

1 NEVADA OCCUPATIONAL SAFETY AND HEALTH
2 REVIEW BOARD
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6 CHIEF ADMINISTRATIVE OFFICER
7 OF THE OCCUPATIONAL SAFETY AND
8 HEALTH ENFORCEMENT SECTION,
9 DIVISION OF INDUSTRIAL RELATIONS
10 OF THE DEPARTMENT OF BUSINESS AND
11 INDUSTRY,

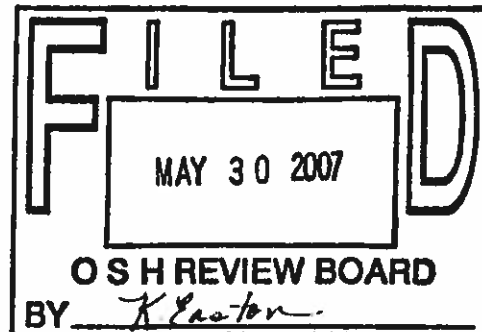
Docket No. LV 07-1322

Complainant,

vs.

12 ADVANCED ARCHITECTURAL METALS,

13 Respondent.



14 DECISION

15 This matter having come before the **NEVADA OCCUPATIONAL SAFETY**
16 **AND HEALTH REVIEW BOARD** at a hearing commenced on the 9th day of May
17 2007, in furtherance of notice duly provided according to law, JOHN
18 WILES, ESQ., counsel appearing on behalf of the **Chief Administrative**
19 **Officer of the Occupational Safety and Health Enforcement Section,**
20 **Division of Industrial Relations (OSHES),** and DAVID MARTIN, ESQ.,
21 appearing on behalf of respondent, **ADVANCED ARCHITECTURAL METALS;**
22 the **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** finds as
23 follows:

24 Jurisdiction in this matter has been conferred in accordance
25 with Nevada Revised Statute 618.315.

26 The complaint filed by OSHES sets forth allegations of
27 violations of Nevada Revised Statutes as referenced in Exhibit "A,"
28 attached thereto.

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1 Citation 1, Item 1(a) charges a violation of 29 CFR
2 1910.132(f)(4). The complainant alleges that the employer respondent
3 failed to ensure that employees received training on the use of
4 personal protective equipment and failed to verify training through
5 a written certification that contains the names of the employees
6 trained, the dates and types of training subject of the
7 certification. The violation was classified as "Serious." The
8 proposed penalty for the alleged violation was grouped with
9 violation Items 1(a) through 1(f) in the total sum of \$800.00.

10 Citation 1, Item 1(b) charges a violation of 29 CFR
11 1910.133(a)(1). The complainant alleges that the employer respondent
12 failed to ensure that adequate eye protection was used by the
13 machinist using both a bench grinder and several drill presses. The
14 machinist wore only a pair of corrective lenses (without side
15 shields) while he operated these machines without the use of
16 guarding equipment. The violation was classified as "Serious." No
17 separate penalty was assessed as same was grouped together with Item
18 1(a).

19 Citation 1, Item 1(c) charges a violation of 29 CFR
20 1910.134(e)(1). The complainant alleges that the employer respondent
21 failed to ensure that employees who are required to use a tight-
22 fitting half-face 3M respirator in the workplace while painting,
23 welding or performing other work related duties had been medically
24 evaluated and cleared to wear such respirators. The violation was
25 classified as "Serious." No separate penalty was assessed as same
26 was grouped together with Item 1(a).

27 Citation 1, Item 1(d) charges a violation of 29 CFR
28 1910.134(e)(6)(i). The complainant alleges that the employer

1 respondent failed to obtain written documentation from a PLHCP for
2 each employee that used a tight fitting half-face respirator
3 regarding that employee's ability to use such a respirator. The
4 violation was classified as "Serious." No separate penalty was
5 assessed as same was grouped together with Item 1(a).

