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OSHA REVIEW BOARD
BY H. 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 18-1941

Inspection No. 1391691

Complainant,

vs.

BRADY LINEN SERVICES, LLC.

Respondent.

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

This case arose out of an employer's referral after one of its employees was injured at one of the Respondent's business locations. *See*, State's Exhibit 1, p. 3. The State's inspection resulted in the issuance of two citations consisting of three items which alleged violations of 29 CFR 1910.264(d)(2)(i)(a), 29 CFR 1910.212(a)(1) and 29 CFR 1910.264(d)(1)(v). *See*, State's Exhibit 1, pp. 39-56.

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1 The matter came before the Nevada Occupational Safety and Health Review Board (the
2 Board) for hearing on April 14, 2021. *See*, 1Tr. p. 1.¹ The presentation of evidence continued on
3 April 15, 2021. *See*, 2Tr. p. 3. Board deliberations occurred on August 11, 2021. *See*, 3Tr. p. 26.
4 The hearing was conducted in furtherance of a duly provided notice. *See*, Notice of Hearing dated
5 July 18, 2018. Said notice of hearing was subsequently amended. *See*, Amended Notice of
6 Hearing dated August 2, 2018. The notice of hearing was then amended a third time. *See*,
7 Amended Notice of Hearing dated October 16, 2018.

8 In attendance to hear the matter April 14 and April 15, 2021, were Board Chairman Steve
9 Ingersol, Board Secretary, Rodd Weber, Board Member Frank Milligan and Board Member
10 William Spielberg. *See*, 1Tr., p. 1, 2Tr., p. 1. On August 11, 2021, Chairman Rodd Weber,
11 Secretary William Spielberg and Board Member Frank Milligan along with new Board Members
12 Jorge Macias and Scott Fulerton, deliberated the case after receiving the parties' closing
13 arguments. *See*, 3Tr., pp. 26-43.

14 Salli Ortiz, Esq. (Ms. Ortiz), counsel for the Chief Administrative Officer of the
15 Occupational Safety and Health Administration of the Division of Industrial Relations of the
16 Department of Business and Industry (the State), appeared at the hearing on behalf of the
17 Complainant (the State). *See*, 3Tr., pp. 44;22-24. The Respondent (hereinafter, Respondent or
18 Brady Linen) was represented by Whitney Selert, Esq. (Mr. Selert). *See*, 1Tr., p. 3;10-13.

19 Jurisdiction in this matter is conferred by Chapter 618 of the Nevada Revised Statutes,
20 NRS 618.315. Jurisdiction was not disputed. As there were five members of the Board present to
21 decide the case, with at least one member representing management and one member
22 representing labor in attendance, a quorum was present to conduct the business of the Board.

23 Nevada has adopted all Federal Occupational Safety and Health Standards which the
24 Secretary of Labor has promulgated, modified or revoked and any amendments thereto. They are
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26 ¹"1Tr." stands for the transcript of the hearing conducted on April 14, 2021, followed by the page
27 and line number where the matter cited can be found. "2Tr." stands for the transcript of continuation of
28 the hearing conducted on April 15, 2021, followed by the page and line number where the matter cited
can be found. "3Tr." stands for the transcript of the Board's deliberations conducted on August 11, 2021,
followed by the page and line number where the matter cited can be found.

1 then deemed the Nevada Occupational Safety and Health Standards. *See*, NRS 618.295(8). A
2 complaint may be prosecuted for circumstances which arise before or during an inspection of the
3 employer's workplace. *See*, NRS 618.435(1).

4 The Notice of Alleged Safety or Health Violations alleged that Alicia Lara Juarez (Ms.
5 Lara) was injured as the result of catching her finger in a conveyor belt located at the back end of
6 one the Respondent's automated laundry folding machines. *See*, State's Exhibit 1, p. 3. This
7 injury resulted in the amputation of the tip of her finger albeit without any injury to her bone.
8 *See, Id.*

9 On March 26, 2018, a Citation and Notice of Penalty was issued to the Respondent. *See*,
10 State's Exhibit 1, pp. 57-71. On April 7, 2018, the Respondent notified the State of its intent to
11 contest the citation. *See*, State's Exhibit 1, p. 72. On May 1, 2018, the State filed its formal
12 Complaint for resolution by the Review Board. *See*, State's Exhibit 1, pp. 73-83. Notice of the
13 proceedings was given to Brady Linen by first class, certified mail, return receipt requested. *See*,
14 Notice of Hearing dated July 18, 2018. The hearing on the matter was subsequently rescheduled
15 on three occasions and ultimately held on the 14th and 15th of April of 2021.

