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OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD  
BY: Kennedy

NEVADA OCCUPATIONAL SAFETY AND HEALTH  
REVIEW BOARD

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

Docket No. LV 20-2027

Complainant,

vs.

COMPASS EQUIPMENT SERVICES OF  
NV, LLC,

Respondent.

**DECISION AND ORDER OF THE BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW**  
**AND FINAL ORDER**

This case arose out of a program planned inspection of the construction site commonly known as Circa, a downtown Las Vegas hotel casino project. *See, Tr.*, p. 86;18-20. The State's inspection resulted in the issuance of a citation for one violation of State law. *See, State's Exhibit 1*, pp. 15-17.

The matter came before the Nevada Occupational Safety and Health Review Board (the Board) for hearing on March 9, 2022. *See, Tr.* pp. 3, 50. The hearing was conducted in furtherance of a duly provided notice. *See, Notice of Rescheduled Hearing* dated November 10, 2021. In attendance to hear the matter were Board Chairman Rodd Weber and Board members Frank Milligan, Jorge Macias, Scott Fullerton and William Spielberg. *See, Tr.*, p. 7. The same Board members deliberated the case after the conclusion of the hearing on the merits. *Tr.*, pp. 128-133.

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1 Salli Ortiz, Esq., counsel for the Chief Administrative Officer of the Occupational Safety and  
2 Health Administration of the Division of Industrial Relations of the Department of Business and  
3 Industry (the State), appeared at the first hearing on behalf of the Complainant (the State). *See, Tr.*,  
4 pp. 2, 50. The Respondent (hereinafter, Respondent or Compass Equipment) was represented by the  
5 entity's managing member, Ray Bellamy (Mr. Bellamy). *See, Tr.*, pp. 4, 51;2-3, *see also*, State's  
6 Exhibit 1, p. 29.

7 Jurisdiction in this matter is conferred by Chapter 618 of the Nevada Revised Statutes, NRS  
8 618.315. Jurisdiction was not disputed. As there were five members of the Board present to decide  
9 the case, with at least one member representing management and one member representing labor in  
10 attendance, a quorum was present to conduct the business of the Board. A complaint may be  
11 prosecuted for circumstances which arise before or during an inspection of the employer's  
12 workplace. *See*, NRS 618.435(1).

13 The inspection occurred on September 10, 2019. *See*, State's Exhibit 1, p. 10. The Circa site  
14 is a construction site as defined by NRS 618.953. The inspection was known as a program planned  
15 inspection. *See, Id.* It was a comprehensive inspection of the construction site, *i.e.*, a wall-to-wall  
16 inspection of the work area. *See, Tr.*, p. 86;18-20. In this instance, Nevada OSHA was appraised  
17 of conditions which resulted in Circa construction being on the planned inspection list.<sup>1</sup> *See, Tr.*, p.  
18 87;1-11.

19 An opening conference was conducted with Ryan Cogley of McCarthy Building Companies,  
20 Inc. (McCarthy Building) *See, Id. see also*, State's Exhibit 1, p. 4. McCarthy Building is the general  
21 contractor at this project. *See*, State's Exhibit 1, p. 4. Specific to this alleged violation was an  
22 opening conference with Phillip Gillett (Mr. Gillett) of Compass Equipment conducted on  
23 September 10, 2019, as part of the comprehensive inspection. *See*, State's Exhibit 1, pp. 4, 13. Mr.  
24 Gillett identified himself as the foreman for Compass Equipment and stated that the length of his  
25 employment was 15 years. *See, Id.* In this interview, Mr. Gillett described multiple tasks he  
26 performed at the Circa site, some of which were safety related. *See*, State's Exhibit 1, pp. 13, 14.

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28 <sup>1</sup>The State's documents do not indicate whether the qualifying condition was with Respondent or  
one of the other contractors on the Circa site.

1 The allegation of a violation was based primarily upon Mr. Gillett's statement, "I should have my  
2 OSHA 30. I have my OSHA 10 not my OSHA 30." *See*, State's Exhibit 1, p. 14, *see also*, Tr., p.  
3 91;22-14.

