMATO, Commissioner
of Labor and Industry

Jennifer T. Stanton
Jennifer T. Stanton
Assistant Commonwealth's Attorney
Courthouse
P.O. Box 15225
Chesapeake, Virginia 23328
(804) 547-6288

Seen and Agreed:

G.L. WILSON BUILDING COMPANY

Jack L. Zimmerman

Jack L. Zimmerman
Vice President, Human Resources
G. L. Wilson Building Company
Wilson Park Road
P. O. Box 1147
Statesville, N.C. 28677
(804) 262-6561

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF MONTGOMERY

THERON J. BELL, Commissioner of)
 Labor and Industry,)
)
 Plaintiff,)
 v.)
)
 INDUSTRIAL MAINTENANCE)
 & FABRICATING, INC.)
)
 Defendant.)

CHANCERY NO. V-11198

AGREED ORDER

Upon this agreement of the parties and for good cause shown, the court finds and orders as follows:

1. Theron J. Bell shall be substituted as successor in office to plaintiff Carol A. Amato.
2. The parties have agreed that the citations set forth in and attached to the Bill of Complaint in this matter are amended as follows:
 - a. Serious citation 1, item 1a is affirmed. Industrial Maintenance & Fabricating shall pay \$1,000.00 in lieu of the proposed penalty.
 - b. Serious citation 1, item 1b is vacated.
3. Commissioner Bell acknowledges receipt of \$1,000.00 as the total agreed payment in lieu of penalties.
4. Industrial Maintenance & Fabricating shall post a copy of this order for thirty

consecutive days at its workplaces in Virginia in a conspicuous location where notices to its employees generally are posted.

5. Pursuant to Code § 40.1-49.4.D, the defendant's agreement to this settlement does not admit to any civil liability for the alleged violations. This agreement does not purport to limit the effect of Code § 40.1-51.3:2. The defendant's agreement to the entry of this order shall not limit the Commissioner's use of this order in future proceedings under Code § 40.1-49.4.I, -J, or -K, or under any other authority. This order shall be construed to advance the purpose of Code § 40.1-3.

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

The Clerk shall strike this matter from the docket and place it among the ended chancery cases. The Clerk shall certify copies of this order to counsel.

Enter this 24th day of February, 1994

J. Colin Campbell

Judge

We ask for this:

THERON J. BELL, Commissioner
of Labor and Industry

By: E. Curtis Schwab, Jr.

E. Curtis Schwab, Jr.

Assistant Commonwealth's Attorney

P. O. Box 38

Christiansburg, Va. 24073-0038

(703) 382-5705

Seen and Agreed:

INDUSTRIAL MAINTENANCE & FABRICATING, INC.

By: C. L. Christian, III

C. L. Christian, III

Attorney for Industrial Maintenance & Fabricating, Inc.

P.O. Box 638

Lynchburg, Va. 24505

Phone: (804)-845-5918

VIRGINIA:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

CAROL A. AMATO, Commissioner of)	
Labor and Industry,)	
)	
Plaintiff,)	
)	
v.)	CHANCERY NO. 93-596
)	
ROANOKE BELT, INC.)	
)	
Defendant.)	

ORDER

WHEREUPON ON September 17, 1993, the plaintiff, Carol A. Amato, Commissioner of Labor and Industry, by counsel, and moved the court for entry of Default Judgment and defendant came not, and

IT APPEARING to the Court that the registered agent for the defendant was served in person by a Subpoena in chancery on July 15, 1993, and

IT APPEARING to the Court from the evidence in open Court and the pleadings herein that the plaintiff's Motion for Default Judgment should be granted,

IT IS therefore ORDERED that judgment be entered for the plaintiff and against the defendant in the amount of six hundred ten thousand, three hundred and twenty-five dollars. (\$610,325) in civil penalties for violation of the Virginia Occupational Safety and Health (VOSH) standards and that the citations set forth as Exhibit A in the Bill of Complaint be affirmed.

ENTERED this 17th day of September, 1993.

Benjamin Kendrick

Judge

I Ask For This:

Stephen W. Haynie

Stephen W. Haynie,
Assistant Commonwealth's Attorney
Arlington County Courthouse
Arlington, Virginia 22201
(703) 358-4410

VIRGINIA:

IN THE GENERAL DISTRICT COURT OF FREDERICK COUNTY

COMMONWEALTH OF VIRGINIA, <u>ex rel.</u>)	
Commissioner of Labor and Industry,)	
)	
Plaintiff,)	
)	
v.)	Case No. V91-00283
)	
SHIRLEY WELL DRILLING, INC.)	
)	
Defendant.)	

