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,

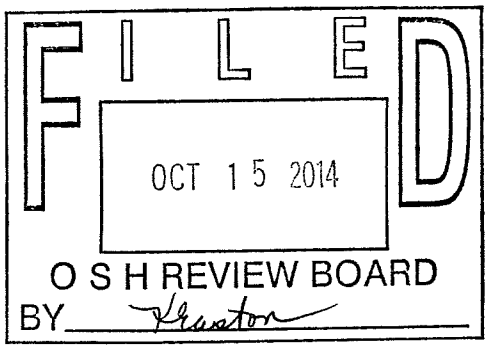
vs.

SILVER STATE WIRE ROPE & RIGGING,

Respondent.

_____/

Docket No. LV 14-1710



DECISION

This matter came before the **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** at a hearing commenced on the 10th day of September, 2014, 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). MR. ROBERT PETERSON, ESQ., appearing on behalf of Respondent, **Silver State Wire Rope & Rigging.**

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.

Citation 1, Item 1, charges a violation of 29 CFR 1926.251(a)(1), which provides in pertinent part:

> Rigging equipment for material handling shall be inspected prior to use on each shift and as necessary during the use to ensure that it is safe. Defective rigging equipment shall be removed from service.

Complainant alleged that while conducting a hoisting operation to install a zip line cable at the Fremont Street Experience, "controlling employer" Silver State Wire Rope and Rigging did not inspect the rigging system installed to reduce the hoisting load on a base mounted drum hoist. A 3/4 ton (1,500 pound) capacity chain hoist (Columbus McKinnon, Series 653, S/N K2367) used as an anchorage for the system, was overloaded and failed under a load of approximately 5,300 pounds. Failure of the chain hoist resulted in a sudden release of tension in the rigging system, which caused a snatch block (pulley) to slingshot and strike an employee of subcontractor Kamikaze, Inc. The injured employee sustained fractured vertebrae, a fractured skull, internal bleeding, brain trauma and potentially permanent physical and neurological impairment. The violation was classified as "Serious". The proposed penalty for the alleged violation is in the amount of $4,900.00.

Citation 1, Item 2, charges a violation of 29 CFR 1926.251(a)(2)(ii), which provides in pertinent part:

> Employers must ensure that rigging equipment: Not be loaded in excess of its recommended safe working load as prescribed on the identification markings by the manufacturer.

Complainant alleged that while conducting a hoisting operation to install a "zip line" cable at the Fremont Street Experience, a mechanical advantage rigging system, installed under the direction of

Silver State Wire Rope and Rigging (the controlling employer), was used to reduce the hoisting load on a base mounted drum hoist. A 3/4 ton (1,500 pound) capacity chain hoist (Columbus McKinnon, Series 653, S/N K2367), used as an anchorage for the system, was overloaded and failed under an estimated load of 5,300 pounds. Failure of the chain hoist resulted in a sudden release of tension in the rigging system, which caused a snatch block (pulley) to slingshot and strike an employee of Kamikaze, Inc., the exposing employer. The injured employee sustained fractured vertebrae, a fractured skull, internal bleeding, brain trauma and potentially permanent physical and neurological impairment. The violation was classified as "Serious". The proposed penalty of the alleged violation is in the amount of $4,900.00.

Complainant and respondent stipulated to the admission of documentary and photographic evidence at complainant Exhibits 1 through 3 and respondent Exhibit A.

Complainant presented testimonial and documentary evidence with regard to the alleged violations. Compliance Safety and Health Officer (CSHO) Tristan Dressler testified as to his inspection and the citations issued to the respondent employer. He referenced his narrative report and testified from the investigative materials at Exhibit 1.

On November 13, 2013 compliance and safety officers Dressler and Hill initiated an inspection of the respondent worksite at the Fremont Street Experience in downtown Las Vegas, Nevada. The investigation was based upon notification of an incident involving injury to an employee. The CSHOs were granted entry to the site after presentation of credentials and commenced an initial opening conference with the Fremont Street Experience property manager.