6 Citation 1, Item 1(e) charges a violation of 29 CFR
7 1910.134(f)(2). The complainant alleges that the employer
8 respondent failed to ensure that the welder/painter employees using
9 tight-fitting facepiece respirators to protect themselves from
10 hazardous chemicals encountered while performing work related duties
11 had been fit tested prior to initial use and/or at least annually
12 thereafter. The violation was classified as "Serious." No separate
13 penalty was assessed as same was grouped together with Item 1(a).

14 Citation 1, Item 1(f) charges a violation of 29 CFR
15 1910.134(k)(1). The complainant alleges that the employer failed to
16 provide effective training and ensure that each employee that wore
17 a respirator could demonstrate knowledge of the basic elements of
18 respirators. Some employees did not know the rationale for changing
19 respirator cartridges and filters. Employees did not understand the
20 purposes of a medical evaluation or a fit test. The employer had no
21 records of respiratory protection training for current welder/
22 painter employees. The violation was classified as "Serious." No
23 separate penalty was assessed as same was grouped together with Item
24 1(a).

25 Citation 1, Item 2(a) charges a violation of 29 CFR
26 1910.151(c). The complainant alleges that the employer respondent
27 failed to provide suitable facilities for flushing of the eyes and
28 body for employees exposed to injurious corrosive materials such as

1 the Sur-Fin acids used to treat metals. The eyewash station in the
2 metal treatment area was covered by storage materials and/or debris
3 and therefore inaccessible for use by employees. During the initial
4 walkaround, management and employees were unable to find the subject
5 eyewash station. The violation was classified as "Serious." The
6 proposed penalty for the alleged violation was grouped with
7 violation Items 2(a) through 2(c) in the total sum of \$800.00.

8 Citation 1, Item 2(b) charges a violation of 29 CFR
9 1910.1200(e)(1)(i). The complainant alleges the employer respondent
10 failed to ensure that employees had access to a list of hazardous
11 chemicals using an identity that is referenced on the corresponding
12 material safety data sheet (MSDS). Without a list, employees would
13 have difficulty locating MSDS for acids and other hazardous
14 chemicals in the event of an overexposure. The violation was
15 classified as "Serious." No separate penalty was assessed as same
16 was grouped together with Item 2(a).

17 Citation 1, Item 2(c) charges a violation of 29 CFR
18 1910.1200(h)(1). The complainant alleges the employer respondent
19 failed to ensure that the hazard communication program was fully
20 implemented. The employer failed to adequately train employees on
21 the hazards of the chemicals used in the workplace and the use and
22 location of MSDS. The violation was classified as "Serious." No
23 separate penalty was assessed as same was grouped together with Item
24 2(a).

25 Citation 1, Item 3(a) charges a violation of 29 CFR
26 1910.212(a)(3)(ii). The complainant alleges the employer respondent
27 failed to ensure that the points of operation on two drill presses
28 used by the machinist were always guarded during use to protect

1 employees from moving parts and flying metal particles. Employees
2 failed to use the removable guard while boring holes in metal. The
3 violation was classified as "Serious." The proposed penalty for the
4 alleged violation was grouped with violation Items 3(a) through 3(d)
5 in the total sum of \$800.00.

6 Citation 1, Citation 3(b) charges a violation of 29 CFR
7 1910.215(a)(2). The complaint alleges the employer respondent
8 failed to provide a guard for the end (sides) of the Delta bench
9 grinder used by the machinist thereby exposing him to the potential
10 of hazard of flying abrasive wheel fragments in the event of wheel
11 breakage. The violation was classified as "Serious." No separate
12 penalty was assessed as same was grouped together with Item 3(a).

13 Citation 1, Citation 3(c) charges a violation of 29 CFR
14 1910.215(a)(4). The complaint alleges the employer respondent
15 failed to ensure that a work rest was installed on the right wheel
16 of the Delta bench grinder used by the machinist to grind and smooth
17 metal parts. The gap between the wheel and the guard where the work
18 rest should have been installed was one inch. The violation was
19 classified as "Serious." No separate penalty was assessed as same
20 was grouped together with Item 3(a).