16 The Complaint alleges a willful and serious violation of one Federal Regulation and
17 serious violations of two other Federal Regulations, as set forth more fully below: *See*, State's
18 Exhibit 1, pp. 67-68.

19 Citation 1, Item 1, charged a willful-serious violation of 29 CFR 1910.264(d)(2)(i)(a), as
20 stated below:

21 No safeguard, safety appliance, or device attached to, or forming an integral part
22 of any machinery shall be removed or made ineffective except for the purpose of
23 making immediate repairs or adjustments. Any such safeguard, safety appliance,
24 or device removed or made ineffective during the repair or adjustment of such
25 machinery shall be replaced immediately upon the completion of such repairs or
26 adjustments.

25 During the inspection, the following issues were noted:

26 1. Chicago Dryer Company Automatic Folder # 1, Model Air Chicago, Serial
27 #53007 12/05. There was a bypassed interlock switch on the back of the machine
28 on the rear panel, []. In addition, the top folding wire guard (air permeable barrier
in operator's manual) is also equipped with an interlock but it was missing the
bracket that pushes the button style switch in, when the top wire guard is closed.

1 Which, should signal to the machine that the wire guard was open and not allow
2 the machine to run. However, the machine still was operational.

3 2. Chicago Dryer Company Automatic Folder # 2, Model Air Chicago, Serial #
4 53005 11/05. There was a bypassed interlock switch on the back of the machine
5 on the rear panel, []. The top folding wire guard (air permeable barrier in
6 operator's manual) was originally equipped with an interlock but the button style
7 switch portion was missing. Which, should signal to the machine that the wire
8 guard was open and not allow the machine to run. However, the machine still was
9 operational.

10 3. Chicago Dryer Company Automatic Folder #3, Model Air Chicago, Serial
11 #53006 11/05. There was a bypassed interlock switch on the back of the machine
12 on the rear panel, [].

13 4. Chicago Dryer Company Automatic Folder #4, Model Air Chicago, Serial
14 #53009 11/05. There was a bypassed interlock switch on the back of the machine
15 on the rear panel [].

16 5. Chicago Dryer Company Automatic Folder #6, Model Air Chicago, Serial
17 #53004 07/05. There was a bypassed interlock switch on the back of the machine
18 on the rear panel, [].

19 6. Chicago Dryer Company Automatic Folder #7, Model Air Chicago, Serial
20 #53010 11/05. There was a bypassed interlock switch on the back of the machine
21 on the rear panel, [].

22 After giving consideration to the wilfulness and severity of the violation and the probability of
23 injury resulting from this alleged violation, the State recommended a fine of \$70,000. *See*, State's
24 Exhibit 1, pp. 39-46.

25 Citation 2, Item 1, charged a serious violation of 29 CFR 1910.212(a)(1), as stated below:

26 Types of guarding. One or more methods of machine guarding shall be provided
27 to protect the operator and other employees in the machine area from hazards such
28 as those created by point of operation, ingoing nip points, rotating parts, flying
chips and sparks. Examples of guarding methods are—barrier guards, two-hand
tripping devices, electronic safety devices, etc.

During the inspection, the following issues were noted:

None of the six Fellins brand incline conveyor belts had machine guarding on the
lower end of the conveyor belt near the Terry Folders. Further, exposed running
nip points were found at the upper ends of the conveyor belts next to the main
conveyor belts. *See*, State's Exhibit 1, pp. 47, 48.

After giving consideration to the severity of the violation and the probability of injury
resulting from this alleged violation, the State recommended a fine of \$7,000. *See*, State's
Exhibit 1, pp.47-52.

1 Citation 2, Item 2, charged a serious violation of 29 CFR 1910.264(d)(1)(v), as stated
2 below:

3 Instruction of employees. Employees shall be properly instructed as to the hazards
4 of their work and be instructed in safe practices, by bulletins, printed rules, and
verbal instructions.