ORDER

On September 9, 1991, came the plaintiff by counsel, Assistant Commonwealth's Attorney for Frederick County, and the defendant by counsel, to be heard on defendant's contest of Virginia Occupational Safety and Health (VOSH) Citations issued by plaintiff on November 21, 1990. Upon consideration of the evidence and arguments of the parties, this Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Plaintiff, the Commissioner of Labor and Industry issued two VOSH Citations to the defendant, alleging Serious, Willful, and Other-Than-Serious violations of VOSH Standards for the Construction Industry, as a result of an inspection by VOSH Compliance Officer, Charles E. Franklin, beginning on August 13, 1990, at a residential well located adjacent to State Route 661 in Frederick County, Virginia. An employee of the defendant had been electrocuted on the previous day. The accident occurred when a metal pipe being raised by a truck-mounted hydraulic derrick, operated by the deceased employee, contacted a 7,200 volt overhead power

line. The electric charge was conducted through the truck, into a hand held control unit attached to the rear of the truck, and entered through the employee's hands.

2. The first VOSH Citation alleged six (6) Serious violations, the second three (3) Willful, and the third alleged one (1) Other Than Serious violation as described below:

SERIOUS CITATION

1. § 1926.21(b)(2) - Employees were not trained in safety rules applicable to using a hydraulic derrick. A civil penalty of \$1,000.00 was assessed.
2. § 1926.100(a) - Employees were not protected by hard hats while pulling a pump from a well with a hydraulic derrick. A civil penalty of \$640.00 was assessed.
3. § 1926.550(a)(4) - Illustrations of the prescribed hand signals for operating a crane were not posted at the job site. A civil penalty of \$1,000.00 was assessed.
4. § 1926.550(a)(6) - Employer did not conduct annual inspections of hoisting machinery on the hydraulic derrick. A civil penalty of \$640.00 was assessed.
5. Va. Code 59.1-409.A.1 - Covered equipment was operated in proximity to overhead high voltage lines without warning signs being posted on the inside of equipment and readily visible to the equipment operator. A civil penalty of \$1,000.00 was assessed.
6. Va. Code 59.1-409.A.2 - Covered equipment was operated in proximity to overhead high voltage lines without warning signs being posted on the outside of equipment and readily visible to others at a distance of up to 12 feet. A civil penalty of \$1,000.00 was assessed.

WILLFUL CITATION

1. Va. Code § 59.1-408.2 - Employees operated covered equipment within ten feet of overhead high voltage lines without making temporary safety precautions. A civil penalty of \$10,000.00 was assessed.
2. Va. Code § 59.1-409.B - Employees operating covered equipment in proximity to high voltage lines were not trained in the avoidance of hazards. A penalty of \$10,000.00 was assessed.
3. Va. Code § 59.1-410 - The employer failed to notify the owner of the overhead high voltage line prior to carrying on work in closer proximity to those lines than permitted under the law. A penalty of \$10,000.00 was assessed.

OTHER THAN SERIOUS CITATION

1. ARM § 11.3(A) - No VOSH Job Safety and Health poster was posted or located at the worksite. A civil penalty of \$80.00 was assessed.
2. § 1926.550(a)(14)(I) - Employer did not provide an accessible fire extinguisher of 5BC rating or higher at the operator's station of the hydraulic derrick. No penalty was assessed.

A total civil penalty of \$35,360.00 was proposed for the combined VOSH Citations.

Defendant contested both the citations and the amount of the civil penalties pursuant to Va. Code § 40.1-49.4(A)(4)(b), and the matter was set for trial and argued before this Court.

CONCLUSIONS OF LAW

1. The Court finds that defendant violated several of the Virginia Code provisions and VOSH Standards for the Construction Industry, and modifies those citations as described below.
2. The Court AFFIRMS AND AMENDS the issuance of the following violations, and ORDERS that the civil penalties be modified as follows:

SERIOUS CITATION

1. The violation and penalty are vacated.
2. The violation and penalty are vacated.
3. The violation is amended to an Other-Than-Serious. The civil penalty is reduced to \$100.00.
4. The violation and penalty are vacated.
5. The violation and penalty are vacated.
6. The violation is affirmed as Serious and the penalty is reduced to \$50.00.

WILLFUL CITATION

1. The violation is amended to Serious and the penalty reduced to \$250.00.

2. The violation and penalty are vacated.
3. The violation is amended to Serious and the penalty reduced to \$1,000.00.

OTHER THAN SERIOUS CITATION

1. The violation and penalty are vacated.
2. The violation is vacated.

Judgment is hereby granted to the plaintiff in the total amount of \$1,400.00.

3. The Clerk shall mail certified copies of this order to all parties and to the Commissioner of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219.
4. Defendant shall post a copy of this order for ten working days at a conspicuous place where notices to employees are usually posted.