21 Citation 1, Item 3(d) charges a violation of 29 CFR
22 1910.215(b)(9). The complaint alleges the employer respondent
23 failed to ensure that the distance between the wheel periphery and
24 the adjustable tongue guard on the Delta bench grinder used by the
25 machinist was not in excess of one-fourth of an inch. The grinder
26 did not have a tongue guard on either of the abrasive wheels thereby
27 leaving a gap of 1 inch. The violation was classified as "Serious."
28 No separate penalty was assessed as same was grouped together with

1 Item 3(a).

2 Citation 2, Item 1(a) charges a violation of 29 CFR
3 1904.29(b)(1). The complainant alleges the employer respondent
4 failed to enter a full description for each workplace injury on the
5 OSHA Form 300. The employer kept no log of employee injuries and
6 illnesses. The violation was classified as "Other." The proposed
7 penalty for the alleged violation was Zero Dollars (\$.00).

8 Citation 2, Item 1(b) charges a violation of 29 CFR
9 1904.32(a)(3). The complainant alleges the employer respondent
10 failed to certify (through signature) the annual summary of work
11 related illnesses and injuries. The violation was classified as
12 "Other." The proposed penalty for the alleged violation was Zero
13 Dollars (\$.00).

14 Counsel for the Chief Administrative Officer presented
15 testimony and evidence with regard to the alleged violations.
16 Safety and Health Representative (SHR) John Olaechea, an industrial
17 hygienist, testified that on or about August 8, 2006 he first
18 inspected the principal place of business of respondent located at
19 5335 Wynn Road, Las Vegas, Nevada. The SHR returned to the work
20 site on two other occasions to follow up the initial inspection and
21 ultimately issued the above referenced citations on October 13, 2006
22 as a result of code violations discovered at the respondents place
23 of employment. The SHR identified documentary and photographic
24 exhibits which were admitted in evidence. Mr. Olaechea testified
25 that he conducted his inspections and requested documents and
26 records from the employer as specifically required under applicable
27 provisions of the above-referenced standards. However no documents
28 were produced in furtherance of the applicable provisions by the

1 respondent to satisfy the standards. The SHR testified that while
2 the respondent "had a lot of paper" on the premises, its
3 representatives could not locate or produce the appropriate
4 documents to satisfy the subject standard. Mr. Olaechea testified
5 that employee representatives Hartley and Irish informed him that
6 disruptions in operations existed at the time of the inspection due
7 to a labor dispute and the documentation could not be located to
8 satisfy the SHR requests in furtherance of the standards.

9 At Citation 1, Item 1(a) referencing 29 CFR 1910.132(f)(4) the
10 SHR repeatedly requested but could not obtain from the respondent,
11 assurance that the employees received training on the use of
12 personal protective equipment (PPE). Specifically, the employer
13 failed to verify said training through a written certification
14 which, in accordance with the standard, must contain the name of the
15 employee trained, the dates of training and the subject of the
16 certification.

17 At Citation 1, Item 1(b) referencing 29 CFR 1910.133(a)(1),
18 Mr. Olaechea observed a machinist operating both a bench grinder and
19 a drill press without adequate eye protection as required by the
20 standard. The SHR testified that the machinist, Mr. Peter Varga,
21 was wearing only eye glasses with corrective lenses and without side
22 shields while engaged in the operation of machinery. The SHR
23 further testified that the machine was not equipped with guarding
24 equipment as required by the standard. He testified that he
25 observed a sign posted on the premises requiring the use of eye
26 protection but could not verify any employer assurance or
27 enforcement of the signage requirement. Mr. Olaechea testified that
28 he observed the same employee operating machinery on two occasions

1 without eye protection. He noted that employer logs reflected "a
2 number" of eye injuries in the company history at the plant site
3 testifying that it demonstrated to him that the employer had
4 knowledge of the need for appropriate eye protection as required by
5 the standard.