5 During the inspection, it was determined that:

6 The employer did not provide bulletins, printed rules, and instruct their employees
7 in safe practices related to their work when operating and working around the six
Chicago Dryer Company Automatic Folder towel folding machines and their
8 corresponding Fellins brand inclined belt conveyors. In the course of their work,
employees were exposed to the equipment's moving parts, pinch points, caught,
9 and crushed hazards which could result in serious injury such as amputations or
permanent disability. *See*, State's Exhibit 1, p. 55.

10 After giving consideration to the severity of the violation and the probability of injury
11 resulting from this alleged violation, the State recommended a fine of \$7,000. *See*, State's
12 Exhibit 1, pp. 53-56.

13 On May 16, 2018, the Respondent answered the State's Complaint. *See*, State's Exhibit 1,
14 pp. 84-89. Respondent's Answer generally denied the allegations of the State's Complaint. *See*,
15 *Id.* Further, the Respondent's Answer raised the affirmative defense of employee misconduct in
16 the alleged violation of 29 CFR 1910.264(d)(2)(i)(a). *See*, State's Exhibit 1, p. 87;12-15.

17 The Board decided the evidentiary matters before the hearing. The State offered for
18 admission its Exhibits 1-2, consisting of 181 pages. *See*, 1Tr., p. 8;2-24. The State's exhibits
19 were admitted without objection. *See, Id.* The Respondent Exhibits A through S (1 - 19)
20 consisting of an unspecified number of pages were admitted into evidence. *See, Id.* The
21 Respondent Exhibits U through Y (21-25) consisting of an unspecified number of pages were
22 admitted into evidence. *See, Id.* The Respondent Exhibits AA and BB (27-28) consisting of an
23 unspecified number of pages were admitted into evidence. *See, Id.* The Respondent Exhibit DD
24 (33) consisting of an unspecified number of pages was admitted into evidence. *See, Id.* The
25 Respondent Exhibits II and JJ (27-28) consisting of an unspecified number of pages were
26 admitted into evidence. *See, Id.* The Respondent Exhibits LL and NN (38-40) consisting of an
27 unspecified number of pages were admitted into evidence. *See*, 1Tr., p. 9;1-10. The decision to
28 admit Respondent's Exhibits Z(26), CC(29), EE through HH (31-34) and LL and NN (38-40),

1 were stayed and would be addressed if and when any of these exhibits are presented to be offered
2 into evidence.² *See, Id.* The admissibility of Respondent's Exhibit T (20) and KK (37) was
3 denied prior to the hearing. *See, Id.*

4 FINDINGS OF FACTS

5 The alleged violations occurred at Brady Linen's Losee plant located in North Las Vegas,
6 Nevada. *See, State's Exhibit 1, p. 3, see also 2Tr., p. 125;7-9.* The plant is approximately a
7 100,000 square foot facility. *See, 2Tr., pp. 125;10-14, 126;1-16.* The building consists of two
8 laundry plants under one roof, almost equally split down the middle with approximately the same
9 types and numbers of equipment on each side. *See, Id.* The equipment used at the facility consists
10 primarily of laundry washing machines, driers, folding machines and conveyor belts which move
11 the laundry around the plant. *See, Id.* The facility has four tunnel washers. *See, Id.* The washed
12 laundry is automatically transferred into dryers. *See, Id.* The facility contains over 30 dryers that
13 support the washing capacity. *See, Id.* The dried laundry is then ironed on twelve ironing
14 machines, six on each side of the plant. *See, Id.* The dried linens are then placed into folding
15 machines to be folded and stacked. *See, 2Tr., p. 6;12-20.*

16 Side B, the portion of the plant at issue, contains six Chicago Dryer Company's
17 Automatic folders (Terry Folders). *See, 2Tr., p. 126;6-16.* Individual folded towels then are
18 stacked underneath the machine until ten of them accumulate. *See, Respondent's Exhibit LL, p.*
19 *556.* The folded towels are stacked and then conveyor belts move them to the bundling area. *See,*
20 *2Tr., pp. 125;10-24, 126;1-16.* In the final area, the washed, folded and bundled towels are
21 placed in hampers for delivery to the Company's customers. *See, Id.*