CSHO Dressler testified that during his investigation he found that

an employee of Kamikaze, Inc., under subcontract to respondent Silver State Wire Rope and Rigging (Silver State), was injured while working on installation of the "Slotzilla" zip line ride at the Fremont Street Experience on Fremont Street in downtown Las Vegas, Nevada. The employee, identified as Mr. Andrey Dubinin, was standing on the west landing platform while a wire rope was being hoisted into position. He was struck in the head by a component of the rigging system after a 3/4 ton chain hoist failed. The failure of the chain hoist resulted in a sudden release of tension on a secondary wire rope, which propelled a 29 pound pulley block across the landing platform, where it struck employee Dubinin in the head and neck. Mr. Dubinin was rendered unconscious from the impact. Employees nearby rendered limited first aid and contacted EMS, which responded and transported Mr. Dubinin to UMC Trauma Intensive Care Unit.

Mr. Andrew Rogers was identified as the Project Manager for respondent Silver State. CSHO Dressler testified he was informed by Mr. Rogers the rigging system had been removed after a subsequent successful completion of the zip line installation and a need to clear the scene area to allow opening of the street for traffic which had been closed to accommodate work.

CSHO Dressler testified he and CSHO Hill documented the scene with photographs and obtained witness interviews referencing Exhibit 1, pages 23 to 42 and photographs at pages 82 to 92 at Exhibit 1.

Mr. Rogers identified Mr. Bart Clifford as the Silver State employee foreman in charge of the respondent operations on the job site. CSHO Dressler testified Mr. Clifford informed him he was directing installation of the main "zip line" at the time of the accident. He described the company procedures and the "rigging" operations. Mr.

Clifford reported the accident occurred because ". . . the hoisting equipment was loaded beyond capacity . . .". The subcontractor employees of Kamikaze, Inc. assigned to do the rigging work had successfully completed similar work previously. Mr. Clifford "designed the rigging system . . . but did not inspect it . . . before the incident . . .". CSHO Dressler identified the written interview statements at Exhibit 1, page 24 to confirm he (Mr. Clifford) designed the system but did not inspect it before the failure. Mr. Clifford reported that had he noticed the 3/4 ton (1,500 pound) chain hoist in the rigging system he would have pulled the equipment before commencing the work.

CSHO Dressler testified the respondent subcontracted Kamikaze Inc. and directed its rigger employees. Kamikaze Inc. had been utilized previously and demonstrated they were a capable and responsible company. Kamikaze employees Messrs. Jones and Futter were directed by Mr. Clifford to perform set up work on the rigging. They were working in conjunction with respondent employees Messrs. Prettyman and Hauck who were "calling out load factors during the rigging set up process . . .".

Mr. Clifford reported he ". . . knew the (Kamikaze) employees were trained . . . but never confirmed any training background." The failed hoist and chain component belonged to the respondent. The company did not have a safety policy or procedure requiring inspection of the rigging prior to or during use. The respondent safety program required rigging inspections annually.

CSHO Dressler testified 29 CFR 1926.251(a)(1) requires employers conduct safety inspections on rigging systems prior to use on each shift and as necessary during the course of use. No inspections were

conducted on the rigging systems based upon his investigation and confirmed by respondent foreman Clifford.

CSHO Dressler concluded the **multi-employer worksite doctrine** was applicable based on the multiple employers and employees present. Both respondent Silver State and Kamikaze, Inc. were cited as **controlling employers** on a **multi-employer worksite**. The respondent was in overall **control** of the project and installation process as the general contractor. Mr. Clifford utilized and directed both Silver State and Kamikaze employees to effectuate the rigging process designed by Mr. Clifford. Mr. Dressler found no evidence of any inspection conducted on the hoisting equipment by the responsible controlling employer or anyone else.