6 Citation 1, Item 1(c) referencing 29 CFR 1910.134(e)(1)
7 charged the employer failed to ensure that employees were required
8 to use a tight-fitting half-face respirator which had been medically
9 evaluated and cleared for individual employee use in the workplace
10 while performing work related duties. Exhibit 1 depicted two photos
11 of an employee using a respirator with cracks clearly visible. The
12 SHR issued the referenced citation for insufficient training in use
13 of the respirators based on his direct observation of the employee
14 using a defective respirator. Mr. Olaechea testified that the
15 standard required medical evaluation of any employee who needs to
16 use a respirator for work related duties. He stated that the
17 reasoning behind the standard was based upon the codified safety
18 need to know that an employee does not have some medical problem
19 which could make respirator use worse than non-use. Mr. Olaechea
20 could find no evidence that the employer provided the medical
21 evaluation nor a statement or claim by the employer representative
22 that same had been actually done.

23 Citation 1, Item 1(d) referencing 29 CFR 1910.134(e)(6)(1)
24 charged the employer with failure to obtain written documentation
25 from a PLHCP for each employee required or using a tight fitting
26 respirator relating to that employee's ability to use such a
27 respirator. This violation, similar to Item 1(c), requires written
28 documentation from a healthcare professional that employees know how

1 to use such a respirator.

2 Citation 1, Item 1(e) referencing 29 CFR 1910.134(f)(2) cited
3 failure of the employer to ensure that the welder/painter employees
4 using tight-fitting facepiece respirators to protect themselves from
5 hazardous chemicals at the work site had been fit tested prior to
6 initial use and/or at least annually thereafter. Again, similar to
7 the above-reference items regarding respirators, the SHR could
8 obtain no documentation, evidence or even assurance that the
9 employer effectively trained its employees in respirator use. The
10 SHR determined during his investigation that some employees did not
11 demonstrate knowledge of training. Further there were no employee
12 records of respirator protection training as required by the
13 standard.

14 Citation 1, Item 1(f) referencing 29 CFR 1910.134(k)(1)
15 charged the employer with failure to provide effective training and
16 ensure that each employee who wore a respirator could demonstrate
17 knowledge of the basic elements of respirators. Mr. Olaechea
18 testified that he confirmed during his employee interviews that
19 employees could not demonstrate knowledge of the training nor were
20 there any records available to verify same as required by the
21 standard.

22 Mr. Olaechea testified that he grouped the penalty at Citation
23 1, Item 1(a) through 1(f) which he classified as serious and
24 assessed a total penalty of \$800.00. He stated that the serious
25 classification was based upon the potential for a serious injury or
26 death in furtherance of the violations. He further testified that
27 he observed employees actually working in violation of the afore
28 referenced items at Citation 1, and further referenced the

1 photographic and related exhibits to support the testimony. The SHR
2 reduced the penalties from the guideline amount of \$7,000 based upon
3 probability, the size of the employer, and other established credit
4 factors. Exhibit 1 includes the penalty calculation methodology to
5 demonstrate same to be in compliance with the accepted OSHES
6 guidelines. Finally, as to the afore referenced citation items, Mr.
7 Olaechea testified that the employer knew or should have known of
8 the violations, specifically Ms. Irish and Mr. Hartley, given their
9 personal involvement in the business and the comparatively small
10 size of the operation. In this regard he testified that as to the
11 respirator violations, Ms. Irish demonstrated to him a cabinet full
12 of respirators indicating to him that she was aware of the need for
13 this type of protection but neglected compliance with the actual
14 mandates of each specific item in the particular standards.

15 Mr. Olaechea went on to testify with regard to Citation 1,
16 Item 2(a) referencing 29 CFR 1910.151(c) charging the employer
17 failed to provide suitable facilities for flushing of the eyes and
18 body for employees exposed to injurious corrosive materials.
19 Particularly the SHR found that the eyewash station in the metal
20 treatment area at the plant site was covered with storage materials
21 and/or other debris and therefore inaccessible for use by employees
22 during a time of need. He identified the photographic evidence in
23 Exhibit 1 to demonstrate the lack of accessability to the eyewash
24 station. He testified that based on his investigation and
25 interviews, some employees were not aware of the actual location of
26 the said eyewash station. Mr. Olaechea was shown an eyewash
27 "squeeze bottle" by the employer representative which was inadequate
28 to satisfy the eyewash station standard cited. He testified that

1 the standard requires a minimum steady flow rate all as set forth in
2 the specific terms.