22 The Losee plant processes an incredible amount of laundry. Approximately 850 towels
23 per hour go into each of the Terry Folders. *See, 2Tr., p. 153;8-24.* The facility operates between
24 16 and 24 hours per day, 7 days per week. *See, Id.* Management estimates that the 61,000,000
25 pieces of linen have run through the Losee facility since it opened. *See, 2Tr., 155;9-14.*

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28 ²Some of the documents contained the identifying information of certain persons including
Social Securing numbers. Those documents were subsequently redacted to remove this information.

1 The Terry Folders and the incline conveyor belts which move the folded towels to a main
2 conveyor belt are at the center of the alleged violations. The Terry Folders require one or more
3 employees (the Operators) to stand at the front and feed laundered towels into the machine. *See*,
4 State's Exhibit 1, p. 135, *see also*, 2Tr., 68;9-14. Inside the Terry Folders, the linen is folded
5 using conveyor belts and blasts of compressed air. *See*, 1Tr., p. 80;1-21. This folding action
6 occurs under a metal grate. *See*, State's Exhibit 1, p. 113, *see also*, 1Tr., pp. 92;23-24, 93;1-10.
7 Once the towels are folded, the Terry Folder drops them in stacks at the back and bottom of the
8 machine. *See*, Respondent's Exhibit LL, p. 556. When a stack of towels reaches a certain height,
9 an infrared sensor triggers an action causing the conveyor belt to move the stacked towels to the
10 incline conveyor belt. *See*, 1Tr., p. 16;1-11. The incline conveyor belt then moves the stacked
11 laundry to the main conveyor belt which takes them to the final area of the plant. *See, Id.*

12 There are a number of sensors throughout the Terry Folders which monitor the folding of
13 the towels and their movement through the machine. *See*, 2Tr., pp. 188;24, 189;1-6. The sensors
14 inform the Terry Folder when a problem occurs and are designed to cause the machine to shut
15 down. *See*, 2Tr., p. 189;15-19. The sensors are in series which means that electricity starts on
16 one end of the circuit, passes through a number of devices to get to the other end of the circuit.
17 *See*, 2Tr. 46;24, 47;1-9. If one of the circuits is opened, the flow of electricity is disrupted and the
18 input is lost, stopping the machine and telling the processing board of the specific fault. *See, Id.* It
19 is an integrated circuit so if it is broken anywhere in the chain, the electrical current does not get
20 to the other end of the circuit. *See, Id.* This will stop the machine and the internal software will
21 communicate to the CHI panel with a specific fault. *See, Id.*

22 Interlocks are safety devices placed on two access points to the internal workings of the
23 Terry Folders, the top grate and rear panel. *See*, State's Exhibit 1, pp. 98, 101, 103 106 *see also*
24 1Tr., p. 86;7-19. An interlock is a two part device. *See, Id.* On one side there is a blade shaped
25 key which attaches to a mirror image receptacle. *See, Id.* The Terry Folders are designed to stop
26 functioning when the blade is separated from its receptacle, *i.e.*, the interlock is a kill switch.

27 At the Losee plant, the interlocks of the Terry Folders were disabled, bypassed, in two
28 distinct ways. Most often this was accomplished by disconnecting the blade from the door and

1 placing it directly into the receptacle. *See*, State's Exhibit 1, pp. 98, 101, 106. In one instance, the
2 device was removed from the back panel, so the blade is never separated from the housing. *See*,
3 State's Exhibit 1, p. 103. Bypassing the interlocks allows the Terry Folders to run even when the
4 top grates or back panels are open. *See, Id.*

5 The incline conveyor belt is not a single belt. Instead, it is three or four belts running
6 parallel to each other and driven by two rollers. *See*, State's Exhibit 1, pp. 97, 105, 106. Located
7 between each of these belts, are or should be, plastic guards separating the belts and providing
8 protection from pinching. *See*, 1Tr., pp. 57;16-24, 58;1. At the time of the inspection, many of
9 these guards were in need of repair. *See, Id., see also*, State's Exhibit 1, pp. 119, 139. Another
10 problem with the belts on the incline conveyor, nip points are exposed when spaces develop
11 between the individual belts. *See*, State's Exhibit 1, pp. 118, 119, 121, 123.