4 The State cited Compass Equipment for a violation of NRS 618.987(2). "If a supervisory  
5 employee on a construction site fails to present his or her employer with a current and valid  
6 completion card for an OSHA-30 course not later than 15 days after being hired, the employer shall  
7 suspend or terminate his or her employment." *See, Id.*

8 On December 6, 2019, the State issued a Citation and Notice of Penalty alleging that  
9 Compass Equipment allowed Mr. Gillett to supervise its employees without having obtained an  
10 OSHA 30 certification. *See*, State's Exhibit 1, pp. 18-28. The State alleged that the employer  
11 allowed Mr. Gillett to supervise its staff without presenting an OSHA 30 certification card as  
12 required by NRS 618.987(2). *See*, State's Exhibit 1, p 15. After giving consideration to the severity  
13 of the violation and the probability of injury resulting from this alleged violation, the State  
14 recommended a fine of \$200 fine. *See*, State's Exhibit 1, pp. 16.

15 Compass Equipment answered the Citation and Notice of Penalty on December 18, 2019.  
16 *See*, State's Exhibit 1, p. 29. Compass Equipment's reply did not deny any of the allegations of the  
17 State's Citation and Notice of Penalty. *See, Id.* The Answer merely expressed Compass'  
18 Equipment's desire to contest the Citation and Notice of Penalty. *See, Id.* The State filed its  
19 Summons and Complaint on December 31, 2029. *See*, State's Exhibit 1, pp. 20-41. Compass  
20 Equipment answered the State's Complaint by generally denying that Mr. Gillett was a supervisor  
21 and, consequently, insisting he was not required to possess an OSHA 30 certification. *See*, State's  
22 Exhibit 1, p. 42. Compass Equipment's Answer contained certain exhibits consisting of the  
23 Introduction Slips<sup>2</sup> of Mr. Gillett, David Woodward and Cam Ugolini. *See*, State's Exhibit 1, pp.  
24 42-45. Additionally, there were copies of Mr. Gillett's OSHA 10 card and his Operating Engineers  
25 Certification Program Certificate. *See*, State's Exhibit 1, p. 47.

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27 <sup>2</sup>Introduction slips, also known as dispatch slips, are documentation required for union employees  
28 to report to a job site. The Introduction Slip authenticates the worker's qualifications and provides the  
worker with a contact person at the job site. *See*, Tr., pp. 71;22-23, 73;20-22, 100;13-14.

1 Compass Equipment was initially given notice of the proceedings scheduled for May 13,  
2 2020, by first class, certified mail, return receipt requested. *See*, Notice of Hearing, dated January  
3 22, 2020. That hearing was rescheduled and eventually held on March 9, 2022. *See*, Notice of  
4 Rescheduled Hearing, dated November 10, 2021.

5 At the duly noticed hearing conducted on March 9, 2022, the State was represented by Salli  
6 Ortiz. *See*, Tr., pp. 4, 55. Compass Equipment was represented by Ray Bellamy (Mr. Bellamy). *See*,  
7 *Id.* The State offered for the admission of evidence its exhibits, Numbers 1 and 2, consisting of  
8 pages 1 through 60. *See*, Tr., p. 55. Mr. Bellamy had no objections to the introduction of these  
9 exhibits. *See, Id.* Accordingly, the State's exhibits, Numbers 1 and 2, were admitted into evidence  
10 without objection. *See*, Tr., p. 56;1-3.

11 Compass Equipment offered three of the documents which Mr. Bellamy attached to its  
12 Answer. *See*, Tr., pp. 56;6-14, 57;1. Specifically, Compass Equipment offered the Introduction  
13 Slips of Gillett, David Woodward and Cam Ugolini. *See*, State's Exhibit 1, pp 43-45. This created  
14 somewhat of a quandary because the three documents offered by Compass Equipment were already  
15 admitted with the State's evidence as part of its Answer to the Complaint. *See*, State's Exhibit 1,  
16 pp. 43-45. The documents were admitted conditionally. *See*, Tr., p. 60;4-15. Ultimately, the  
17 documents remained in the record, never subject to a challenge.

