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 INDUSTRY, STATE OF NEVADA

Complainant,

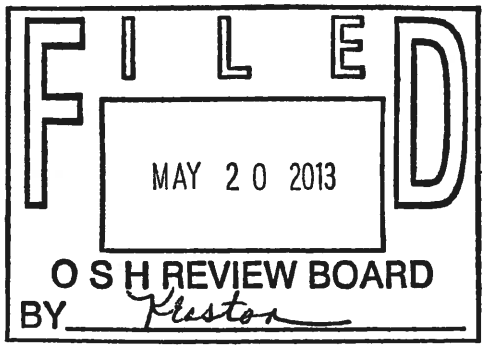
vs.

THE CAT HOUSE, INC.,

Respondent.

_____/

Docket No. LV 12-1512



DECISION

This matter having come before the **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** at a hearing commenced on the 10th day of April, 2013, in furtherance of notice duly provided according to law, MR. MICHAEL TANCHEK, 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. KEITH EVANS, President on behalf of Respondent, **THE CAT HOUSE, INC.**; the **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** finds as follows:

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

The complaint filed by the OSHA sets forth allegations of violation of Nevada Revised Statutes as referenced in Exhibit "A", attached thereto. The alleged violations remaining in contest after negotiated settlement or other resolution involve Citation 4, Item 1,

and Citation 4, Item 2.

At Citation 4, Item 1, complaint charges a violation of NRS 618.375(1). Complainant alleged the respondent employer failed to furnish employment free from recognized hazards by requiring employees to work in direct contact with lions located in an enclosed environment at the MGM Grand Hotel in Las Vegas, Nevada.

At Citation 4, Item 2, complainant charges violation of 29 CFR 1910.132(d)(1). Complainant alleged the respondent employer did not ensure that a hazard assessment was done for the Lion Habitat located at the MGM Grand Hotel in Las Vegas, Nevada, to determine if personal protective equipment (PPE) was needed when working directly with lions that would aid lion trainers in the avoidance of incidents that may cause serious injury or death.

stipulation of counsel.

Counsel for the Chief Administrative Officer presented testimony and documentary evidence with regard to the alleged violations. Certified safety and health officer (CSHO) Angela Valerie Muffley testified she was assigned to investigate an incident involving a lion attack on a trainer employed by respondent. Ms. Muffley identified the complainant exhibit packet which was stipulated in evidence by the parties and included Exhibits 1 through 6. She identified two employees who were subject of a lion attack at the Lion Habitat which injured one lion handler on September 1, 2010, inside the MGM Grand Hotel. CSHO Muffley presented a video and identified two respondent employees depicted in the video as the individuals subject of the attack. She testified in furtherance of her narrative report at Exhibit 1. Two lion handlers were in the habitat at the time of the lion attack. One lion handler was bitten in the lower leg and treated

at the hospital and required "30 staples". She further testified the employees subject of the attack were in direct contact with lions but not provided personal protection equipment (PPE) or given safety procedures to prevent attacks or injuries. She identified photographs at Exhibit 2 as depicting the workplace and scene of the attacks in addition to the video presented at Exhibit 6. She identified documents at Exhibit E as rules and notices provided by the respondent for handling big cats, including employee directives and related materials. She testified Exhibit 4 to be the company safety policies provided by respondent and stipulated in evidence.

Counsel continued direct examination and questioned the basis for citing the employer under NRS 618.375(1) commonly known as the "general duty clause", and particularly asked what feasible means existed to prevent injuries to the employees. Ms. Muffley testified she cited the general duty clause because there were no specific standards governing employee safety when working in direct contact with lions. She further testified that feasible means could have been utilized to stop an attack referencing her opinion that pepper spray or an air horn would have been appropriate.

At Citation 4, Item 2, CSHO Muffley testified that based upon her investigation, the employer failed to conduct a workplace hazard assessment to determine if hazards were present or were likely to be present which would necessitate the use of personal protective equipment (PPE). At the Lion Habitat inside the MGM Grand, the employees were required to work in close proximity with the lions up to eight hours per day. Employee duties included feeding and playing with the lions within the enclosure which placed them subject to direct contact with the animals to provide an entertainment experience

for guests at the hotel observing the show from outside the enclosure. She testified the required hazard assessment would have permitted the employer to determine if personal protective equipment was needed in working directly with the lions which would help or aid lion trainers in the avoidance of contact incidents that may cause serious injury or even death.

