NEVADA OCCUPATIONAL SAFETY AND HEALTH

REVIEW BOARD

Docket No. LV 17-1879

CHIEF ADMINISTRATIVE OFFICER
OF THE OCCUPATIONAL SAFETY AND
HEALTH ADMINISTRATION, DIVISION
OF INDUSTRIAL RELATIONS OF THE
DEPARTMENT OF BUSINESS AND
INDUSTRY,

Complainant,

vs.

DLP SERVICES, LLC,

Respondent.

DECISION

This matter having come before the NEVADA OCCUPATIONAL SAFETY AND
HEALTH REVIEW BOARD at a hearing commenced on the 13th day of April
2017, in furtherance of notice duly provided according to law, MS.
SALLI ORTIZ, ESQ., counsel appearing on behalf of the Complainant,
Chief Administrative Officer of the Occupational Safety and Health
Administration, Division of Industrial Relations (OSHA); and MR. GREG
CARLSON, ESQ., appearing on behalf of Respondent, DLP Services, LLC,
the NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD finds as
follows:

Jurisdiction in this matter has been conferred in accordance with
Chapter 618 of the Nevada Revised Statutes.

The complaint filed by the OSHA sets forth allegations of
violation of the Nevada Revised Statutesa as referenced in Exhibit
“A”, attached thereto.

Citation 1, Item 1, charges a violation of 29 CFR
1910.1030(c)(1)(i): Each employer having an
employee(s) with occupational exposure as defined

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by paragraph (b) of this section shall establish a written Exposure Control Plan designated to eliminate or minimize employee exposure.

NVOSHA alleged that at the time of the opening conference on November 28, 2016 DLP Services, LLC, located at 5113 Alpine Place, did not develop and implement a written Exposure Control Plan for Janitors who clean commercial and industrial properties including medical exam rooms and handling needles or other sharp instrumentation where occupational exposure to blood or other potentially infectious materials (OPIM) may take place. The employer abated this violation during the inspection by providing a correctly written and implemented Exposure Control Plan.

The violation was classified as Serious. The proposed penalty for the alleged violation is in the amount of Two Thousand Eight Hundred Dollars ($2,800.00).

Citation 1, Item 2, charges a violation of 29 CFR 1910.1030(f)(2)(i): Hepatitis B Vaccination shall be made available after the employee has received the training required in paragraph (g)(2)(vii)(I) and within 10 working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

Prior to the opening conference on November 28, 2016, DLP Services, LLC, located at 5113 Alpine Place, did not offer the hepatitis B vaccination within 10 working days of employees' initial assignment to job duties cleaning medical exam rooms and handling needles or other sharp instrumentation where occupational exposure to blood or other potentially infectious materials (OPIM) may take place.

The violation was classified as Serious. The proposed penalty for the alleged violation is in the amount of Two Thousand Eight Hundred Dollars ($2,800.00).
Hundred Dollars ($2,800.00).

Citation 1, Item 3, charges a violation of 29 CFR 1910.1030(g)(2)(i): The employer shall train each employee with occupational exposure in accordance with the requirements of this section. Such training must be provided at no cost to the employee and during working hours. The employer shall institute a training program and ensure employee participation in the program.

NVOSHA alleged that prior to the conclusion of the opening conference on November 28, 2016, DLP Services, LLC, located at 5113 Alpine Place, did not provide bloodborne pathogens training to employees whose assigned job duties involve potential exposure to blood and other potentially infectious material (OPIM). Janitors clean commercial and industrial properties including medical exam rooms and handling needles or other sharp instrumentation. No training documents were submitted for any of the 252 employees. Employees have been with the company as little as a few months and as long as over 11 years.

The violation was classified as Serious. The proposed penalty for the alleged violation is in the amount of Two Thousand Eight Hundred Dollars ($2,800.00).

The complainant and respondent stipulated to the documentary evidence packet the Division of Industrial Relations identified as Exhibits 1 and 2 which were admitted without objection. Respondent offered no documents at commencement of the hearing, however in the course of the presentation respondent's Exhibits A and B were identified and stipulated for admission.

FACTS

Complainant provided documentary evidence and witness testimony through CSHO/IH Ms. Crystal Burgess.
Nevada OSHA (NVOSHA) conducted a referral inspection at the DLP Services, LLC offices located in Las Vegas, Nevada on November 28, 2016. After completion of the investigation and closing conference on December 13, 2016 the respondent representatives were advised by Ms. Burgess of her findings of violations and proposed citations.

