

NEVADA OCCUPATIONAL SAFETY AND HEALTH

REVIEW BOARD

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

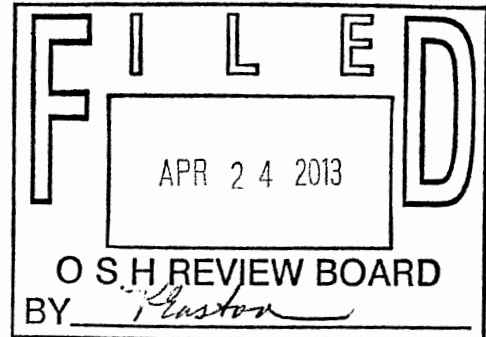
Docket No. LV 13-1638

Complainant,

vs.

COOPER ROOFING AND SOLAR,

Respondent.



DECISION

This matter having come before the **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** at a hearing commenced on the 13th day of March 2013, in furtherance of notice duly provided according to law, MR. DON SMITH, 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. CRAIG MARQUIS, ESQ. appearing on behalf of Respondent, **COOPER ROOFING AND SOLAR**; 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 Nevada Revised Statutes as referenced in Exhibit "A", attached thereto.

1 Citation 1, Item 1, charges a violation of 29 CFR 1926.501(b) (10)
2 as follows:

3 **Citation 1, Item 1, 29 CFR 1926.501(b) (10):** "Roofing work on
4 Low-slope roofs." Except as otherwise provided in paragraph
5 (b) of this section, each employee engaged in roofing
6 activities on low-slope roofs, with unprotected sides and
7 edges 6 feet (1.8 m) or more above lower levels shall be
8 protected from falling by guardrail systems, safety net
9 systems, personal fall arrest systems, or a combination of
10 warning line system and guardrail system, warning line system
11 and safety net system, or warning line system and personal
12 fall arrest system, or warning line system and safety
13 monitoring system. Or, on roofs 50-feet (15.25 m) or less in
14 width (see Appendix A to subpart M of this part), the use of
15 a safety monitoring system alone [i.e. without the warning
16 line system] is permitted.

17 While performing roofing work on a residential construction
18 jobsite located at 5614 Trilling Bird Drive, Las Vegas, NV
19 89135, an employee of Cooper Roofing and Solar was working
20 more than 6 feet above the lower landing level and was not
21 protected from falls. The employee was wearing a full body
22 harness, but was not attached to a fall arrest system. The
23 employee was exposed to a fall of at least 6-1/2 feet to the
24 lower landing surface, which could have resulted in serious
25 injury.

26 The violation was classified as "Serious". The proposed penalty
27 for the alleged violation is in the amount of TWO THOUSAND FIVE HUNDRED
28 TWENTY DOLLARS (\$2,520.00).

29 Complainant and respondent stipulated to the admission of
30 documentary evidence at complainant Exhibits 1 through 5 as compiled in
31 its evidence packet and respondent Exhibits 1, 2, 3 and 4.

32 Complainant presented testimony and documentary evidence with
33 regard to the alleged violation. Mr. Tristan Dressler, a certified
34 safety and health officer (CSHO) testified as to his inspection and the
35 citation issued to the respondent employer.

36 On October 24, 2012, Mr. Dressler conducted an inspection of
37 respondent's worksite located on Trilling Bird Drive, in Las Vegas,
38 Nevada. He observed an employee engaged in roofing work standing on the

1 southwest end of a second story roof building structure wearing a
2 personal fall arrest harness but without any attachment to a lifeline.
3 The employee appeared to be moving about the roof in an unsafe manner,
4 walking from the top of the roof section down towards the lower edge of
5 the roof. The CSHO obtained photographs of the observed employee
6 exposed to hazardous fall conditions. Mr. Dressler then contacted Mr.
7 Robert Cockhill, a superintendent for the controlling general contractor
8 employer, Ryland Homes, and initiated an inspection. He was informed
9 by Mr. Cockhill that the workers on the roof were employees of
10 subcontractor Cooper Roofing and Solar, the respondent herein. The
11 employees were performing roofing work on two model homes under
12 construction. Mr. Cockhill contacted Mr. Napoleon Mendez, Safety
13 Manager for the respondent employer, and requested his presence at the
14 job site.