18 At the duly noticed hearing conducted on March 9, 2022, the State presented the testimony  
19 of Mr. Gillett and Nick LaFronz. *See*, 1Tr., p. 3. Their testimony was supported by the admitted  
20 evidence. Mr. Bellamy originally indicated that he would testify. *See*, Tr., p. 61;3-8. Mr. Bellamy  
21 cross examined both of the State's witnesses but he ultimately declined to testify. *See*, Tr., p. 120;2-  
22 18.

### 23 FINDINGS OF FACTS

24 Compass Equipment is a limited liability company organized under the laws of the State of  
25 Nevada. *See*, State's Exhibit 1, pp., 1-3. Compass Equipment is in the construction industry. *See*,  
26 State's Exhibit 1, pp. 4, 10, 11. Compass Equipment's principal place of business is 2326 Brockton  
27 Way, Henderson, Nevada 89702. *See*, State's Exhibit 1, pp. 1-3.

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1 In September of 2019 there were two Compass Equipment cranes at the Circa construction  
2 site. *See*, State's Exhibit 1, p. 13. While the exact number of Compass Equipment employees on  
3 the job site was unclear, there were no more than four employees at the construction site at any one  
4 time in September of 2019. *See*, Tr., p. 67;4-10, *see also*, State's Exhibit 1, p. 13.

5 Compass Equipment does not always have a foreman or other supervisory employee on each  
6 job site. *See*, Tr., p. 71;12-15. In fact, having a supervisor at the Circa job site was a rare  
7 occurrence. *See*, Tr., pp. 81;7-24, 82;1-14. Compass Equipment supervisors did come to the Circa  
8 construction site when a major event was occurring [jumping the crane higher or jumping it down].  
9 *See, Id.* When Compass Equipment does not have a supervisor on the job site, the crane operators  
10 work is directed by one of contractors or a signalman. *See*, Tr., pp. 70;14-24, 71;1-15.

11 Mr. Gillett started working for Compass Equipment on April 27, 2019. *See*, State's Exhibit  
12 2, p. 49. Mr. Gillett was not the senior employee of the group working at the Circa job site. *See, Id.*  
13 Mr. Gillett possessed the labor classification of Tower Crane Operator. *See*, State's Exhibit 1 p. 13  
14 *see also* Tr., p. 74;17-20. Mr. Gillett was paid at the same rate as the other crane operators. *See*,  
15 State's Exhibit 1, pp. 43-45, *see also*, Tr., p. 74;21-24.

16 The State's September 10, 2019, inspection was conducted by Gabby Katscha (Ms.  
17 Katscha).<sup>3</sup> *See*, State's Exhibit 1, pp. 7-12. *See also*, Tr., p. 86;1-5. At approximately 11:15 a.m.  
18 on that date, the State commenced its opening conference with Mr. Gillett. *See*, State's Exhibit 1,  
19 pp. 13,14. During the opening conference, Mr. Gillett provided the following statements. "I  
20 supervise the Compass [Equipment] operations. I am the working foreman. I correct conditions."  
21 *See*, State's Exhibit 1, p. 13. Specific to the alleged violation, Mr. Gillett stated "I should have my  
22 OSHA 30. I have my OSHA 10 not my OSHA 30." *See*, State's Exhibit 1, p. 14, *see also*, Tr., p.  
23 91;22-14. It was unclear from this statement whether Gillett had received the training for the 30 hour  
24 certification and did not possess the card or whether Gillett had not received the training. *See, Id.*  
25 However, the employer supplied documents which showed that Mr. Gillett possessed an OSHA 10  
26 card. *See*, State's Exhibit 1, p. 47. The closing conference was conducted on November 15, 2019,

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28 <sup>3</sup>Gabby Katscha was not present for the hearing because she no longer works for Nevada OSHA.  
*See*, Tr., p. 86;5-8.