CSHO Dressler testified in further reference to the interview statements at Exhibit 1, page 33 that Kamikaze employee Mr. Jones reported he did not inspect the rigging equipment; nor at Exhibit 1, page 37 did Mr. Stanislaus. He described the photographs in evidence. Exhibit 1, page 85 depicted the failed chain hoist marked to show a capacity of 3/4 ton.

He testified there was no dispute the cited standards were **applicable** to the work being performed at the site. The equipment was loaded beyond capacity and no inspection performed by respondent so the **violative conditions** confirmed. Employer knowledge was established from the facts found showing the respondent knew, or **with the exercise of reasonable diligence, should have known** of the defective conditions. Respondent foreman Clifford admitted the defective hoist was the property of respondent and the load capacity unsuitable for the designed rigging. Mr. Clifford further admitted he performed no inspection of the equipment before use and assumed it was done by Kamikazi Inc.

CSHO Dressler further testified the proof element of **employee exposure** was established based upon the potential for serious injuries when overloaded equipment is placed in use without prior inspection in accordance with the requirements of the standard. He confirmed exposure to respondent employees, those of Kamikaze Inc., and other contractor employees on the common job site at the time of the accident. He testified the information discovered during the investigation, including interviews of employees Jones and Futter of Kamikaze Inc. and Prettyman and Hauck of Silver State established they were working together on the **multi-employer site.**

Mr. Dressler identified the OSHA 1B worksheet at Exhibit 1, pages 43 to 58 and explained the serious classifications and ratings as having been established in accordance with the Nevada Operations Manual.

During cross-examination by respondent counsel, CSHO Dressler testified that while the cited violations may appear similar, distinctions existed between hoisting and inspection.

Respondent presented witness testimony from Mr. Bart Clifford, the respondent foreman at the subject job site. He testified the chain hoist ". . . failed because it was overloaded beyond its 1,500 pound capacity . . .". He further testified that he explained the load requirements for the system design to Kamikaze employees at daily shift meetings. He performed a job safety analysis (JSA) with all employees at the site, including those of Kamikaze. He testified that he believed the systems were inspected by Kamikaze because it was "their responsibility . . .". He thought Kamikaze was ". . . doing what he designed and had no idea why the incorrect defective equipment was used or even on the job site . . .".

On cross-examination Mr. Clifford testified he had the overall

authority to enforce all safety at the job site. Silver State employees Prettyman and Hauck were "calling out load factors . . . and both respondent and Kamikaze employees working on the rigging set up . . .". He further testified respondent employees showed Kamikaze employees how to perform the "set up". Mr. Clifford reaffirmed the hoist equipment utilized was ". . . inadequate . . . I do not understand how it got used . . . but it was part of our equipment . . . ". He confirmed his interview statement at Exhibit 1, page 25. Mr. Clifford testified to a question of had he been looking up at the chain hoist would he have recognized it as being inappropriate and responded ". . . yes . . . if I had been looking up . . . but thought Kamikaze had done what I designed . . .".

At the conclusion of evidence and testimony, counsel presented closing argument.

Complainant asserted the subject worksite was appropriately classified under occupational safety and health law as a **multi-employer worksite** given the undisputed number of employers and employees. The respondent was a **controlling** employer under the multi-employer doctrine because foreman Clifford was responsible for the work effort and safety on the project.

The respondent subcontracted with Kamikaze for additional labor to help with the rigging work, even though they were mostly "entertainment riggers" not accustomed to the subject particular rigging requirements. The hoist was operated by respondent while Kamikaze employees, working in conjunction with respondent employees performed the actual rigging set up work at the direction of Mr. Clifford.