12 The OSHA investigators reviewed the Respondent's Injury Logs. *See*, State's Exhibit 2,
13 pp. 148-149. These showed certain injuries believed to be related to that of Ms. Lara, which have
14 occurred in previous years, as explained. On July 17, 2014, Area Manager Teresa Saucedo
15 received a contusion to the face in Plant A, as a result of an air hose hitting her face while trying
16 to unjam a towel. This would not have occurred if the interlocks were working properly because
17 all moving parts would have stopped. *See*, State's Exhibit 2, p. 149. On September 30, 2014,
18 Blanca Hernandez received a 2nd degree burn when her fingers were stuck between moving
19 conveyor belts. *Id.* On June 28, 2016, Jose Hernandez, sheets worker in Plant B, suffered
20 contusions and abrasions while attempting to remove a stuck sheet from the machine, when his
21 right hand was pinched. *See*, State's Exhibit 2, p. 148. Last, on September 16, 2016, Maria
22 Adriana Sanchez, Pillow worker in Plant B, reached down to pull a jammed pillow case when the
23 machine rolls pulled her right thumb upwards, causing burns to her right thumb, forearm and
24 wrist. *See, Id.*

25 On November 8, 2017, at approximately 5:30 a.m., Ms. Lara went to the back of one of
26 the Terry Folders.³ There was a loose towel at the bottom of the incline conveyer belt which she
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28 ³Ms. Lara subsequently clarified her statement to say that her injury occurred at the upper end of
the incline conveyor belt. *See*, Respondent's Exhibit JJ, p. 330.

1 reached down to pick up. *See*, 2Tr., p. 130;12-17. As she reached down, she braced her off hand
2 for balance and put her left hand into an exposed nip point of the top of the incline conveyer belt.
3 *See, Id.* This resulted in the partial amputation of the tip of her left pinky, but not to the bone.
4 *See*, State's Exhibits 1, pp. 3, 23, 24, *see also*, 1Tr., pp. 29;1-9, 56;11-17.

5 The Respondent reported the accident to State OSHA. *See*, State's Exhibit 1, p. 3, *see*
6 *also*, 1Tr., p. 28;8-18. OSHA inspected the facility on the day of the injury. *See*, State's Exhibit
7 1, p. 4, *see also*, 1Tr., pp. 29;16-24, 30;1-23. Stephen Pupp (Mr. Pupp), Carlton Monroe, and
8 Decker Loretz conducted the initial walk around on November 8, 2017. *See*, State's Exhibit 1,
9 pp. 4, 19, *see also*, 1Tr., p. 30;22- 23. The inspectors were taken to the towel folding machines
10 in Plant B. *See*, State's Exhibit 1, p. 19. The area contained six towel Terry Folders, each of
11 which had an incline conveyor belt leading up to the main conveyor. *See*, Exhibit 1, pp. 113, 133.

12 In their observation of the area, the OSHA inspectors noted the incline conveyor belts
13 were not guarded to prevent employees from walking up near them or working near them. *See*,
14 State's Exhibit 1, p. 19. Further, ingoing nip points and catch hazards were clearly visible. *See*,
15 *Id.* These types of hazards could expose the Respondent's employees to serious injury if they
16 were to get fingers, clothing, or other body parts caught. *See, Id.*

17 On November 9, 2017, Edgar Zamora (Mr. Zamora) and Jason Budge conducted a walk
18 around and began the accident investigation.⁴ During that inspection, Mr. Zamora also noted that
19 Terry Folders Nos. 1 and 2 had bypassed interlocks for the wire grates located at the top of the
20 Terry Folders. *See*, State's Exhibit 1, pp. 39, 40, *see also*, 1Tr., p., 125;5-13. Further, one of the
21 interlocks had been disabled as the result of someone having run the electrical circuit around it.
22 *See*, 2Tr., pp. 47;13-19, 56; 2-5. The inspectors further noted that none of the six Terry Folders
23 had working interlocks on the back panels. *See*, State's Exhibit 1, pp. 19, 39, 40.