1 with a Compass Equipment employee named Julie Sandstedt. *See*, State's Exhibit 1, p. 12. Mr.  
2 Gillett did not participate in this conference. *See, Id.*

3 At the evidentiary hearing, the State presented the testimony of Nick LaFronz (Mr. LaFronz).  
4 *See*, Tr., pp. 84-119. Therein, Mr. LaFronz explained that he was Gabby Katscha's supervisor and  
5 that he reviewed the subject citation prior to issuance. *See*, Tr., pp. 85;20-24, 86;9-13. Mr. LaFronz  
6 summarized the State's *prima facie* case, as follows

7 There was an employee who acted as a supervisor, directing the work, directing or  
8 supervising the work of other employees who were engaged in construction work and  
9 that person did not have the OSHA 30 hour construction training. *See*, Tr., pp. 93;24,  
94;1-5.

10 Mr. LaFronz testified that the law defines the term supervisor as a function of the employee's duties,  
11 *i.e.*, no official title or higher pay rate is required. *See*, Tr., p. 94;6-12. *See, Id.*

12 Mr. LaFronz testified to the veracity of the information supplied by Ms. Katscha. *See*, Tr.,  
13 pp. 90;12-24, 91;1-5. Thereafter, he testified to the issues which he found most significant in Mr.  
14 Gillett's statement. *See*, Tr., p. 91;6-24. Specially, Mr. LaFronz highlighted Mr. Gillett's statement:  
15 "I supervise the Compass operators. I am a working Foreman. I correct conditions." *See*, Tr., p.  
16 91;14-15. Mr. LaFronz also found it significant that Mr. Gillett stated, "It looks like I should have  
17 an OSHA 30. He says he has an OSHA 10 but not his OSHA 30." *See*, Tr., p. 91;22-23. Since Mr.  
18 LaFronz did not personally conduct the investigation, his testimony could be classified as  
19 hypothecation.

20 Mr. LaFronz testified that the Introduction Slips supported the allegation that Mr. Gillett was  
21 functioning as a supervisor because the other two crane operators were to contact him when they  
22 reported to the job site. *See*, Tr., pp. 100;13-24, 101;1, *see also*, State's Exhibit 1, pp. 43-45. The  
23 Introduction Slips of Compass Equipment employees David Woodward and Cam Ugolini designated  
24 Mr. Gillett as their point of contact on the Circa job site. *See*, State's Exhibit 1, pp. 44-45. In  
25 contrast, Mr. Gillett's Introduction Slip did not tell him to report to any specific person and instead  
26 to report to the job site. *See*, State's Exhibit 1, p. 43. However, Mr. Gillett's Introduction Slip stated  
27 that his labor classification did not indicate that he was a foreman or supervisor. *See*, State's Exhibit  
28 1, p. 43. Instead it identified him as a "Tower Crane Operator." *See, Id.*

1 When questioned about his status as a foreman or supervisor, Mr. Gillett testified:

2 Q: Okay. At the — at the time of this Circa job site 2019 were you the one in charge of  
3 the remaining operators, crane operators?

4 A: The only thing I was in charge of is the running of the crane when I was in the seat.

5 Q: So you did not have anything to do with directing the other crane operators there?

6 A: No. *See, Tr., p. 70;9-16.*

7 Under cross examination, Mr. Gillett again stated that the union dispatched him to the  
8 Circa site as a tower crane operator. *See, Tr., p. 74;17-20.* Further, Mr. Gillett testified that he  
9 had never been asked to be a supervisor while employed by Compass Equipment. *See, Tr., p.*  
10 *75;1-3.* Mr. Gillett denied that Compass Equipment had ever asked him to perform any function  
11 aside from operating a crane. *See, Tr., p. 75;1-7.*

12 Mr. Gillett's unequivocal denial that he was the foreman or supervisor for Crane  
13 Equipment brought up two questions. First, why did Mr. Gillett meet with the Ms. Katscha on  
14 September 10, 2019? Mr. Gillett explained that he was called to meet with her by the general  
15 contractor, McCarthy Building. *See, Tr., p. 83;14-19.* Second, did Compass Equipment have  
16 anyone else supervising the work at the Circa site on the day of the inspection? Mr. Gillett  
17 explained that, in the normal course of events, no supervisor is needed for the Compass  
18 Equipment's employees working at the Circa job site. *See, Tr., pp. 70;14-24, 71;1-11.* Mr.  
19 Gillett testified that the contractors normally direct the crane operators work. *See, Id.* If the  
20 contractors did not provide this guidance, it came from the signalmen. *See, Id.*