Ms. Burgess testified with regard to her inspection and the documentary evidence at Exhibits 1 and 2. Respondent is in the business of providing janitorial, and housekeeping/cleaning services to numerous office, commercial and medical facility locations in Las Vegas, Nevada. The facilities presented potential biohazard exposures to employees performing cleaning and housekeeping services through contact with Bloodborne Pathogens (BBP) or Other Potential Infectious Material (OPIM).

Ms. Burgess testified that she requested an employer's Exposure Control Plan (ECP) at the time of the inspection. The respondent did not produce an ECP as required by the OSHA standards. Documentation for hepatitis B vaccinations was requested, but no documents were provided nor submitted to NVOSHA by respondent as required by OSHA standards. No program or documentation of employee training for occupational hazard exposures were provided by respondent as required by OSHA standards.

Witness interviews demonstrated that identified employees had received some training on "how" to clean up blood or other OPIM, but not trained on the minimum protective requirements required by the OSHA standards. Ms. Burgess determined respondent employees had not received BBP training, yet assigned work tasks where required to clean up biohazards as part of their designated job duties which exposed them to the potential of contacting BBP or OPIM.
Employee interviews confirmed the employer did not offer hepatitis B vaccinations to some identified employees with potential occupational exposure to BBP or OPIM **within 10 working days** of initial assignment. Where employees reported a refusal to receive the vaccination, no declination letters were produced by respondent during the inspection.

Ms. Burgess referenced her reportings at Exhibit 1 and testified she was informed that when biohazard material had been cleaned the waste was "... thrown into regular trash." She further testified identified employees received some limited training but **not** prior to commencement of job duties after their respective hiring dates. Ms. Burgess explained NVOSHA requires employers to offer hepatitis B vaccination **within 10 working days of an employees initial assignment to job duties**, including cleaning any medical examining rooms, handling needles or other sharp instruments or "... working where occupational exposure to BBP or OPIM may take place ..."

CSHO/IH Burgess summarized the testimony of three employees interviewed at the time of her investigation and referenced Exhibit 1, pages 14 through 24.

Supervisory employee **Agustin Huizar** reported he was employed by the company on **September 10, 2012** but received BBP training only "a week ago . . ." and offered the hepatitis B vaccination "last week when they did the training . . . ." The date of the interview statement is December 13, 2016. Ms. Burgess referenced Mr. Huizar's witness statement and testified "... that he does see BBP and OPIM as well as needles (sharps) and observed those approximately three weeks previous . . . ." The reported exposure potential, employment hire dates and training references supported recommendation for the
citations at items 2 and 3.

Ms. Burgess referenced her interview with former employee **Alejardia Avalos**. Exhibit 1 included the dates of her interview statement as December 13, 2016; company records listed her hire date of 09/07/16. Ms. Burgess determined the hire date and statements confirmed Ms. Avalos did not receive the appropriate training or offered a vaccination prior to working under conditions for potential exposure to BBP as required by the OSHA standard. The findings supported recommendation for issuance of citations at items 2 and 3.

Ms. Burgess also testified with regard to the interview statement signed by employee **Victor Ruiz**, a ten year supervisor with the company. The statement showed he received training by video on January 2016 for BBP and not offered any hepatitis B vaccination. The company records listed his hire date as 01/07/13. Mrs. Burgess testified the time lapse between the written interview statement for training and hire date confirmed violations of the standards cited at Items 1 and 2.

In continued testimony, CSHO/IH Burgess testified her findings establish the statutory proof elements for citations of standard applicability, violative conditions, potential employee hazard exposure and employer knowledge for the cited violations. The standards were applicable based upon the services provided by DLP as published by the company which referenced professional janitorial housekeeping cleaning services by over 200 employees throughout the United States. DLP also provides services to various industrial and healthcare properties, including medical examination room facilities where employees must handle or encounter needles or other sharp instruments. She determined employer knowledge and employee exposure
existed because some BBP/OPIM training was offered to employees, through a video presentation; and the company described its scope of services to encompass office complex areas which include restrooms and medical facilities where potential BBP contact is typical and anticipated to occur.