3 At Citation 1, Item 2(b) referencing 29 CFR 1910.1200(e)(1)(i)
4 the employer was charged with a failure to ensure that employees had
5 access to a list of hazardous chemicals using an identity referenced
6 on a corresponding material safety data sheet (MSDS). He testified
7 that because the employees did not have access to such a list of the
8 hazardous chemicals (no MSDS on the site), there was no verifiable
9 ability for employees to understand and appreciate injuries relating
10 to hazardous or corrosive chemicals located at the worksite. He
11 testified that the employer did have a safety program for same but
12 not fully implemented based upon an inability to produce the MSDS as
13 required by the standard.

14 At Citation 1, Item 2(c) referencing 29 CFR 1910.1200(h)(1)
15 the SHR found a violation based on the employer's failure to ensure
16 that the hazard communication program was fully implemented. He
17 could find no evidence of adequate training on the hazards of the
18 chemicals used in the workplace and the use and location of the
19 MSDS. The proposed penalty at \$800.00 was grouped to include all of
20 the subject items referenced under Citation 1, Item 2 and the
21 subparts. The SHR testified that given all credits and benefits
22 similar to that referenced hereinabove, the penalty was
23 substantially reduced to the assessed total of \$800.00.

24 Citation 1, Item 3(a) referencing 29 CFR 1910.212(a)(3)(ii)
25 charged the employer failed to ensure that the points of operation
26 on two drill presses used by the machinist, Mr. Varga, were guarded
27 during use to protect him and other employees using same from the
28 potential hazard of moving parts and flying metal particles. The SHR

1 observed that employees failed to use the removable guard while
2 boring holes in metal. He testified that there were no guards on
3 the two drill presses observed during operations. Photographic
4 Exhibit 1 at page 43 depicted the press used to drill parts and
5 shows no guard in place. Mr. Olachea testified that he was by an
6 employee during his interview informed that the company owns the
7 required guard but it was not on the machine during the inspection.
8 The machinist employee informed the SHR that he does not always use
9 the guard while performing his duties. The SHR testified he observed
10 the employee using the machine without a guard and without safety
11 glasses.

12 Citation 1, Item 3(b) referencing 29 CFR 1910.215(a)(2)
13 charges the employer failed to provide a guard for the end (sides)
14 of a Delta bench grinder used by a machinist thereby exposing him to
15 the potential hazard of flying abrasive wheel fragments in the event
16 of wheel breakage. Photographic Exhibit 4 admitted in evidence
17 depicted the subject grinder with no end guard in place. Exhibit 1
18 at page 47 depicted the grinder without the guard.

19 Citation 1, Item 3(c) referencing 29 CFR 1910.215(a)(4)
20 charges the employer failed to ensure that a work rest was installed
21 on the right wheel of the Delta bench grinder used by the machinist
22 to grind and smooth metal parts. The gap between the wheel and the
23 guard where the work rest should have been installed was personally
24 measured by the SHR to be one inch.

25 Citation 1, Item 3(d) referencing 29 CFR 1910.215(b)(9)
26 charged the employer failed to ensure that the distance between the
27 wheel periphery and the adjustable tongue guard on the Delta bench
28 grinder used by the machinist was not in excess of one-fourth of an

1 inch. The grinder did not have a tongue guard on either of the
2 abrasive wheels thereby leaving a gap of one inch. Again, as
3 hereinabove referenced at Item 3(c), Exhibit 1 depicted the grinder
4 without the protection as required at page 48. Mr. Olaechea
5 testified that the violations at Item 3 were grouped and penalties
6 assessed based on his calculations subject of previous testimony and
7 Exhibit 1 after appropriate credits were applied.