21 Additionally, Mr. Gillett identified the type of events which caused Compass Equipment  
22 to have supervisory employees on the job site. *See, Tr., pp. 81;7-24, 82;1-14.* Mr. Gillett  
23 explained that periodically certain events would require additional employees at the job cite. *See,*  
24 *Id.* At those times, a supervisor with an OSHA 30 would be on the job. *See, Id.* Mr. Gillett  
25 testified that he was never one of those supervisors during these events. *See, Id.*

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1           The State further alleged that Mr. Gillett functioned as a supervisory employee because of  
2 his ability to inspect equipment. *See, Tr.*, pp. 68;13-24, 69;1-15, 76;21-24, 77;1-6. On cross-  
3 examination, Mr. Gillett testified that performing safety inspections was something that was  
4 within the standard job function of a crane operator, as explained below:

5           Q:     So as a tower crane operator or so as a tower crane operator, are you — is  
6                 it part of your description that as your certification, which is a national  
7                 certification by the way, to do daily inspections?

7           A:     It is.

8           Q:     On the tower crane specifically?

9           A:     Yes.

10          Q:     So do you need – you don't need to be a supervisor to do this. I'm asking.  
11                 This is a question, not a statement. Let me rephrase it. Do you need to be  
12                 a supervisor to do inspections on tower cranes?

12          A:     No, There's no-

13          Q:     Okay. I'm sorry.

14          A:     Go ahead.

15          Q:     Do you need to be a supervisor to – to approve any kind of rigging that's  
16                 done to your tower crane by the people on the ground?

17          A:     No.

18          Q:     Do you need to be a supervisor to fill out paperwork or make corrections  
19                 to paperwork?

19          A:     No, I do not. *See, Tr.*, pp. 75;11-24, 76;1-7.

20          The State alleged that Mr. Gillett had been in charge of or directed the work of the other  
21 crane operators. *See, Tr.*, pp. 70;9-24, 71;1-15. However, Mr. Gillett testified that he did not  
22 direct the work of any of the other Compass Equipment employee. *Tr.*, p. 70;14-16. The State  
23 also claimed that David Woodward's and Cam Ugolini's Introduction Slips showed that Mr.  
24 Gillett directed their work. *See, Tr.*, pp. 72;4-24, 73;1-7. However, Mr. Gillett's testified that  
25 the purpose of the Introduction Slips was to inform the other Compass Equipment employees  
26 which crane they were to operate, *i.e.*, guide them around the job site. *See, Tr.*, pp. 78;16-24,  
27 79;1-15.

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1           The language of NRS 618.987(2) provided another problem for the State. “If a  
2 supervisory employee on a construction site fails to present his or her employer with a current  
3 and valid completion card for an OSHA-30 course not later than 15 days after being hired, the  
4 employer shall suspend or terminate his or her employment.” *Id.* The problem, here, was that the  
5 State did not provide any evidence as to the date which it believed that Mr. Gillett might have  
6 been promoted to a supervisory position. Under the language of subsection 2, Compass  
7 Equipment would have a fifteen day window in which Mr. Gillett could obtain his OSHA 30  
8 certification. *See, Tr.*, pp. 118;7-24, 119;1.

9           Compass Equipment violation was considered minimal because it was a regulatory  
10 violation. *See, Tr.*, pp. 96;19-24, 97;1-3. The State found a greater probability of injuries from  
11 the condition. *See, Tr.*, p. 97;9-16. The probability of injury is relates to the number of  
12 employees involved or exposed to the condition, how often the employees are exposed and  
13 similar factors. *See, Id.* The gravity of the violations is the starting point for the calculation of  
14 the penalty. The gravity of the violation is a function of the probability of an injury and the  
15 severity of the injury, should one occur. *See, Tr.*, p. 97;17-24. In this case, the gravity was  
16 considered low. *See, Id.* This combination of factors resulted in the penalty of \$200. *See, Tr.*,  
17 pp. 33;97-99.