Mr. Clifford, and therefore the respondent by imputation, had overall control and supervision authority at the job site. He told all

employees, including those of Kamikaze, how to perform the work with the rigging equipment, conducted the safety meetings for all employers' employees and had OSHA responsibility to assure safety compliance including inspection of the rigging system prior to operation. Just because Mr. Clifford thought the other company (Kamikaze) was doing it, is not a defense and all he had to do as foreman was simply look up and in plain view could have observed, by his own testimony, the equipment was inappropriate for the rigging he designed. The incorrect 3/4 ton hoist was the property of the respondent, even though Mr. Clifford claims he does not know how or why it was utilized at the worksite.

Any assertion referenced at respondent's Exhibit A where Kamikaze agreed to follow the respondent safety requirements, is no defense under occupational safety and health law for the failure of a controlling employer to inspect. Counsel concluded by asserting the burden of proof was met and all of the elements of violations satisfied for the two standard citations.

Respondent presented closing argument. He asserted there was no "employer knowledge" to satisfy that necessary proof element to support findings of violations. Counsel argued that because OSHA already cited Kamikaze as the "exposing employer" for its own employee injury, it is unfair and makes no sense to cite respondent as a "controlling employer" simply on the premise that ". . . if you were there you are responsible. . .". He further contended that clearly Kamikaze created the hazard by using the wrong hoist. So the question is how far do you allow OSHA to go if a good company like Silver State hires a responsible company like Kamikaze then hold Silver State liable to supervise every detail of what they expected their qualified subcontractor Kamikaze to do to protect its employees. Counsel asserted Mr. Clifford's testimony reflects the

hoist was not strong enough for the load but ". . . it was Kamikaze that rigged it . . .". Mr. Clifford designed the rigging system for use of a 3 ton hoist not the 3/4 ton utilized. Somebody at Kamikaze decided to use the 3/4 ton hoist and no one knows why. Two previous set ups on the site were successful then Kamikaze utilized the wrong hoist on the third, and the equipment failure resulted in the accident. No one knows why but it's not the respondent nor any employers duty to assure every detail on every worksite is done with compliance of the OSHA standards. That kind of duty is too broad and not what the law requires. It was reasonable for respondent to rely on the expertise of Kamikaze to do it right. Under applicable OSHA law, a general contractor can rely on a subcontractor's expertise. There is no need for a foreman to watch everybody all the time; and therefore respondent should not be charged with "employer knowledge" because a subcontractor employee did not do what he was supposed to do.

The Board is required to review the evidence and established legal elements to prove violations under recognized occupational safety and health 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).
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> To prove a violation of a 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).

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).

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."

The elements of proof to establish violation of the cited standard at Citation 1, Item 1 were met by preponderant evidence. It was unrefuted the standard was **applicable** to the facts in evidence. There was no claim or rebuttal to the contrary. **Non-complying conditions** were established by the witness testimony of both CSHO Dressler and Mr. Clifford. Mr. Clifford was the job site foreman and supervisory employee of the respondent employer. He conducted no **inspection** of the hoisting equipment that eventually failed. He testified the hoist did not have the load capability for the subject work and failed. **Employer knowledge** was established through the witness testimony of supervisory employee Clifford. Under principles well recognized in occupational safety and health law that supervisory knowledge is imputed to the respondent employer. **Employee exposure** was proven by direct **access** to hazardous conditions. The unrefuted witness testimony and interview reports described respondent and Kamikaze Inc. employees working on or

near the rigging system at the common job site. The evidence documented after the accident established the accident conditions and resultant injuries to Kamikaze employee Dubinin.

> Under Occupational Safety and Health Law, there need be **no showing of actual employee exposure in favor of a rule of access** based upon reasonable predictability - (1) the zone of danger to be determined by the hazard; (2) access to mean that employees either while in the course of assigned duties, personal comfort activities on the job, or while in the normal course of ingress-egress will be, are, or have been in the zone of danger; and (3) the employer knew or could have known of its employees' presence so it could have warned the employees or prevented them from entering the zone of danger. *Gilles & Cotting, Inc.*, 3 OSHC 2002, 1975-1976 OSHD ¶ 20,448 (1976); *Cornell & Company, Inc.*, 5 OSHC 1736, 1977-1978 OSHD ¶ 22,095 (1977); *Brennan v. OSAHRC and Alesea Lumber Co.*, 511 F.2d 1139 (9th Cir. 1975); *General Electric Company v. OSAHRC and Usery*, 540 F.2d 67, 69 (2d Cir. 1976).