24 As part of the inspection, Mr. Zamora requested employee training records. Upon review,
25 he determined that the records failed to show that the Operators were properly trained or
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27 ⁴Mr. Zamora took over this investigation from the other investigators because he was already
28 working on an unrelated accident investigation at this same location. Jason Budge was a trainee assigned
to Mr. Zamora. *See*, State's Exhibit 1, p. 19, *see also*, 1Tr., pp. 30;22-24, 31;1-6.

1 instructed as to the hazards associated with their work. *See*, State's Exhibit 1, p. 53. Specifically,
2 the records did not provide bulletins, printed rules, and instruct their employees in safe practices
3 related to their work when operating and working around the Chicago Dryer Company Automatic
4 Folder towel folding machines and their corresponding Fellins incline belt conveyors. *See Id.*
5 Moreover, no training records for Ms. Lara were located.⁵ *See*, 1Tr., pp. 46;20-24, 47;1-3.

6 At the start of the April 14th hearing, the State called Mr. Zamora as its first witness. *See*,
7 1Tr., 24;1-4. Mr. Zamora explained that the opening conference form was filed out by CHSO
8 Pupp on arrival. *See*, State Exhibit 1, p. 4, *see also*, 1Tr., pp. 29;18-24, 30;1-23. The Respondent
9 was represented by Patricia Angi (Ms. Angi) and Ryan Swartz (Mr. Swartz) at the opening
10 conference. *See*, 1Tr., p. 114;3-6. Ms. Angi was the Respondent's safety manager who was hired
11 shortly before this incident. *See*, Respondent's Exhibit A, *see also*, 1Tr., p. 114;11-17. Mr.
12 Swartz was, at that time, the general manager of the Losee facility. *See*, State's Exhibit 1, p. 4,
13 *see also*, 2Tr., p. 125;4-9.

14 Mr. Zamora was questioned about his interview with Lance Bailey (Mr. Bailey). *See*,
15 State's Exhibit 1, pp. 36, 37, *see also*, 1 Tr., pp. 36-45. Therein, Mr. Bailey provided the
16 following statements regarding the interlocks on the Terry Folders. *See*, State's Exhibit 1, pp.
17 36, 37, *see also*, 1 Tr., pp. 41;18-24, 42;1-20. Mr. Bailey stated that some of the interlocks
18 worked and some did not. *See, Id.* Further, Mr. Bailey stated that this condition had been
19 allowed to exist for a significant amount of time, up to five years. *See, Id.* Mr. Bailey stated this
20 occurred because the maintaince personnel (Engineers) are very busy and did not have time to
21 properly replace the jumped out interlocks. *See, Id.* No explanation was given as to why the
22 situation was not remedied at some later time.

23 In regards to the incline conveyor belts, Mr. Bailey informed Mr. Zamora that the plastic
24 bands located at the top of the incline belts are intended to transition the stacks of towels from
25 the incline conveyor belt to the main conveyor belt. *See*, 2Tr., pp. 41;23-24, 42;1-3, 82;19-24,
26 83;1. They are not there to guide individual belts of the incline conveyor. They are not to keep a

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28 ⁵The Respondent may have, at one time, possessed training records for Ms. Lara. However, they
were unable to retrieve them as of the date of the hearing. *See*, 2Tr., pp. 177;24, 178;1-8.

1 uniform distance between them. *See*, State's Exhibit 1, pp. 36, 37, *see also*, 1 Tr., pp. 43;16-24,
2 44;1-22. Lastly, Mr. Bailey said that the Company's preventative maintenance program does not
3 check the gaps between the conveyor belts. *See, Id.*

4 Mr. Bailey further explained to Mr. Zamora that the towels sometimes back up. They will
5 bunch up either underneath the Terry Folders or fail to transition from the incline conveyor belt
6 to the main conveyer belt. *See*, State's Exhibit 1, p. 69, *see also*, 2Tr., pp. 41;23-24, 42;1-3. Mr.
7 Bailey stated that when this occurs, the Operators have to go around to the back of the machine
8 to pick up towels and to move them along to the conveyer belt. *See*, State's Exhibit 1, p. 38, *see*
9 *also*, 1Tr., p. 45;4-12. Mr. Bailey stated that the Terry Folders may continue to run while the
10 Operators are behind the machine or accessing the incline conveyor belt. *See*, State's Exhibit 1,
11 p. 38, *see also*, 1 Tr., pp. 45;15-24, 46;1-2.