15 CSHO Dressler conducted employee interviews and made reference to
16 Exhibit 2, his narrative inspection report. He identified Exhibit 5 as
17 photos 1 through 3 depicting the respondent employees he observed on the
18 roof structure. Mr. Dressler identified Mr. Allen Ortega as the
19 respondent employee in Exhibit 2, photo 1 without his safety harness
20 attached to the lifeline. During the interview, Mr. Ortega responded
21 to CSHO Dressler that he was not "tied off" because he was getting off
22 the roof to get drink of water. When asked why he stayed on the roof
23 and continued working after noticing the CSHO, no explanation was given.
24 Mr. Ortega informed CSHO Dressler that "his foreman", Mr. Juan Garcia,
25 was not on the roof that day but operating the fork lift at the ground
26 level.

27 CSHO Dressler interviewed Mr. Juan Garcia who identified himself
28 as the foreman on the site, but not responsible for safety. He informed

1 the CSHO that when the employees enter onto the roof they make their own
2 decisions.

3 CSHO Dressler reviewed the respondent written **Roofing Fall**
4 **Protection Program** and confirmed it required a ". . . 100% tie-off
5 policy."

6 During continued inspection, Mr. Dressler determined the distance
7 between the roof on which employee Ortega was observed working to the
8 scaffold below was greater than 6 feet and required fall hazard
9 protection under OSHA standards. An access ladder attached to the
10 scaffolding on the building site provided a method for determining
11 distance by counting the number of ladder rungs and applying a nominal
12 measurement of 12 inches for the span between each rung.

13 CSHO Dressler conducted a closing conference with Mr. Mike Pullen,
14 General Manager for respondent, and Mr. Napoleon Mendez, the respondent
15 Safety Manager. He determined the element of **employer knowledge** for the
16 violative conduct of employee Ortega was satisfied because Mr. Juan
17 Garcia was a supervisory employee working in close proximity to Mr.
18 Ortega. Mr. Garcia identified himself to the CSHO as "the foreman".
19 Mr. Ortega identified Mr. Juan Garcia as "his foreman". Mr. Garcia
20 informed the CSHO that he was operating the forklift and not watching
21 the employees because he was unable to see them on the roof from the
22 ground level. However, Mr. Dressler testified that the employees on the
23 roof were directing Mr. Garcia on where to place the roofing materials
24 with the forklift and Mr. Garcia had to look at the area on the roof
25 where the employees were standing to land the materials and avoid
26 striking both the structure and the employees with the forklift as he
27 set the load onto the roof.

28 Mr. Dressler testified he proposed a penalty and serious

1 classification, after considering the potential for a fall from the top
2 of the roof edge where the employees were working, to the second level
3 below. He testified that while the violation was serious he referenced
4 a "lesser probability" rating and proposed appropriate penalty
5 adjustments for size, good faith and history resulting in a 50% monetary
6 reduction factor.

7 CSHO Dressler recommended issuance of Citation 1, Item 1, based
8 upon his determination of **applicability** of the cited standard, 29 CFR
9 1926.501(b)(10) to the facts he observed, photographed, and employee
10 statements taken at the job site. He testified the standard was
11 applicable to the facts in evidence based upon the height of work and
12 the hazard exposure to a potential fall from the work surface of
13 employee Ortega to the level below. A lower **severity** rating was
14 assessed based upon the type of injuries that might be sustained from
15 a fall. He rated the probability factor at **lesser** based upon the
16 conditions observed.

17 On cross-examination, Mr. Dressler testified he was informed Mr.
18 **Claudio** Garcia was the area superintendent for respondent and had
19 dispatched the crew to the particular job site. Mr. **Juan** Garcia was the
20 job site foreman working directly with the employees at the subject job
21 site. He determined the company maintained a compliant written safety
22 program, and verified Mr. Ortega was trained in fall protection based
23 upon the documentation provided, and his onsite interviews. He
24 testified Mr. Juan Garcia told him he was the "foreman" and "running"
25 the job. He testified Mr. Juan Garcia also informed him at the closing
26 conference that Mr. Ortega was disciplined for failing to follow the
27 company 100% tie off policy as confirmed in the documentation provided
28 at respondent's Exhibits 1 and 2.