8 Citation 2, Items 1(a) and 1(b) were charged as "Other"
9 violations. Item 1(a) referencing 29 CFR 1904.29(b)(1) charges the
10 employer with a failure to enter a full description for each injury
11 on the OSHA Form 300. The employer did not maintain a log of
12 employee injuries and illnesses. As with other document requests,
13 the SHR was provided no written documentation as specifically
14 required by the cited standard which formed the basis for issuing
15 the citation.

16 Citation 2, Item 1(b) referencing 29 CFR 1904.32(a)(3) charges
17 the employer with a failure to certify the annual summary of work
18 related illnesses and injuries. The SHR testified that a signature
19 must be affixed on the appropriate form to certify the work related
20 injuries occurring at the site. No certification was provided to
21 the SHR upon his request for same during the inspection.

22 The violations at both Citation 2, Item 1(a) and 1(b) were
23 classified as "Other" and a Zero Dollar (\$.00) penalty assessed.

24 Respondent counsel David Martin presented no witnesses or
25 testimonial evidence to rebut the sworn testimony of SHR Olaechea.
26 He commenced the presentation of respondent's case with an offer of
27 proof as to what employee representative and company principal, Ms.
28 Irish, would have testified to had she been sworn as a witness. Mr.

1 Martin informed the board that Ms. Irish would have testified that
2 appropriate records and documents were maintained by the company in
3 accordance with the standards but not available at the time of the
4 inspection due to a labor dispute and disruption at the plant site.
5 He further informed the board that Ms. Irish would testify that the
6 documentary requirements are now in place and corrective action
7 taken as to the remaining alleged violative conditions to assure
8 compliance with all of the standards cited.

9 At the conclusion of respondent's case both counsel presented
10 closing argument.

11 The complainant argued there was sufficient testimonial,
12 photographic, and documentary evidence to meet the statutory burden
13 of proof to establish a prima facie case of violation of all
14 standards referenced in Citations 1 and 2. He further argued that
15 OSHES and the SHR did all they could to cooperate with a distraught
16 employer who was in the midst of a labor dispute and gave extensive
17 credits to the penalties assessed notwithstanding the serious nature
18 of the violations. Grouping of the penalties was an added
19 demonstration of benefit to the troubled employer. Counsel
20 submitted that the sworn testimony of the SHR was unrefuted and
21 based upon violations personally observed in the workplace,
22 including employees using and/or operating equipment in violation of
23 the standard and a lack of any documentary evidence whatsoever to
24 satisfy the basic requirements of the applicable cited standards.

25 Respondent argued that because of the evidence and nature of
26 a strike atmosphere, respondent should not be burdened with full
27 responsibility under the cited standards.

28 Counsel argued that during cross-examination of SHR Olacchea,

1 counsel elicited responses that there was indeed personal protective
2 equipment (PPE) at the work site as demonstrated by the cabinet full
3 of respirators. Further, the SHR testified that he was assigned the
4 initial inspection of the work site based on an employee complaint
5 of poor housekeeping records; but during the inspection he found no
6 housekeeping violations upon which to base any citation for
7 violation. He argued that the fact that there were PPEs available
8 showed that the employees simply cut corners during the time of
9 strike. He said the inspections occurred during a "unique snapshot
10 in time when the shop was in disarray." He reminded the board that
11 the SHR testified that he found "lots of paper" on the site albeit
12 the employer's inability during a time of stress to produce the
13 particular documents to satisfy the "paper violations." He argued
14 that the employer should be given some leeway for particularly those
15 violations due to the overall labor dispute atmosphere conditions.
16 He also argued the eyewash station was in place, albeit perhaps a
17 bit cluttered but indeed there was a station at the work site to
18 satisfy the standard. He concluded by requesting a reduction in the
19 amount of penalties assessed because of the onsite abatement and in
20 furtherance of the offer of proof. All Exhibits A through D offered
21 by respondent were admitted into evidence.

22 In reviewing the testimonial evidence, exhibits, and arguments
23 of counsel, the board is required to measure same against the
24 elements to establish violations under Occupational Safety & Health
25 Law based upon the statutory burden of proof and competence of
26 evidence.