12 On cross examination, Mr. Zamora was questioned about the statements attributed to Mr.
13 Bailey, specifically, the allegation that the Terry Folders could continue to run when machines
14 were jammed. *See*, 1Tr., p. 125;14-22. Mr. Selert asked whether Mr. Zamora ever tested his
15 assumption that the Terry Folders would continue to run when there was a jam. Mr. Zamora
16 indicated that he had not. *See*, 1Tr., p. 125;22-24. Further, Mr. Zamora explained that it was not
17 possible to test the functions of the Terry Folders after the citation was issued. Once the
18 investigation is over, the inspectors cannot further involve themselves with the citation. OSHA
19 only has a six month window in which it can complete its investigation. *See*, 1Tr., pp. 141;22-
20 24, 142;1-19.

21 Mr. Selert questioned some of Mr. Bailey's statements in the violation worksheets.
22 Specifically, Mr. Bailey was asked about the allegation that it was a common occurrence for the
23 Respondent's employees to reach into the Terry Folders while the machines were operating, *i.e.*,
24 the belts were pulling towels through the machine. *See*, 1Tr., p. 126;6-15. In response, Mr.
25 Zamora admitted that OSHA did not test whether the machines could operate under these
26 conditions. *See, Id.*

27 Mr. Selert further questioned Mr. Zamora's assertion that the employer should have been
28 on notice because of the previous four accidents. *See*, 1Tr., p. 129;11-18. In this instance, Mr.

1 Selert pointed out that one of the four injuries was a loose air hose hitting an employee in the
2 head. *See*, 1Tr., p. 129;19-22. Another of the injuries was an employee hitting her head after
3 picking up a towel from under the Terry Folder. *See*, 1Tr., pp. 129;23-24, 130;1-2. A third injury
4 occurred on a piece of machinery other than a Terry Folder. *See*, 1Tr., p. 130;3-7. In response,
5 Mr. Zamora explained,

6 In the case of like the conveyer belt, [these machines] have very similar
7 components, features, hazards. So just reaching into a machine, pulling out a
8 jammed item, may cause the employee to be exposed to hazards. *See*, 1Tr., p.
130;8-18.

9 Mr. Zamora was questioned about his interviews with some of the Terry Folder operators,
10 specifically, Gloria Ramos Jiminez (Ms. Jiminez), Ms. Lara, Monica Galarza (Ms. Galarza),
11 Sylvia Sandoval (Ms. Sandoval), Esmeralda Tapia, (Ms. Tapia) and Maria Canizalez (Ms.
12 Canizalez). Ms. Jiminez, a supervisor of the Operators, informed Mr. Zamora that the Operators
13 received limited informal training. *See*, State's Exhibit 1, pp. 26, 27, *see also*, 1 Tr., pp. 48-53.
14 Ms. Jiminez told Mr. Zamora that the training of the Terry Folder operators was given orally in
15 either Spanish or English depending upon the employee's language preference. *See*, 1Tr., pp.
16 49;14-24, 50;1-2.

17 Ms. Canizalez told Mr. Zamora that her training was limited to two instructions. First,
18 she was told to be careful around the Terry Folders. Second, should an Operator need to take
19 linens out of the machine, she was advised that the Operators need to stop it. *See*, 1Tr., p. 66;1-6.
20 Ms. Lara informed Mr. Zamora that the Respondent provided some general safety instruction but
21 nothing specific to the Terry Folders.⁶ *See*, State's Exhibit 1, p. 23, *see also*, 1 Tr., p. 54;3-9.

22 These Operators described multiple problems with the overall function of the Terry
23 Folders and associated conveyor belts. Ms. Lara informed Mr. Zamora that the Terry Folders
24 were temperamental. Some days there were nearly continuous problems while they worked well
25 on other days. *See*, State's Exhibit 1, p. 24. When linens get stuck in the Terry Folders, the
26 Operators have a choice of action. They can either call the engineers or open the doors and pull

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28 ⁶Ms. Lara's declaration dated September 9, 2019, contradicted this statement. *See*, Respondent's
Exhibit Nos. II, JJ.