1 At the conclusion of complainant's case, respondent presented
2 testimony and documentary evidence. Mr. Michael Pullen identified
3 himself as the General Manager of the employer respondent. He testified
4 the company had two area superintendents; on each side of the city, and
5 every job was assigned a "lead guy" to interact with the area
6 superintendents. He stated the superintendents are responsible for
7 directing the crews in the field. Mr. **Claudio** Garcia was the area
8 superintendent for the subject job. He identified Mr. **Juan** Garcia as
9 the lead man on the job. He testified a **lead man** on a crew is not
10 considered a supervisor by the company. Mr. Pullen described job
11 description differences among the various crews working for respondent.
12 Some crews are only material truck loaders. Other crews load the
13 material onto the roof at the job site. A "dry-in" crew finishes the
14 work. Each worksite has a "lead man" who the company does not regard
15 as a supervisor because none have authority to hire, fire or make
16 decisions. He testified the company has a 100% tie-off policy and that
17 any person working above 6 foot must be tied off.

18 On cross-examination Mr. Pullen testified the company safety
19 manager has no authority to hire, fire or discipline, but can only
20 recommend and carry out discipline. He has no ability to direct work,
21 although he could stop someone if he sees an infraction.

22 Additional testimony and evidence were presented through Mr.
23 Napoleon Mendez who identified himself as the company Safety Manager.
24 He testified that he implemented the discipline imposed by the general
25 manager on Mr. Ortega for failing to comply with the company 100% tie
26 off policy. He retrained Mr. Ortega the day after the OSHA inspection
27 in furtherance of the company disciplinary policy and signed the
28 confirming documentation in evidence.

1 Respondent concluded his case and both counsel were directed to
2 present closing argument.

3 Complainant asserted the required burden of proof was met to
4 establish a violation of the cited standard by a preponderance of
5 evidence. Mr. Ortega was clearly photographed working on the roof
6 without an attached safety line which corroborated the observations and
7 sworn testimony of CSHO Dressler. The protection thresholds and
8 **applicability** of the standard as to the height of the potential fall at
9 more than six (6) feet are unrefuted in the evidence. Employee Ortega
10 was **exposed** to **serious** injury based upon the unrebutted testimony of Mr.
11 Dressler. The **appropriateness of the penalty** was established by the
12 CSHO testimony and Exhibit 2 in evidence. The penalty assessed was
13 reasonable as adjusted for the appropriate credits to which the
14 respondent was entitled under the OSHA enforcement manual.

15 Complainant counsel argued the defense of **unpreventable employee**
16 **misconduct** must fail. While the evidence and testimony established
17 there was an acceptable written safety program, it was not **effectively**
18 **enforced**. Without effective enforcement and a supervisory employee on
19 the site, an employee misconduct defense cannot be established. The
20 evidence shows Mr. Juan Garcia was a foreman, and lead man, accordingly
21 a supervisory employee of the respondent. Under OSHA law **employer**
22 **knowledge** is established directly or constructively by imputation if an
23 employer or supervisory employee knew or should have known, with the
24 exercise of due diligence, of unsafe or violative employee conduct.
25 Juan Garcia was identified by the general manager Pullen as the "lead
26 guy". Mr. Ortega in his interview responses to the CSHO said Juan
27 Garcia was "his foreman". Mr. Garcia told CSHO Dressler he was the
28 "foreman and . . . running the job . . .". Supervisory personnel

1 presence on the site through Mr. Juan Garcia, with a view of employee
2 Ortega's safety infraction establishes constructive **employer knowledge**
3 of violative conduct by the respondent.

4 Respondent counsel tries to divorce authority and responsibility
5 for safety enforcement by asserting company job title definitions of
6 various superintendents, foreman and safety officers; but to do so would
7 leave no responsibility for the company employee safety program. The
8 respondent safety program appears to be merely "reactive and not a
9 proactive plan as to enforcement . . .". Counsel asserts the respondent
10 did not, as required under the recognized defense of **unpreventable**
11 **employee misconduct**, meet its burden of proof to show that it took
12 meaningful steps to **discover violations** or **adequately enforce** its safety
13 plan as demonstrated by attempts to separate the roles of Mr. Garcia as
14 a foreman, lead man, and supervisory employee.