The primary defensive position asserted on behalf of respondent is the lack of **employer knowledge** of the violative conditions. However, the respondent employer knew, or **with the exercise of reasonable diligence** could have known of the violative conditions. The violative equipment was owned by respondent and installed in **plain view**. The hoist was clearly marked showing only a 3/4 ton capacity instead of the required 3 ton limit.

> In general, the actual or constructive **knowledge of a supervisory employee will be imputed to the employer**, and thus constitute a prima facie showing of employer knowledge. Where supervisory knowledge can be imputed, OSHA need not also show that there were deficiencies in the employer's safety program. *Halmar Corp.*, 18 OSH Cases 1014, 1016-17 (Rev. Comm'n 1997), *aff'd on other grounds*, 18 OSH Cases 1359 (2d Cir. 1998). *But see L.R. Willson & Sons Inc. v. OSHRC*, 134 F.3d 1235, 1240-41, 18 OSH Cases 1129 (4th Cir. 1998), and cases cited therein at footnote 31. Occupational Safety and Health Law, 2nd Ed., Rabinowitz at page 87. (emphasis added)
>
> ". . . (A) **supervisor's knowledge** of deviations

> from standards . . . is properly **imputed to the respondent employer. . .**" *Division of Occupational Safety and Health vs. Pabco Gypsum,* 105 Nev. 371, 775 P.2d 701 (1989). (emphasis added)
>
> Actual knowledge is not required for a finding of a serious violation. **Foreseeability and preventability** render a violation serious provided that a **reasonably prudent employer,** i.e., one who is safety conscious and possesses the technical expertise normally expected in the industry concerned, would know of the danger. *Candler-Rusche, Inc.*, 4 OSHC 1232, 1976-1977 OSHD ¶ 20,723 (1976), appeal filed, No. 76-1645 (D.C. Cir. July 16, 1976); *Rockwell International*, 2 OSHC 1710, 1973-1974 OSHD ¶ 16,960 (1973), aff'd, 540 F.2d 1283 (6th Cir. 1976); *Mountain States Telephone & Telegraph Co.*, 1 OSHC 1077, 1971-1973 OSHD ¶ 15,365 (1973). (emphasis added)

The OSHA safety compliance requirements on a **multi-employer worksite for all employees** are deemed under occupational safety and health law to be the responsibility of a **controlling employer.**

The testimonial, and stipulated documentary evidence established the subject worksite was appropriately classified a **multi-employer worksite** under occupational safety and health law. It was unrefuted there were at least two or more employers with employees on the site. The respondent, while not the employer of injured subcontractor (Kamikaze) employee Dubinin, exposed that employee to hazardous conditions at a worksite under its **control.** The evidence established the respondent general contractor employer was a **controlling employer** notwithstanding any similar citations against the subcontractor for the purpose of satisfying responsibility for **employee hazard exposure** under recognized occupational safety and health law. Respondent Silver State was in **control** of the overall job site operation, including safety compliance for the rigging equipment and set up. Through foreman Clifford, **employer knowledge** is imputed to the respondent. Under well established occupational safety and health law,

> "... liability is imposed ... on a contractor who creates a hazard **or who has control over the condition on a multi-employer worksite ...**". See, *Brennan v. OSHRC (Underhill Construction Corp.)*, 513 F.2d 1032 (2nd Cir. 1975). The commission and courts have recognized that protection from hazard exposure to employees is the responsibility of the employer and confirmed that ". . . policy is best effectuated by placing responsibility for hazards on those who create them."