CSHO Muffley explained the hazards of lion and human trainer employee contact and rendered her opinion of feasible means to prevent serious injury or death. She testified that during the investigation Mr. Evans informed her there was no PPE available that would work in the enclosed environment. Mr. Evans informed her that he raises and trains lions differently than those in zoos or wild animal parks. He told her no PPE would work because it would be ineffective.

CSHO Muffley concluded her direct testimony by describing the potential serious injury or death that could occur from an employee being eaten or seriously injured or killed by an unrestrained lion.

Respondent conducted brief cross-examination. CSHO Muffley identified complainant's Exhibit 3 as material provided to her by the respondent after the initial inspection and her report to satisfy the hazard assessment documentation required by the standard at Citation 4, Item 2. She confirmed that OSHA had no specific standards applicable to the specific working conditions of lion trainers in the lion habitat which required her to reference NRS 618.375(1), commonly known as the "general duty clause" at Citation 4, Item 1.

The complainant presented witness testimony from Dr. Ron Tilson who identified himself an expert in the field of "big cat" study, conservation, and habitat. He identified Exhibit 5 and explained his background, experience, and qualifications in the field to establish

himself as an "expert witness". Dr. Tilson testified his primary expertise applies to tigers, but there are many similarities in dealing with all large cats, even though there are specific differences in their behavior. He testified that ". . . cats are unpredictable . . ." so great care must be taken to avoid personal human relationships. He testified there were approximately 13 injuries and 5 deaths each from cats in zoos or private ownership. On continued direct examination, Dr. Tilson testified that he encourages handlers to carry pepper spray but opined it could not reliably work, mitigate, or stop an attack. On direct questioning as to how he would minimize an attack from a lion or big cat, Dr. Tilson responded that the only assured way is to avoid all human contact.

Respondent presented testimony through Mr. Wes Pipper. The witness identified himself as the handler identified in the photos, Exhibit 2, and the video, Exhibit 6, who was directly attacked and injured by the lion which caused the OSHA investigation. He testified he was bitten and received serious injuries during the attack. Mr. Pipper testified he believed the respondent's training program was sufficient to protect him or other handlers from an attack by the lions. He further testified that in his opinion pepper spray in the enclosed pen environment could result in blinding and prevent ability to get away from a beast during an attack. He testified the use of pepper spray would be ". . . as much a hindrance as a potential aid . . ." Mr. Pipper stated he considers his job hazardous, but wants to work with lions and take the training steps required for hands on personal contact.

On cross-examination Mr. Pipper testified as to his background, including a University degree in Animal Science, experience in animal

training and conservation, previous work as an animal trainer at Safari Land in Santa Rosa, California and his training experience with the respondent.

At the conclusion of the presentation of evidence and testimony, complainant and respondent presented closing argument.

The complainant asserted it is OSHA's job to make the work place as safe as possible. He argued the subject hazard was unique because an employee was working with a wild, unpredictable animal in an entertainment environment. He asserted that respondent employees have no defense against big cats other than "techniques," but no PPE to stop or prevent an attack.

Respondent, Keith Evans, presented closing argument. Mr. Evans asserted that cats (lions) respond differently to him because he raised every cat from a cub status and utilizes a special method to permit him to safely deal with the large beasts in a controlled environment. He testified that in 43 years of experience with such animals in the entertainment, theatrical and movie industries, as well as animal parks, he found that hand and voice control is the best technique to control lions. He argued that if is up to OSHA to determine that no employees can be in proximity to big cats without PPE, restraint or other intervening means, then no live or theatrical performances could exist in Las Vegas shows, movies, or anywhere else. He asserted that while he has now added pepper spray and air horns to his show, it was done merely to accommodate OSHA as he does not believe sprays or horns will work. He asserted that he has done everything feasible to protect his employees, including measures that might work (spray, horns) even though he has no belief in them. Mr. Evans concluded by asserting that if you stop all contact with lions

by trainers you will ". . . kill the entertainment business." There is simply no feasible means to protect employees in a controlled work place environment (explaining his position is not applicable to zoos or open animal parks) and the best position is training techniques and methods that he has employed for his entire life working directly in personal contact with lions.