Ms. Burgess explained the applicability of the cited OSHA standard for a company Exposure Control Plan (ECP) required at 29 CFR 1910.1030(c)(1)(i) based upon the company and employee description of the services rendered by DLP. The respondent was unable to produce an adopted and implemented plan, but did furnish a sample exposure control plan from the State of Montana which listed 1910.1030 standards. Further, there were no hepatitis B vaccination records, declination forms nor proof of training provided as required by the cited standards at Items 2 and 3. The employer representative responded that the company was currently in the process of setting up new and/or updated BBP training for all DLP employees. The employer provided a plan during the inspection to abate any continued violative conditions under Item 1.

Ms. Burgess testified further as to the proof element of employee exposure. She noted at Exhibit 1, page 69, the "sharps" injury log reflected six incidents of respondent employees coming into contact with syringes/needles while removing trash or cleaning of the facilities.

Respondent counsel conducted cross examination of CSHO/IH Burgess. She responded to questions regarding the interview statements taken from the witness employees and whether her explanations of BBP, OPIM and hepatitis B vaccinations were understood. Ms. Burgess referenced specific statements made in the
three employee interviews of Messrs. Huizar, Ruiz and Ms. Avalos. She testified they all spoke to her in English and confirmed potential and actual exposures, lack of timely training, and either no hepatitis B vaccination offers or no written declinations signed. She testified the statements and the document records in evidence established the non-compliant conditions confronted by the witnesses at Exhibit 1, pages 14-24.

Respondent referenced and offered for admission in evidence respondent's Exhibits A and B identified as federal OSHA interpretation letters. Exhibit A was identified as the United States Department of Labor, Occupational Safety and Health Administration Interpretation Letter dated January 3, 1992. Counsel requested the witness read the first line of the third paragraph at Exhibit A with regard to the responsibility of an employer performing general janitorial or maintenance work for compliance with the cited standards. Ms. Burgess read the letter and testified that while maintenance and janitorial staff in non-healthcare facilities, are not generally subjected to BBP occupational hazard exposures, it is the "employer's responsibility", as provided in the letter, to determine which job classifications or specific tasks or procedures involve potential BBP exposure.

Counsel further referenced the similar federal OSHA interpretation letter dated January 25, 1992 at Exhibit B. Counsel directed Ms. Burgess reference to the guidance letter as to exposure of employees involved in janitorial work to bloody materials in restrooms and/or other portions of a facility. Ms. Burgess testified it is the "employer's responsibility" as provided in the federal OSHA guidance letter to determine which job classifications are subject to
protection on a "case-by-case basis."

On redirect examination IH Burgess testified the standards and interpretation letters require employers be knowledgeable in whether their employees will have occasional contact with, and therefore be trained in BBP. She further responded to questioning that the exposure logs of incidents of needle contact at Exhibit 2 demonstrates the existence of employee exposure which informs and requires the employer to engage in inquiry to assure its employees are protected.

Complainant introduced testimonial evidence from Mr. John Hutchison, the IH supervisory at NVOSHES. He testified as to the elements of employer knowledge, standard applicability, potential of employee exposures, violative conditions, as well as the classification thresholds and appropriateness of the proposed penalties.

On cross-examination Mr. Hutchison testified there is no NVOSHES established numerical level for determination of "isolated incidents." He received no information from the respondent on the number or limitation of potential employee exposures. Mr. Hutchison testified the incidents of needle sticks in the employer logs at Exhibit 2 were sufficient to establish the applicability of the cited standards to respondent and the exposure potential of its employees. The "... logs alone confirmed employer's knowledge and duty of inquiry for employee protection from BBP and OPIM hazards ..."

Mr. Hutchison responded to questions referencing the report in Exhibit 1 and testified to support the elements of violations under the criteria and assessments for probability, gravity and severity as well as the appropriateness of the penalties.

Complainant presented witness testimony of the three respondent
witnesses who submitted interview statements at Exhibit 1, pages 14-20. The three witnesses testified through a Spanish to English court certified translator. Employee supervisor Huizar testified equivocally and with some contradiction to his written statement at Exhibit 1, page 14. However he confirmed his employment commencement date of **four years** previous, but testified he received training "just one week ago . . ." The interview statement date was December 13, 2016. Mr. Huizar testified he was offered a hepatitis B shot at the **same time he was given the training** through a video by the respondent (1 week prior to December 13, 2016). Mr. Huizar further testified that he observed blood and sharps ". . . three weeks ago . . ." but trained "one week ago . . .".