15 Respondent submitted closing argument asserting the recognized
16 defense of employee misconduct must be confirmed to excuse the employer
17 of responsibility for Mr. Ortega's unpreventable failure to maintain a
18 100% tie-off. Counsel referenced Exhibits 1-4 to demonstrate an
19 established safety program, effective enforcement of the safety plan,
20 safety training for employees including Mr. Ortega, and the disciplinary
21 action against Mr. Ortega for violation. Counsel further argued there
22 is no requirement in the OSHA standards or regulations under
23 occupational safety and health law to support a violation for a ". . .
24 failure to supervise job safety . . .". He referenced cross-examination
25 testimony of CSHO Dressler that there is no requirement for same.
26 Counsel argued enforcement of the compliant safety plan and actual
27 discipline were done and that's all a reasonable employer can do or is
28 required to do to satisfy OSHA requirements. He argued there is no law

1 that says an employer needs someone to be there (on site) to enforce
2 safety, but rather if a violation is found then the employer must
3 effectively enforce disciplinary rules. All OSHA requirements were
4 satisfied by the respondent, and there is nothing more that should
5 reasonably be imposed upon any employer at a job site. Counsel asserted
6 that employers cannot catch 100% of violative conduct, and respondent
7 maintained a good safety plan and enforced violations. He concluded
8 stating the case was clearly one of employee misconduct. The employer
9 had no knowledge of the violative conduct. It cannot be imputed to the
10 respondent simply because Mr. Juan Garcia, a lead man with limited
11 responsibilities and no authority to hire or fire, was a supervisory
12 employee and obligated to enforce safety.

13 The board reviewed the facts in evidence, and weighed the testimony
14 provided by the witnesses of complainant and respondent. The board
15 finds a preponderance of evidence to support violation of the cited fall
16 protection standard at Citation 1, Item 1.

17 N.A.C. 618.788(1) provides:

18 In all proceedings commenced by the filing of a
19 notice of contest, the burden of proof rests with
the Administrator.

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

23 To establish a prima facie case, the Secretary
24 (Chief Administrative Officer) must prove 1) the
25 cited standard applies; 2) the requirements of the
26 standard were not met; 3) employees were exposed to
27 or had access to the violative condition; 4) the
28 **employer knew or, through the exercise of
reasonable diligence could have known of the
violative condition;** 5) there is substantial
probability that death or serious physical harm
could result from the violative condition (in a
"serious" violation case). See *Bechtel
Corporation*, 2 OSHC 1336, 1974-1975 OSHD ¶ 18,906
(1974); *D.A. Collins Construction Co. Inc.*, v.

1 *Secretary of Labor*, 117 F.3d 691 (2nd Cir. 1997).
2 (Emphasis added)

3 A "serious" violation defined in NRS 618.625(2) provides in
4 pertinent part:

5 ". . . a serious violation exists in a place of
6 employment if there is a **substantial probability**
7 that death or **serious physical harm** could result
8 from a condition which exists or from one or more
9 practices, means, methods, operations or processes
10 which have been adopted or are **in use at that place**
11 **of employment unless the employer did not and could**
12 **not, with the exercise of reasonable diligence,**
13 **know the presence of the violation."** (Emphasis
14 added)

15 The testimony and evidence establish the existence of violative
16 conduct in contravention of the cited standard. Respondent presented
17 no evidence to refute the facts of violation, but asserted the
18 recognized defense of **isolated, unpreventable employee misconduct.**

19 Complainant's initial burden to prove the violation was met by the
20 unrebutted sworn testimony of CSHO Dressler, the photographs in evidence
21 at complainant Exhibit 5, photos 1-3, and the evidence at Exhibit 2.

22 The burden of proof to confirm a violation rests with OSHA under
23 Nevada law (NAC 618.798(1)); but after establishing same, **the burden**
24 **shifts to the respondent to prove any recognized defenses.** See *Jensen*
25 *Construction Co.*, 7 OSHC 1477, 1979 OSHD ¶23,664 (1979). Accord, *Marson*
26 *Corp.*, 10 OSHC 2128, 1980 OSHC 1045 ¶24,174 (1980).