18           In deliberations, the Board discussed two problems with the State’s allegations against  
19 Compass Equipment. The first was that the State failed to convince the Board members that Mr.  
20 Gillett was a supervisor. Member Macias did not believe that the State presented sufficient  
21 evidence to show that Mr. Gillett performed any of the supervisory functions set forth in NRS  
22 618.9905. *See, Tr.*, p. 129;1-12. Members Fullerton, Spielberg and Milligan concurred with  
23 Member Macias in his opinion that the State had not shown that Mr. Gillett performed a  
24 supervisory function. *See, Tr.*, pp. 129;15-16, 131;12-24, 132;1-6. Another problem for the  
25 State was its failure to present evidence as to when it believed that Mr. Gillett had commenced to  
26 perform the supervisory function. *See, Tr.*, pp. 129;21-24, 130;1-24, 131;1-8.

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## CONCLUSIONS OF LAW

The burden is on the State to prove by a preponderance of the evidence, a *prima facie* case against the Respondent. *See*, NAC 618.788(1), *see also*, *Original Roofing Company LLC v. Chief Administrative Officer of the Nevada OSHA*, 442 P.3d 146, 149 (Nev. 2019). Thus, in matters before the Board of Review, the State must establish: (1) the applicability of a standard being charged; (2) the presence of a non-complying condition; (3) employee exposure or access to the non-complying condition; and, (4) the actual or constructive knowledge of the employer's violative conduct. *Id.* at 149, *see also*, *American Wrecking Corp. v. Secretary of Labor*, 351 F.3d 1254, 1261 (D. C. Cir., 2003).

The State is obligated to demonstrate the alleged violation by a preponderance of the reliable evidence in the record. Mere estimates, assumptions and inferences fail this test. Conjecture is also insufficient. Findings must be based upon the kind of the evidence which responsible persons are accustomed to rely in serious affairs. *William B. Hopke Co., Inc.*, 10 O.S.H. Cas. (BNA) ¶ 1479, 5, (O.S.H.R.C.A.L.J. Mar. 18, 1982). The Board's decision must be based on consideration of the whole record and shall state all facts officially noticed and relied upon. 29 CFR 1905.27(b). *Armor Elevator Co.*, 1 OSHA 1409, 1973-1974 OHSD ¶ 16, 958 (1973). *Olin Construction Inc. v. OSHARC and Peter J Brennan, Secretary of Labor*, 525 F.2d 464 (1975). A Respondent may then rebut the allegations by showing: 1) the standard was inapplicable to the situation at issue; or 2) the situation was in compliance. *S. Colorado Prestress Co. v. Occupational Safety & Health Rev. Comm'n*, 586 F.2d 1342, 1349-50 (10th Cir. 1978).

To establish a *prima facie* case under NRS 618.987(2), the State must show by a preponderance of the evidence that the employer, here, Compass, allowed an employee to perform supervisory duties without possessing an OSHA 30-hour certification. This, the Board finds and concludes, is the first element of a *prima facie* case under NRS 618.987(2).

The Board correspondingly finds and concludes the State fails this test. Aside from Mr. Gillett's statement during the opening conference with the OSHA investigators where he held himself out as a supervisor, the balance of the evidence is predominantly that Mr. Gillett was not

1 a supervisor on this job. The testimony of Mr. LaFronz does not alter this conclusion. He was  
2 not present during the investigation. His testimony is a matter of conjecture as to what the  
3 investigator, Ms. Katscha, meant or thought when investigating this claim. The remainder of Mr.  
4 Gillett's testimony about his duties as a crane operator and the role of a crane operator regarding  
5 the care and condition of his equipment made clear, Mr. Gillett supervised no one, and that the  
6 conditions which might require the presence of a supervisor over a crane operator did not exist  
7 on this job insofar as the evidence shows in this case.