**Employee Victor Ruiz** identified himself as a supervisory employee for the company over a **ten year period**. He confirmed his written interview statement and testified he is required to clean up blood. The testimony included some equivocation with his written statement. On continued direct examination Mr. Ruiz testified that he did clean up blood three months ago, as indicated in his written statement dated December 13, 2016. He testified that he formerly cleaned doctor's offices but does not do so now. He further testified that he was trained in January 2016 in furtherance of his written statement; and confirmed that he was "not offered" the hepatitis B shot.

At the conclusion of presentation of complainant's case, respondent presented no witness testimony or other evidence.

Complainant presented closing argument. Counsel referenced the burden of proof was established as to each of the cited violations based upon the preponderant evidence offered.

At **Citation 1, Item 1, referencing 29 CFR 1910.1030(c)(1)(i)**,
counsel noted there was no question the employer had no plan. Respondent offered no evidence to support compliance of the ECP requirement prior to the inspection.

At Citation 1, Items 2 and 3, counsel referenced the Exhibit 1 evidence and witness testimony. She asserted employer logs at Exhibit 2, page 69, confirmed six (6) "needle sticks" had occurred in the course of the employment for employees working in merely the most recent period of time. The log references alone demonstrate the exposure hazards to respondent employees and employer knowledge of requirements for protection under the cited standards for BBP and OPIM. Counsel referenced the federal OSHA guidance letters at Exhibits A and B, and noted both place "responsibility on the employer of a case by case basis," even if dealing primarily in non-medical facility housekeeping work in restroom areas where BBP and OPIM is common. Precautions and protection must be taken for compliance if exposure can be "reasonably anticipated" to BBP and OPIM. Certainly the log of needle sticks demonstrated proof of employer notice and knowledge.

Counsel argued that while the testimony of the three witnesses was somewhat equivocal, they "... all clearly demonstrated the type of work each encountered to establish the potential for exposure ..." Further, the evidence shows only two of the employees referenced in the inspection were offered a hepatitis B shot, yet the logs at Exhibit 2 confirm four to six employees of respondent had needle stick incidents. While the statements were partially controverted or somewhat equivocal, the hire dates shown from employer's own records reflect that the training and offering of hepatitis B vaccinations were not done under timelines required by the
standards. The objective written evidence of hiring dates at Exhibit 2 and just the unrebutterd part of testimony given at the time of the hearing as to each employee's hire date, demonstrate the employee exposure and lack of compliance under Citation 1, Item 2.

At Citation 1, Item 3, employee Ruiz, a supervisor, had a hire date of January 7, 2013, yet testified he received training only in January 2016. This unequivocal record evidence and the employer's lack of furnishing any evidence of training establish the violation for lack of the training as required by the standard.

There was no testimony nor evidence that any of the needle sticks were isolated incidents. The logs at Exhibit 2 and testimony of the employee witnesses described their job work, and potential exposures. Together they show exposure potentials that which might be "reasonably anticipated" for protection as provided under the federal OSHA guidance.

Counsel submitted the burden of proof had been met unequivocally as to Citation 1, Item 1, regarding the non-existence of a plan prior to the inspection. It is undisputed that no plan existed prior to the time of inspection. As to Citation 1, Item 2, "... whether the employee accepts the vaccination or not, there must be a declination letter and none were provided." Similarly, the documentary evidence and a weight of all witness testimony demonstrate a lack of compliance with both the training and the vaccination provisions at Citation 1, Items 2 and 3. Further, as to Citation 1, Item 3, "... no training records were submitted for any of the employees of the company and notably none for those who provided the witness statements or testified at the time of the hearing."

Counsel for respondent provided closing argument and asserted the
burden of proof is upon OSHA to establish the violations. He further argued the case was replete with contradictions between the employee witness testimony and the written statements in evidence. Counsel asserted that the "reasonable anticipation of employee exposure . . ." as provided in the federal OSHA letter guidance was not established by the evidence for the respondent company.

Respondent asserted lack of **applicability** of the standard at Citation 1, Item 1, so no ECP was required. Counsel argued the company is "... **primarily** a janitorial company without all employees assigned to working in medical facilities; and those that were so assigned had been protected under cited standards . . ." "**Isolated incidents**" or even some "needle sticks" do not show a trend or violative workplace conditions. Counsel further asserted there was no evidence of "**employer knowledge,**" but merely arguments and inferences regarding employer knowledge because some training had been performed.