27 The defense (**unpreventable employee misconduct**) has
28 been stated in various ways, but it **basically**
29 **requires an employer to show that its employees**
30 **were required to take protective measures that**
31 **would comply with the standard and it enforced that**
32 **requirement.** *E.g.*, *Brock v. L.E. Myers Co.*, 818
33 F.2d 1270, 13 OSH Cases 1289 (6th Cir.), cert.
34 *Denied*, 484 U.S. 989 (1987); *Texland Drilling*
35 *Corp.*, 9 OSH Cases 1023 (Rev. Comm'n 1980). The
36 Commission has distilled its decisions as requiring
37 **four elements of proof:** that (1) the **employer has**
38 **established work rules designated to prevent the**
39 **violation;** (2) it has adequately communicated those

1 rules to its employees; (3) it has taken steps to
2 discovery violations; and (4) it has effectively
3 enforced the rules when violations have been
4 discovered. *E.g., Capform Inc.*, 16 OSH Cases 2040,
2043 (rev. Comm'n 1994). Rabinowitz Occupational
Safety and Health Law, 2008, 2nd Ed., pages 156.

5 An employer has the **affirmative duty to anticipate and protect**
6 **against preventable hazardous conduct by employees.** *Leon Construction*
7 *Co.*, 3 OSHC 1979, 1975-1976 OSHD ¶ 20,387 (1976). Employee misbehavior,
8 standing alone, does not relieve an employer. Where the Secretary shows
9 the existence of violative conditions, an employer may defend by showing
10 that the employee's behavior was a deviation from a uniformly and
11 **effectively enforced work rule, of which deviation the employer had**
12 **neither actual nor constructive knowledge.** *A. J. McNulty & Co., Inc.*,
13 4 OSHC 1097, 1975-1976 OSHD ¶ 20,600 (1976). (emphasis added)

14 In order to establish an unpreventable employee
15 misconduct defense, the employer must establish
16 that it had: established work rules designed to
17 prevent the violation; **adequately communicated**
18 **those work rules to its employees (including**
19 **supervisors); taken reasonable steps to discover**
20 **violations of those work rules; and effectively**
21 **enforced those work rules** when they were violated.
22 *New York State Electric & Gas Corporation*, 17 BNA
23 OSHC 1129, 1195 CCH OSHD ¶30,745 (91-2897, 1995).
24 (Emphasis added)

25 Although there is a similar doctrine of **supervisory**
26 **misconduct**, some cases characterize it not as an
27 affirmative defense but as a rebuttal of the
28 imputation to the employer of the supervisor's
knowledge. The Commission has stated that
involvement by a supervisor in a violation is
29 **"strong evidence that the employer's safety program**
30 **was lax."** "Where a supervisory employee is
31 involved, the proof of unpreventable employee
32 misconduct is **more rigorous and the defense is more**
33 **difficult to establish since it is the supervisors'**
34 **duty to protect the safety of employees under their**
35 **supervision."** *Daniel Constr. Co.*, 10 OSH Cases
36 1549, 1552 (Rev. Comm'n 1982). *Consolidated*
37 *Freightways Corp.*, 15 OSH Cases 1317, 1321 (Rev.
38 Comm'n 1991). *Seyforth Roofing Co.*, 16 OSH Cases
2031 (Rev. Comm'n 1994). Rabinowitz Occupational
Safety and Health Law, 2008, 2nd Ed., page 157.
(Emphasis added)

1 ". . . (A) supervisor's knowledge of deviations
2 from standards . . . is properly imputed to the
3 respondent employer. . ." *Division of Occupational
Safety and Health vs. Pabco Gypsum*, 105 Nev. 371,
775 P.2d 701 (1989).

4 It is well settled that the **knowledge, actual or**
5 **constructive, of an employer's supervisory**
6 **personnel** will be imputed to the employer, unless
7 the employer establishes **substantial grounds** for
8 not doing so. *Ormet Corp.*, 14 BNA OSHC 2134, 1991-
9 93 CCH OSHD ¶29,254 (No. 85-531 1991). The
10 Commission held that once there is a prima facie
11 showing of employer knowledge through a supervisory
12 employee, the employer can rebut that showing by
13 establishing that the failure of the supervisory
14 employee to follow proper procedures was
15 **unpreventable**. In particular, the employer must
16 establish that it had relevant work rules that it
17 adequately communicated and effectively enforced.
18 *Consolidated Freightways Corp.*, 15 BNA OSHC 1317,
19 1991-93 CCH OSHD ¶29,500 (No. 86-531, 1991).