The board in reviewing the facts, documentation, testimony and other evidence must measure same against the established applicable law developed under the Occupational Safety & Health Act.

> In all proceedings commenced by the filing of a notice of contest, the burden of proof rests with the Administrator. N.A.C. 618.788(1).
>
> All facts forming the basis of a complaint must be proved by a preponderance of the evidence. Armor Elevator Co., 1 OSHC 1409, 1973-1974 OSHD ¶16,958 (1973).

At Citation 4, Item 1, the complaint cited the respondent for a violation of NRS 618.375(1) commonly known as the "**General Duty Clause**" which provides in pertinent part:

> . . . Every employer shall:
>
> 1. Furnish employment and a place of employment which are free from **recognized hazards** that are causing or are likely to cause death or serious physical harm to his employees . . ." (emphasis added)
>
> The elements of a **general duty clause** violation identified by the first court of appeals to interpret Section 5(a)(1) have been adopted by both the Federal Review Commission and the courts in subsequent cases. The court in *National Realty and Construction Co., Inc. v. OSHRC*, 489 F.2d 1257 (D.C. Cir. 1973), listed three elements that OSHA must prove to establish a general duty violation; the Review Commission extrapolated a fourth element from the court's reasoning: (1) a condition or activity in the workplace presents a hazard to an employee; (2) the condition or activity is recognized as a hazard; (3) the hazard

is causing or is likely to cause death or serious physical harm; and (4) **a feasible means exists to eliminate or materially reduce the hazard.** The four-part test continues to be followed by the courts and the Review Commission. E.g., *Wiley Organics Inc. v. OSHRC*, 124 F.3d 201, 17 OSH Cases 2125 (6th Cir. 1997); *Beverly Enters., Inc.*, 19 OSH Cases 1161, 1168 (Rev. Comm'n 2000); *Kokosing Constr. Co.*, 17 OSH Cases 1869, 1872 (Rev. Comm'n 1996). The *National Realty*, decision itself continues to be routinely cited as a landmark decision. *See, e.g., Kelly Springfield Tire Co. v. Donovan*, 729 F.2d 317, 321, 11 OSH Cases 1889 (5th Cir. 1984); *Ensign-Bickford Co. v. OSHRC*, 717 F.2d 1419, 11 OSH Cases 1657 (D.C. Cir. 1983); St. Joe Minerals Corp. v. OSHRC, 647 F.2d 840, 845 n.8, 9 OSH Cases 1946 (8th Cir. 1981); *Pratt & Whitney Aircraft Div. v. Secretary of Labor*, 649 F.2d 96, 9 OSH Cases 1554 (2d Cir. 1981); *R.L. Sanders Roofing Co. v. OSHRC*, 620 F.2d 97, 8 OSH Cases 1559 (5th Cir. 1980); *Magma Copper Co. V. Marshall*, 608 F.2d 373, 7 OSH Cases 1893 (9th Cir. 1979); *Bethlehem Steel Corp. v. OSHRC*, 607 F.2d 871, 7 OSH Cases 1802 (3d Cir. 1979). Rabinowitz Occupational Safety and Health Law, 2008, 2nd Ed., page 91. (emphasis added)

When the Secretary has introduced evidence showing the existence of a hazard in the workplace, the **employer may, of course, defend by showing that it has taken all necessary precautions to prevent the occurrence of the violation.** *Western Mass. Elec. Co.*, 9 OSH Cases 1940, 1945 (Rev. Comm'n 1981). (emphasis added)