Enter: September 21, 1993

James L. Berry

Judge

I ask for this:

Jay D. Cook
Jay D. Cook, Esq.
Assistant Commonwealth's Attorney
5 North Kent Street
Winchester, Virginia 22601
(703) 665-6383

Seen and objected to:

Thomas A. Schultz, Jr.
Thomas A. Schultz, Jr.
Counsel for defendant
21 South Loudoun Street
P.O. Box 809
Winchester, Virginia 22601
(703) 667-1266

VIRGINIA: IN THE CIRCUIT COURT OF FREDERICK COUNTY

COMMONWEALTH OF VIRGINIA

V.

DOCKET NO. L91-223

SHIRLEY WELL DRILLING

ORDER

On this _____ day of September, 1993, came the parties, by counsel, and moved this Honorable Court to grant leave to withdraw the Appeal filed herein.

WHEREFORE, it appearing to the Court there is no good cause shown, it is ORDERED that the Appeal filed herein be withdrawn and the matter placed among the Ended Civil Cases.

Enter this 21 Day of September, 1993.

James L. Berry
JAMES L. BERRY, JUDGE

I ASK FOR THIS:

Jay D. Cook, III
JAY D. COOK, III
Assistant Commonwealth's Attorney

Thomas A. Schultz, Jr.
THOMAS A. SCHULTZ, JR.
Counsel for Defendant

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

Theron J. Bell, Commissioner of Labor and Industry,)	
)	
Plaintiff,)	
)	
v.)	Chancery No. CH94-911
)	
B & B Hose & Rubber Co., Inc.)	
)	
Defendant.)	

ORDER AND DECREE PRO CONFESSO

This cause came to be heard upon Commissioner Theron J. Bell's Motion For Decree Pro Confesso against B & B Hose & Rubber Co., Inc., declaring that the contested Virginia Occupational Safety and Health (VOSH) citations and penalties be upheld.

1. The Commissioner is before this court pursuant to Virginia Code § 40.1-49.4.E upon the defendant's contest of the VOSH citations and proposed penalties, arising from inspection number 112366463, and issued by the Commissioner to the defendant on November 4, 1993. A copy of the citations is attached as Exhibit A.

2. The defendant filed a timely notice of contest of the citations and proposed penalties. Thereafter, on September 2, 1994, the Commissioner filed a Bill of Complaint pursuant to Code § 40.1-49.4.E to initiate the present litigation.

3. The Sheriff's Return of Service demonstrates that the defendant was personally served on September 12, 1994. Pursuant to Rule 2:7, Defendant's response was due twenty-one

(21) days afterward, by October 3, 1994. The defendant has not filed a pleading in response and is in default.

4. The Commissioner has withdrawn citation 2, violation 2, and the proposed penalty.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process upon the defendant, and that the defendant, by electing not to be represented by legal counsel, has implicitly agreed to the remaining VOSH citations, it is therefore

ADJUDGED, ORDERED and DECREED that plaintiff be awarded judgment by default in this cause affirming all citations, except for citation 2, violation 2, which the Commissioner has withdrawn. The defendant shall provide the Commissioner documentation of defendant's abatement measures no later than thirty (30) days after entry of this Order. The defendant forthwith shall post a copy of this order for thirty consecutive days at all its workplaces in conspicuous locations where notices to its employees generally are posted.

The Clerk shall strike this matter from the docket and place it among the ended chancery cases. The Clerk shall certify a copy of this order to Mr. Ottinger.

ENTER: Russell I. Townsend, Jr.
Judge

April 12, 1994
Date

THERON J. BELL,
Commissioner of Labor and Industry

By: Douglas B. Ottinger
Of Counsel
Douglas B. Ottinger, Esquire
Assistant Commonwealth's Attorney
Post Office Box 15225
Chesapeake, Virginia 23328
(804) 547-6288

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF HALIFAX

CAROL A. AMATO, Commissioner of)	
Labor and Industry,)	
)	
Plaintiff,)	
v.)	Chancery No. CH93-000093
)	
BEST PLASTERING, INC.,)	
)	
Defendant.)	

ORDER AND DECREE PRO CONFESSO

This cause came to be heard upon Commissioner Carol A. Amato's Motion For Decree Pro Confesso against Best Plastering, Inc., declaring that the contested Virginia Occupational Safety and Health (VOSH) citations and penalties totaling \$21,000.00, identified by VOSH inspection number 3335890 and as attached to the Commissioner's Bill of Complaint, be upheld.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process by the Secretary of the Commonwealth upon the defendant, and that no responsive pleadings have been filed by defendant, nor has any 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 affirming the VOSH citations and penalties of \$21,000.00.

ENTER: November 15, 1993 JUDGE: Charles L. McCormick, III

I ASK FOR THIS:

CAROL A. AMATO,
Commissioner of Labor and Industry

By: John E. Greenbacker, Jr.

Of Counsel

John E. Greenbacker, Jr.
Commonwealth's Attorney
P.O. Box 550
Halifax, Virginia 24558
(804) 476-2139