20 **Employer knowledge, foreseeability, and lack of safety enforcement**
21 **by supervisory personnel prevents reliance upon the defense of**
22 **unpreventable employee misconduct to relieve respondent of liability.**
23 The defense of unpreventable employee misconduct and the burden of proof
24 to satisfy same is **substantial** under applicable law. Respondent
25 presented insufficient evidence to support the defense to meet its
26 burden of proof.

27 The board finds the testimony of CSHO Dressler and respondent
28 general manager Pullen, together with the interview statements in
evidence taken at the job site, established that Mr. Juan Garcia, was
a company designated "lead man" or "foreman", and considered by employee
Ortega to be "his foreman". Under any plain meaning of the facts in
evidence, Mr. Juan Garcia occupied **supervisory personnel** status for the
respondent. Further, the weight of credible evidence supports the CSHO
testimony that he (Mr. Juan Garcia) while operating the forklift needed
to observe the employees, including Mr. Ortega (Exhibit 5, photos 1-3),

1 and the area of the roof to "land" the forklift load where the employees
2 were stacking the roofing materials. Mr. Juan Garcia had an open view
3 of the employees as demonstrated in the CSHO testimony, and corroborated
4 in the photographic exhibits and site description notwithstanding his
5 (Mr. Garcia) reported statements to CSHO Dressler that he was unable to
6 see the employees while he was loading the materials at the roof level
7 where the employees, including Mr. Ortega, were standing. Regardless
8 of the employee job titles, the weight of evidence established Mr.
9 Garcia occupied a **supervisory** status. He told CSHO Dressler he was
10 "running things." Mr. Ortega signed the witness statement in evidence
11 confirming Mr. Garcia was "his foreman." The role and conduct
12 demonstrated by supervisory employee Garcia must be imputed by law to
13 the respondent employer and prevents reliance upon the defense of
14 unpreventable employee misconduct.

15 In *Sec'y of Labor v. Westar Energy*, 20 BNA OSHC 1736 (OSHC Jan. 6,
16 2004) the Occupational Safety and Health Review Commission ruled that
17 "[w]here a supervising employee is involved, the proof of unpreventable
18 employee misconduct is more rigorous and the defense is more difficult
19 to establish since it is the supervisor's duty to protect the safety of
20 employees under his supervision."

21 A further element of proof to support the defense of unpreventable
22 employee misconduct requires proof the respondent has **taken steps to**
23 **discover violations** and effectively enforced the rules when violations
24 are discovered. The weight of evidence supports a finding that
25 foreman/lead man Juan Garcia could easily observe the violative conduct
26 of Mr. Ortega which was in plain view, and an inference that the
27 employer safety program was not meaningfully implemented. Respondent
28 had an ". . . **affirmative duty to anticipate and protect against**

1 preventable hazardous conduct . . ." by Mr. Ortega. (See *Leon supra*,
2 page 10) .

3 The Nevada Occupational Safety and Health Review Board has adopted
4 the expanded employee misconduct defense to include **supervisory**
5 employees; however the facts and weight of evidence here are
6 insufficient to meet the respondent's burden of proof to rebut the prima
7 facie case of violation. Mr. Ortega's violative conduct standing alone
8 prevents reliance upon a **lack of employer knowledge**. The respondent
9 ". . . through the exercise of reasonable due diligence should have
10 known of the violative condition." (*D.A. Collins Construction Co.*,
11 *supra*). This finding is exacerbated by the presence of the lead man,
12 foreman, supervisory employee Juan Garcia, and also requires imputation
13 of constructive knowledge to the employer respondent in proof of the
14 violation.

15 It is the decision of the Nevada Occupational Safety and Health
16 Review Board that a violation of Nevada Revised Statutes did occur as
17 to Citation 1, Item 1, 29 CFR 1926.501(b)(10). The violation was
18 properly classified as serious and the penalty proposed of TWO THOUSAND
19 FIVE HUNDRED TWENTY DOLLARS (\$2,520.00) are confirmed.

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



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

4 DATED: This 24th day of April, 2013.

5 NEVADA OCCUPATIONAL SAFETY AND HEALTH
6 REVIEW BOARD

7 /s/

8 JOE ADAMS, CHAIRMAN