The general duty clause, Section 5(a)(1) of the OSHA Act, as codified at NRS 618.375(1), mandates that each employer 'furnish to each of his employees employment and a place of employment which are free from recognized hazards that re causing or are likely to cause death or serious physical harm to his employees.' 29 U.S.C. §654(a)(1). The breadth of the general duty clause has made it one of the most frequently litigated provisions of the Act. The general duty clause is a 'catchall provision' designed to redress hazardous conditions that are not covered by agency standard setting. *E.g., Reich v. Arcadian Corp.*, 110 F.2d 1192, 1196, 17 OSH Cases 1929 (5th Cir. 1997). *Anoplate Corp.*, 12 OSH Cases 1678, 1687

A determination of violation in this matter requires an evidentiary finding of an essential element under the cited general

duty clause, namely ". . . proof of a **feasible means . . . to eliminate or materially reduce the hazard.**"

> The **general duty clause requires the elimination only of preventable hazards.** Although the literal terms of Section 5(a)(1) may appear to hold the employer accountable for every known on-the-job hazard, the hazard must be **realistically remediable.** The final element of proof of a general duty violation requires the Secretary to specify the steps the employer should have taken to avoid citation and **demonstrate the feasibility and likely utility of those steps.** *National Realty,* 489 F.2d at 1265-66, 1 OSH Cases 1422. The **requirement that OSHA provide a feasible method of abatement** was born in *National Realty* as a way of analyzing whether the employer had rendered the workplace free of the hazard under the first element. In later cases, the Review Commission listed the feasibility and likely utility of abatement as a fourth element distinct from the 'free from recognized hazards' element. *See, e.g., Jones & Laughlin Steel Corp.,* 10 OSH Cases 1778, 1781 (Rev. Comm'n 1982); *Beaird-Poulan,* 7 OSH Cases 1225, 1228 (Rev. Comm'n 1979). The Commission applied the fourth element to cases involving the **feasibility of physical means of abatement as well as those involving the effectiveness of an employer's safety program.** The courts of appeals have accepted the addition of the fourth element. *Baroid Div. Of NL Indus. V. OSHRC,* 660 F.2d 439, 446-47, 10 OSH Cases 1001 (10th Cir. 1981); *St. Joe Minerals Corp. V. OSHRC,* 647 F.2d 840, 844, 9 OSH Cases 1646 (8th Cir. 1981); *Babcock & Wilcox Co. v. OSHRC,* 622 F.2d 1160, 1164, 8 OSH Cases 1317 (3d Cir. 1980). Rabinowitz Occupational Safety and Health Law, 2008, 2nd Ed., pages 99-100. (emphasis added)

> **Feasibility, not customary use, is the question.** If OSHA proves that a proposed abatement method is technologically and economically feasible, a citation will be sustained even if it exceeds the standard of protection used by the employer or the industry. Of course, widespread use in an industry of a certain means of protection is strong evidence of the precaution's feasibility . . . **To be 'feasible,'** a **method of abatement must significantly reduce the hazard** but need not completely eliminate it. *Beverly Enters.,* 19 OSH Cases 1161, 1191 (Rev. Comm'n 2000). *See, e.g., Magma Copper Co. v. Marshall,* 608 F.2d 373, 7 OSH Cases 1893, (9th Cir. 1979); *General Dynamics Corp., v.OSHRC,* 599 F.2d 453, 7 OSH Cases 1893

(9th Cir. 1979). Rabinowitz Occupational Safety and Health Law, 2008, 2nd Ed., page 101. (emphasis added)

> **Proposed methods of abatement that mandate changes in personnel or hurt product quality will likely not be upheld.** In *Pepperidge Farm,* 17 OSH Cases 1993, the Secretary argued that the measures taken by the employer to reduce the incidence of upper extremity musculoskeletal disorders among employees working on the factory line were inadequate to free the workplace of the hazard. The Review Commission found that the employer had implemented various administrative and engineering controls to counteract the repetitive motion disorders, including employee awareness programs, medical programs, exercise programs, and physical changes to the workplace that included automation and better work methods. The Secretary listed four additional steps that could further abate the hazards: (1) adding workers to each of the lines, (2) introducing micropauses into the conveyors to interrupt the work flow periodically, (3) reducing the line speeds, and (4) rotating employees from highly repetitive jobs to jobs that were less so. The Commission found that the second, third and fourth **proposals were infeasible** because testimony showed that micropauses and slower line speed would adversely impact product quality, and because there were no jobs available into which production line employees could rotate. The Commission refused to affirm the citation when the only feasible abatement method shown was a mandate to add workers. *Royal Logging Co.,* 7 OSH Cases 1744, 1751 (Rev. Comm'n 1979), *aff'd,* 645 F.2d 822, 9 OSH Cases 1755 (9th Cir. 1981) Rabinowitz Occupational Safety and Health Law, 2008, 2nd Ed., page 102. (emphasis added)