8 The Board accordingly finds and concludes that preponderantly, the evidence reveals the  
9 State has not met its *prima facie* burden under NRS 618.987(2) of showing that Compass  
10 employed Mr. Gillett as a supervisory employee without a OSHA 30-hour card. Failing in this  
11 burden, the State's complaint, based upon NRS 618.987(2), cannot be sustained. The claim is  
12 hereby vacated. Since NRS 618.987(2), is the sole basis for a complaint against Compass, the  
13 complaint is also hereby dismissed.

#### 14 ORDER

15 It was moved by Board member Milligan that the citation and fine be vacated in full. *See,*  
16 *Tr.*, p. 132;13-16. The Motion was seconded by Board member Fullerton. *See, Tr.*, p. 132;18-  
17 19. The motion was approved unanimously upon a vote of five in favor and none in opposition.  
18 *See, Tr.*, p. 132;22-23. Accordingly, the State OSH Board of Review hereby vacates the citation  
19 and fine assessed against Compass Equipment.

20 This is the Final Order of the Board.

21 IT IS SO ORDERED.

22 On October 12, 2022 the Board convened to consider adoption of this decision, as written  
23 or as modified by the Board, as the decision of the Board.

24 Those present and eligible to vote on this question consisted of four current members of  
25 the Board, to-wit, William Steinberg, Frank Mulligan, Jorge Macias and Scott Fullerton. Each  
26 was also present to hear the case. A quorum was, therefore, present and eligible to vote on  
27 whether this draft decision accurately reflected the Board's rational and action taken by the  
28 Board.

1           Accordingly, it was moved by Frank Milligan, seconded by Scott Fullerton, to approve  
2 the draft decision prepared by Board Counsel as it accurately reflected the action taken by the  
3 Board. The Motion was adopted. Vote: 4-0 to approve this Decision of the Board as the action  
4 of the Board and to authorize William Spielberg, the Acting Chairman, after any grammatical or  
5 typographical errors are corrected, to execute, without further Board review this Decision on  
6 behalf of the Nevada Occupational Safety and Health Review Board. Those voting in favor of  
7 the motion either attended the hearing on the merits or had in their possession the entire record  
8 before the Board upon which the decision was based.

9           On October 12, 2022 this Decision is, therefore, hereby adopted and approved as the  
10 Final Decision of the Board of Review.

11 Dated this 18 day of October, 2022.

NEVADA OCCUPATIONAL SAFETY  
AND HEALTH REVIEW BOARD

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14 By: William Spielberg  
William Spielberg, Acting Chairman

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7 the motion either attended the hearing on the merits or had in their possession the entire record  
8 before the Board upon which the decision was based.

9           On October 12, 2022 this Decision is, therefore, hereby adopted and approved as the  
10 Final Decision of the Board of Review.

11 Dated this 18 day of October, 2022.

NEVADA OCCUPATIONAL SAFETY  
AND HEALTH REVIEW BOARD

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14 By: William Spielberg  
William Spielberg, Acting Chairman

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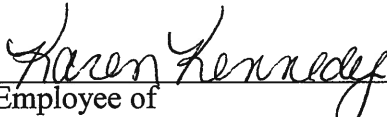
1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices of Charles R.  
3 Zeh, Esq., and that on this date I served the attached document, *Decision and Order of the Board,*  
4 *Findings of Fact and Conclusion of Law, and Final Order,* on those parties identified below by  
5 placing an original or true copy thereof in a sealed envelope, certified mail/return receipt  
6 requested, postage prepaid, placed for collection and mailing in the United States Mail, at Reno,  
7 Nevada:

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

10 Ray Bellamy  
11 c/o Compass Equipment  
2326 Brockton Way,  
12 Henderson, NV 89702

13 Dated this 30<sup>th</sup> day of October, 2022.

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16 \_\_\_\_\_  
Employee of  
The Law Offices of Charles R. Zeh, Esq.

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20 S:\Clients\OSHALV 20-2027 Compass Equipment Services\Decision 6.wpd