In 1996 the Federal Review Commission (OSHRC) expanded the **multi-employer construction** worksite doctrine beyond construction sites to multi-employer **worksites in general.** In *Rockwell International Corp.* 17 OSHC 1808 No. 11 (1996), the Review Commission recognized that while multi-employer worksite defenses originally arose in the context of **construction,** they are also applicable in other areas of employment where there are **frequently a number of different employers working at the same time.**

The unrefuted evidence established Mr. Clifford was directing both Kamikaze and respondent employees in the overall rigging set up and job effort but did not perform or assure the required inspection.

The Citation 1, Item 1 standard is clear by use of the phrase "shall be inspected" to require a specific duty for compliance. Absent ambiguity, a statute's **plain meaning** controls, and no further analysis is permitted. *State Farm Mut. Auto. Ins. Co. v. Commissioner of Ins.*, 114 Nev. 535, 540, 958 P.2d 733, 736 (1998). Only where a statute's language is ambiguous, must a court look to legislative history and rules of statutory interpretation to determine its meaning. *Leven v. Frey*, 123 Nev. 399, 404, 168 P.3d 712, 716 (2007). A statute's language is ambiguous when it is capable of more than one reasonable interpretation. *Id.* Internal conflict can also render a statute ambiguous.

Based upon the facts and applicable law the Citation 1, Item 1 violation and classification of **serious** must be confirmed.

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."

There was a preponderance of evidence in the record to support the classification of the violation as serious.

In reviewing Citation 1, Item 2, the Board finds the cited violative conditions were similar or very closely interrelated with Citation 1, Item 1, making the separate charge of violation and proposed penalty duplicitous. A resultant added violation and penalty constitutes an unwarranted excessive punitive burden. The goal of the Occupational Safety and Health Act is to assure workplace safety. Neither the number of violations nor the amount of monetary penalties necessarily correlate to correction or resolution of unsafe working conditions. Given the evidence and facts of violation, it is appropriate that the violative conditions found be confirmed at Citation 1, Item 1, but denied at Citation 1, Item 2.

The Federal courts recognize the exclusive authority of the Commission (Board) to assess or adjust penalties.

> If an employer contests the Secretary's proposed penalty, the Review Commission has **exclusive** authority to assess the penalty, the Secretary's penalty is considered merely a proposal. Relying on the language of Section 17(j), the Commission and courts of appeal have consistently held that it is for the Commission to determine, **de novo**, the **appropriateness of the penalty** to be imposed for violation of the Act or an OSHA standard. (Emphasis

added)

> The Review Commission therefore is not bound by OSHA's penalty calculation guidelines. The Commission evaluates all circumstances.

The Board finds a violation as a matter of fact and law that at Citation 1, Item 1, confirms the classification of serious and a penalty in the amount of $4,900.00. The Board further finds that no violation at Citation 1, Item 2, based upon duplication for the interrelated violative worksite conditions and denies the violation, classification and proposed penalty.

Based upon the above and foregoing, it is the decision of the **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** that a violation of Nevada Revised Statutes is confirmed at Citation 1, Item 1, 29 CFR 1926.251(a)(1), the Serious classification confirmed and the penalty approved in the amount of Four Thousand Nine Hundred Dollars ($4,900.00).

It the further decision of the **NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD** that no violation of Nevada Revised Statutes did occur at Citation 1, Item 2, 29 CFR 1926.251(a)(2)(ii), the Serious classification and proposed penalty are denied.

The Board directs counsel for the complainant, **CHIEF ADMINISTRATIVE OFFICER OF THE OCCUPATIONAL SAFETY AND HEALTH ENFORCEMENT SECTION, DIVISION OF INDUSTRIAL RELATIONS** to prepare and 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 15th day of October 2014.

NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD

By /s/
JOE ADAMS, Chairman