Violations of the general duty clause are the most difficult to prove.

> **The breadth of the general duty clause has made it one of the most frequently litigated provisions of the Act. The general duty clause is a 'catchall provision' designed to redress hazardous conditions that are not covered by agency standard setting.** *E.g., Reich v. Arcadian Corp.,* 110 F.2d 1192, 1196, 17 OSH Cases 1929 (5th Cir. 1997). *Anoplate Corp.,* 12 OSH Cases 1678, 1687 (emphasis added)

To satisfy the burden of proof for a general duty clause citation

under Occupational Safety and Health Law, the **division must establish all the elements to prove a violation by a preponderance of evidence.** Clearly the recognized hazard element was demonstrated from the unrefuted evidence of respondent employee Mr. Pipper working in close proximity to a lion. However, the essential element of proof here for a general duty clause violation is evidence of a **feasible means for the respondent employer to prevent or mitigate injury to the employee.** The evidence presented by complainant did not satisfy the burden of proof that there existed a feasible and realistic means to prevent, mitigate or certainly eliminate or even materially reduce the hazard **under the facts presented in this case.**

CSHO Muffley testified that in her opinion the use of pepper spray or an air horn for PPE would have helped under a premise that ". . . something was better than nothing . . .".

Employee witness Pipper testified he was trained as a direct contact animal handler and believes there is no PPE that would have assisted him under the factual circumstances to any greater extent than his training. He further testified that use of pepper spray, which was that recommended by CSHO Muffley, would not have helped and could have aggravated the situation to a **greater hazardous condition.** He testified that pepper spray in a closed controlled environment such as the Lion Habitat, as opposed to an outdoor animal park or zoo, could confine the toxic fumes creating potential blindness to the victim or disorientation, and thus no viable means of escape from an attacking beast.

Expert witness Dr. Tilson testified there was simply no assured means of protecting a human being from a large cat other than absolute avoidance of proximity or direct human contact.

Certainly the hazard was **recognized,** but while that proof element was satisfied, respondent's arguments and the witness testimony demonstrated reasonable measures were taken to control the animal in the confined environment through training. The weight of evidence demonstrated the training to be the only realistic means that could serve to protect an employee who chooses to work in such conditions **mandated by a theatrical or entertainment venue.** Clearly no member of the public nor other employees of respondent were exposed to the hazard. The only hazard exposure was to the handler/trainer employees working in **direct proximity** with the animals in the Lion Habitat enclosure. OSHA did not demonstrate or prove there were **feasible realistic means of PPE** or other personal protection which would not destroy the theatrical environment or create a greater hazard (the drifting of pepper spray fumes for example).

To establish a violation of the general duty clause, Nevada OSHA must do **more than merely show that a hazard was present.** *Southern Ohio Building Systems v. OSHRC*, 649 F.2d 556, 558 (6th Cir. 1981). (emphasis added)

The board finds insufficient evidence to meet the burden of proof to establish a violation of the general duty clause at Citation 4, Item 1. Given the facts of this case, the theatrical environment and venue to present a "Las Vegas style show" or movie scenes, magic acts, and/or performances where wild animals are exhibited for entertainment, there were no **reasonably applicable or feasible means for protection in evidence** other than the existent training. **This finding is limited and restricted to the evidence in the record.**

The evidence and arguments demonstrated that risk factors of direct proximity work with unrestrained lions cannot be controlled by

any recognized assured means, other than the training of handlers and animals. The testimony of Mr. Pipper who was attacked by a lion demonstrated his desire to continue direct contact work with lions in entertainment venues. He and other trainer/handlers employed by respondent have elected to work in a high risk environment.