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

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

4 To prove a violation of a standard, the
5 Secretary must establish (1) the
6 applicability of the standard, (2) the
7 existence of noncomplying conditions, (3)
8 employee exposure or access, and (4) that the
9 employer knew or with the exercise of
10 reasonable diligence could have known of the
11 violative condition. See Belger Cartage
Service, Inc., 79 OSAHRC 16/B4, 7 BNA OSHC
1233, 1235, 1979 CCH OSHD ¶23,400, p.28,373
(No. 76-1948, 1979); Harvey Workover, Inc.,
79 OSAHRC 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).

12 A respondent may rebut allegations by showing:

- 13 1. That the standard was inapplicable to
14 the situation at issue;
- 15 2. That the situation was in compliance; or
16 lack of access to a hazard. See, Anning-
Johnson Co., 4 OSHC 1193, 1975-1976 OSHD
¶ 20,690 (1976).

17 The sworn testimony of SHR Olaechea was credible and supported
18 by the documentary evidence. Respondent admitted that the
19 documentation to satisfy the standards was not provided upon request
20 to the SHR or OSHEs either at the time or after the inspection and
21 issuance of citations.

22 The board further finds that the complainant met its burden of
23 proof by a preponderance of substantial evidence. The violations of
24 the referenced Citations 1 and 2 were proven.

25 The board finds there was no legally competent evidence to
26 rebut the sworn testimony of SHR Olaechea or mitigate lack of
27 compliance as to the documentary evidence required by the cited
28 standards.

1 Based upon the above and foregoing, the board concludes that,
2 as a matter of fact and law, the violations occurred and the
3 proposed penalties appropriate reasonable.

4 It is the decision of the **NEVADA OCCUPATIONAL SAFETY AND**
5 **HEALTH REVIEW BOARD** that violations of Nevada Revised Statutes did
6 occur as to Citation 1, Item 1(a), 29 CFR 1910.132(f)(4), Item 1(b)
7 29 CFR 1910.133(a)(1), Item 1(c) 29 CFR 1910.134(e)(1), Item 1(d),
8 29 CFR 1910.134(e)(6)(i), Item 1(e), 29 CFR 1910.134(f)(2), Item
9 1(f), 29 CFR 1910.134(k)(1), Item 2(a), 29 CFR 1910.151(c), Item
10 2(b), 29 CFR 1910.1200(e)(1)(i), Item 2(c), 29 CFR 1910.1200(h)(1),
11 Item 3(a), 29 CFR 1910.212(a)(3)(ii), Item 3(b) 29 CFR
12 1910.215(a)(2), Item 3(c), 29 CFR 1910.215(a)(4), Item 3(d), 29 CFR
13 1910.215(b)(9), and Citation 2, Item 1(a), 29 CFR 1904.29(b)(1) and
14 Item 1(b), CFR 1904.32(a)(3). The violations charged are confirmed
15 and the proposed total penalties in the amount of TWO THOUSAND FOUR
16 HUNDRED DOLLARS (\$2,400.00) granted.

17 The Board directs counsel for the complainant, **CHIEF**
18 **ADMINISTRATIVE OFFICER OF THE OCCUPATIONAL SAFETY AND HEALTH**
19 **ENFORCEMENT SECTION, DIVISION OF INDUSTRIAL RELATIONS,** to submit
20 proposed Findings of Fact and Conclusions of Law to the **NEVADA**
21 **OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** and serve copies on
22 opposing counsel within twenty (20) days from date of decision.
23 After five (5) days time for filing any objection, the final
24 Findings of Fact and Conclusions of Law shall be submitted to the
25 **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** by prevailing

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1 counsel. Service of the Findings of Fact and Conclusions of Law
2 signed by the Chairman of the **NEVADA OCCUPATIONAL SAFETY AND HEALTH**
3 **REVIEW BOARD** shall constitute the Final Order of the **BOARD**.

4 DATED: This 30th day of May, 2007.

5 NEVADA OCCUPATIONAL SAFETY AND HEALTH
6 REVIEW BOARD

7 /s/

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TOM B. WATTERS, CHAIRMAN

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