**APPLICABLE LAW**

In all proceedings commenced by the filing of a notice of contest, the burden of proof rests with the **Administrator.** (See NAC 618.788(1).

All facts forming the basis of a complaint must be proved by a **preponderance of the evidence.** See Armor Elevator Co., 1 OSHC 1409, 1973-1974 OSHD ¶16,958 (1973). (Emphasis added)

NRS 233B(2) "**Preponderance of evidence**" means evidence that enables a trier of fact to determine that the existence of the contested fact is more probable than the nonexistence of the contested fact.

NAC 618.788 (NRS 618.295) In all proceedings commenced by the filing of a notice of contest, the burden of proof rests with the **Chief.** (Emphasis added)

NRS 618.625 provides in pertinent part:

"... a serious violation exists in a place of
employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use in that place of employment unless the employer did not and could not, with the exercise of reasonable diligence, know of the presence of the violation."

To prove a violation . . . complainant must establish (1) the applicability of the standard (regulation), (2) the existence of noncomplying conditions, (3) employee exposure or access, and (4) that the employer knew or with the exercise of reasonable diligence could have known of the violative condition. See Belger Cartage Service, Inc., 79 OSHA RC 16/B4, 7 BNA OSHC 1233, 1235, 1979 CCH OSHD ¶23,400, p.28,373 (No. 76-1948, 1979); Harvey Workover, Inc., 79 OSHA RC 72/D5, 7 BNA OSHC 1687, 1688-90, 1979 CCH OSHD 23,830, pp. 28,908-10 (No. 76-1408, 1979); American Wrecking Corp. v. Secretary of Labor, 351 F.3d 1254, 1261 (D.C. Cir. 2003). (Emphasis added)

A respondent may rebut allegations by showing:

1. The standard was inapplicable to the situation at issue;

2. The situation was in compliance; or lack of access to a hazard. See Anning-Johnson Co., 4 OSHC 1193, 1975-1976 OSHD ¶ 20,690 (1976).

29 CFR 1910.1030(c)(1)(i): Each employer having an employee(s) with occupational exposure as defined by paragraph (b) of this section shall establish a written Exposure Control Plan designated to eliminate or minimize employee exposure.

29 CFR 1910.1030(f)(2)(i): Hepatitis B Vaccination shall be made available after the employee has received the training required in paragraph (g)(2)(vii)(I) and within 10 working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

29 CFR 1910.1030(g)(2)(i): The employer shall train each employee with occupational exposure in accordance with the requirements of this section. Such training must be provided at no cost to the employee and during working hours. The employer
shall institute a training program and ensure employee participation in the program.

DECISION

In reviewing the facts, testimony and documentary evidence, the Board must review the citations and allegations of the complaint under the statutory requirements for preponderant evidentiary proof of violations.

The Board finds a violation at Citation 1, Item 1, based upon the unrebutted evidence of non-compliance with the requirement of the cited standard for development and implementation of a written Exposure Control Plan (ECP) prior to the time of the inspection. Respondent did abate the violative condition during the inspection through modification of a sample form from another state to adopt and implement the ECP in Nevada going forward. The unrebutted documentary evidence and testimony confirmed that some respondent employees performed janitorial services in commercial, industrial and medical facilities in the State of Nevada. These facts clearly establish the basis for "reasonable anticipation" on the part of a prudent employer in the subject field for a need to protect its employees from potential exposures to BBP and OPIM. Reasonable inference from the federal OSHA guidance interpretation letters at respondent's A and B, indicates that a reasonably prudent employer should anticipate that housekeeping services employees working at healthcare facilities, as well as other commercial industrial complexes brings employees into potential contact with restrooms as well as other areas where BBP and OPIM can be encountered. Clearly, restrooms in office complexes which are not in medical facilities are areas where employees potentially encounter blood or materials containing BBP or OPIM. Further, the
preponderant evidence demonstrated various workplaces involving the employee witnesses who testified, resulted in actual contact and/or potential exposure to BBP. This evidence coupled with the documentary information at Exhibit 1, and the respondent incident logs at Exhibit 2 for exposure to syringes and other blood containing material, established the applicability of the standard to the respondent employer. There was no evidence submitted by respondent of any plan (ECP) prior to the inspection to prove compliance with the standard at Citation 1, Item 1. Clearly the preponderant evidence established that janitorial services in office complexes as well as medical facilities did result in DLP employees to encounter some degree of contact with potential exposures to BBP and OPIM.