CSHO Muffley testified in a forthright fashion; however she could not, with any degree of certainty, provide competent evidence to demonstrate a **feasible means existent to eliminate or materially reduce the hazard.** Further, expert witness Dr. Tilson whose credentials were extensive, and established him as an expert in the field, could provide **no evidence of any assured feasible means to protect individuals from attackthrough PPE working in the direct proximity of any** big cats. He opined there was . . . **no protection, feasible or otherwise, available except for the lack of any proximity or personal contact by an individual with a big cat** . . .. He testified "The only way to bring this probability (attack) down to zero is not to be in contact with it. It's as simple as that." (See Transcript, page 71).

The board is confronted with the need in the present case to extrapolate a violation without required evidence, factual data or an essential element subject of proof by a preponderance under the established occupational safety and health law.

> . . . The Secretary's obligation to demonstrate the alleged violation by a preponderance of the reliable evidence of record **requires more than estimates, assumptions and inferences** . . .[t]he Secretary's **reliance on mere conjecture is insufficient to prove** a violation . . . [findings must be based on] 'the kind of evidence on which responsible persons are accustomed to rely in serious affairs.' *William B. Hopke Co., Inc.*, 1982 OSAHRC LEXIS 302 *15, 10 BNA OSHC 1479 (No. 81-206, 1982) (ALJ) (citations omitted). (emphasis added)

Congress has not promulgated or codified specific standards to control the wide based entertainment industry for direct contact work with wild animal acts, shows or performances. The Nevada Occupational Safety & Health Review Board is without authority or jurisdiction to create new law or legislate an industry that is surely well known to the nations lawmakers.

At Citation 4, Item 2, it was alleged the respondent failed to assess the workplace to determine if hazards were present or were likely to be present, which necessitate the use of personal protective equipment (PPE).

> To prove a violation of a **specific standard**, the Secretary must establish (1) the applicability of the standard, (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 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). (emphasis added)

A respondent may rebut allegations by showing:

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

2. That 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).

A "serious" violation is established in accordance with NRS 618.625(2) which 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 at that place of employment unless the employer did not and could not, with the exercise of reasonable diligence, know the presence of the violation.

The complainant did not satisfy the burden of proof to establish a violation at Citation 4, Item 2 for employer failure to assess the workplace hazards. Complainant's evidence packet at Exhibits 3 and 4 demonstrate that respondent did undertake reasonable efforts to not only assess the work place but also provide recommendations and training for employees working in close proximity to the lions. Further, Mr. Pipper testified he received training sufficient to protect himself. This was testimony under oath by the very employee who was attacked by the lion causing the investigation and citation.

The evidence effectively rebutted the allegations of violation by showing that respondent was in compliance because it had indeed performed the required duties to satisfy the requirements of the standard to conduct a hazard assessment. While the formalities and the timing may have been less than optimal, the result demonstrated that respondent had "taken all necessary precautions to prevent the occurrence of the violation."

> When the Secretary has introduced evidence showing the existence of a hazard in the workplace, the **employer may, of course, defend by showing that it has taken all necessary precautions to prevent the occurrence of the violation.** *Western Mass. Elec. Co.*, 9 OSH Cases 1940, 1945 (Rev. Comm'n 1981). (emphasis added)

Based upon facts, evidence and testimony, it is the decision of the **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** that no violation of Nevada Revised Statutes did occur under Citation 4, Item 1, NRS 618.375(1), the general duty clause, and the proposed classification and penalty is denied.

It is the further decision of the **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** that no violation occurred at Citation 4, Item 2, 29 CFR 1910.132(d)(1) and the classification and proposed penalty are denied.

The Board directs respondent 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 ordered 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 20th day of May 2013.

NEVADA OCCUPATIONAL SAFETY AND HEALTH
REVIEW BOARD

By /s/
JOE ADAMS, Chairman