The Board finds violations of the standards at Citation 1, Item 2 and Citation 1, Item 3. The testimonial and documentary evidence presented through IH Burgess was clear, convincing and credible. The weight of preponderant evidence met the burden of proof to confirm the cited violations.

The DLP employee witnesses who testified with the assistance of an interpreter did equivocate or contradict some of the written portions of their statements. However the unequivocal and/or unrebutted testimonial evidence to support the violations from employee witness statements and testimony was corroborated through the written documents in evidence at Exhibits 1 and 2. The employee witness hire dates from the employer records at Exhibit 2, pages 71-76, corroborated the employee testimony and written interview statements at Exhibit 1 of their training time frame periods. Respondent offered no written documents or witness testimony to support training as required by the specific standards nor hepatitis
B shot declination letters.

Respondent provided video and some other limited employee assistive training, however the timelines based upon the hire dates from the employer records at Exhibit 1 together with witness statements, regardless of some equivocation as to other facts, established the element of employer knowledge. Additionally, as to the hepatitis B vaccinations, the respondent did not provide declination letters, nor did the hiring dates of the employees compared to their testimony and written statements comport with vaccination offers being timely made as required by the standard.

Clearly DLP is a major employer in the business of providing housekeeping, janitorial and cleaning services for commercial, industrial and medical facilities. A reasonably prudent employer, with individuals employed in the described janitorial field of work, must "reasonably anticipate" potential contact of employees with infectious materials governed under the BBP standards.

Further to the element of employer knowledge, the well established applicable occupational safety and health law governing the burden of proof has long recognized that an employer "... need only have knowledge of the conditions under the regulation, not the actual violative facts."

The element requires OSHA to establish the employer's actual or constructive knowledge of the physical circumstances that comprise the violation. OSHA is not required to show that an employer knew the conditions violated the Act or posed a hazard to employees. Southwestern Acoustics & Specialty Inc., 5 OSH Cases 1091 (Rev. Comm'n 1977) (employer need be shown only to have had knowledge of "physical conditions which constitute a violation," not that the condition was prohibited by law). (Emphasis added)

The overall quantum of preponderant evidence established DLP knew
or "... with the exercise of reasonable diligence could have known of the violative condition." (American Wrecking, supra, at page 10.)

FINAL DECISION

It is the decision of the NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD that violations of Nevada Revised Statutes did occur as to Citation 1, Item 1, 29 CFR 1910.1030(c)(1)(i), Citation 1, Item 2, 29 CFR 1910.1030(f)(2)(i) and Citation 1, Item 3, 29 CFR 1910.1030(g)(2)(i). The classifications were appropriately classified as "Serious" and the proposed penalties in the total sum of Eight Thousand Four Hundred Dollars ($8,600.00) confirmed.

The Board directs counsel for the complainant, to submit proposed Findings of Fact and Conclusions of Law to the NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD and serve copies on opposing counsel within twenty (20) days from date of decision. After five (5) days time for filing any objection, the final Findings of Fact and Conclusions of Law shall be submitted to the NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD by prevailing counsel. Service of the Findings of Fact and Conclusions of Law signed by the Chairman of the NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD shall constitute the Final Order of the BOARD.

DATED: This 30th day of May 2017.

NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD

By /s/ JIM BARNES, CHAIRMAN
NEVADA OCCUPATIONAL SAFETY AND HEALTH
REVIEW BOARD

CHIEF ADMINISTRATIVE OFFICER
OF THE OCCUPATIONAL SAFETY AND
HEALTH ADMINISTRATION, DIVISION
OF INDUSTRIAL RELATIONS OF THE
DEPARTMENT OF BUSINESS AND
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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of
SCARPELLO & HUSS, LTD. and that on May 30, 2017 I deposited for
mailing, certified mail/return receipt requested, at Carson City,
Nevada, a true copy of the DECISION addressed to:

Salli Ortiz, Esq.
DIR Legal
400 West King Street, Suite 201
Carson City NV 89703

Greg J. Carlson, Esq.
5113 Alpine Pl.
Las Vegas NV 89701

DATED: May 10, 2017

KAREN A. EASTON

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CARSON CITY OFFICE