1 the jammed linen out of the machine. *See*, State's Exhibit 1, p. 24, *see also*, 1Tr., p. 57;2-12.

2 Ms. Galarza informed Mr. Zamora that the Terry Folders cannot be relied upon to stop
3 when the linens jam inside them. *See*, 1Tr., p. 62;13-19. However, she told him that the
4 Operators can stop the Terry Folders using the E stop. Unfortunately, not all of the E stop buttons
5 work properly. *See*, 1Tr., pp. 62;23-24, 63;1-2. Ms. Canizalez told Mr. Zamora that having linen
6 stick in the Terry Folders is a very common occurrence.

7 Ms. Ortiz: Has she herself experienced any jams?

8 Mr. Zamora: Yes. She says we are always pulling up jams or calling a supervisor
9 to get engineers or picking up towels.

10 Ms. Ortiz: And did she indicate to you what her experience was on this day that
you did the interview?

11 Mr. Zamora: Yes. She explains that the one that she was using then was jamming
12 every ten minutes. *See*, 1Tr., p. 67;11-17.

13 Ms. Lara told Mr. Zamora that she has opened the top grate to clear jams on an
14 unspecified number of times. *See*, State's Exhibit 1, p. 25, *see also*, 1Tr., pp. 59;24, 60;1-23. Ms.
15 Lara also indicated that she opened the back panels on three occasions. *See*, State's Exhibit 1, p.
16 25, *see also*, 1Tr., pp. 59;22-24, 60;1-3. Ms. Lara further indicated that Terry Folders Nos. 1 and
17 3 continue to operate when towels jam inside of them. *See*, State's Exhibit 1, p. 25, *see also*,
18 1Tr., p. 60;4-23. Further, the Terry Folder Operators told Mr. Zamora that maintenance is
19 undertaken sporadically or not at all. *See*, state Exhibit 1, p. 24, *see also*, 1Tr., pp. 52;20-24,
20 53;1-3.

21 Ms. Ortiz then questioned Mr. Zamora regarding the State's photographs. *See*, 1Tr., pp.
22 77-107. Mr. Zamora identified the Terry Folder on which Ms. Lara was working when she was
23 injured. *See*, State's Exhibit 1, p. 92, *see also*, 1Tr., p. 80;8-21. This photograph is a view of the
24 side of that Terry Folder.

25 Two of the State's photographs show brackets holding the metal grate in place but
26 without functional interlocks. *See*, State's Exhibit 1, pp. 93-95, *see also*, 1Tr., p. 81;8-21. Two of
27 the State's photographs show the rear door of Terry Folder No. 1 standing ajar and provide a
28 close up of the bypassed interlocks. *See*, State's Exhibit 1, pp. 97, 98. Another of the State's

1 photographs shows an interlock switch hanging from the back of Terry Folder No. 3. *See*, State's
2 Exhibit 1, p. 103, *see also*, 1Tr., p. 88;7-13. Mr. Zamara testified that he could see this hanging
3 interlock from down the line, *i.e.*, looking at the six Terry Folders from the vantage point of the
4 photograph. *See, Id.*

5 Another of the State's photographs depicts the rear panel of Terry Folder No. 4 with the
6 blade inserted into the interlock instead of being on the back door. *See*, State's Exhibit 1, p. 106,
7 *see also*, 1Tr., p., 89;18-22. The photograph of the rear panel of Terry Folder #4 shows that no
8 blade is attached to the back of the panel. *See*, State's Exhibit 1, p. 107, *see also*, 1Tr., p., 89;18-
9 22. Taken together, Exhibits 106 and 107 show completely disabled interlocks which should
10 have been readily discernable to anyone with an understanding of the nature of the devices. The
11 State's photographs of the back panels of Terry Folders Nos. 4, 6, and 7, all show that the
12 interlock key has been removed. *See*, State's Exhibit 1, pp. 108-111, *see also*, 1Tr., pp. 90;10-
13 24, 91;1-9.

14 The State's exhibits 113 and 115 show the incline conveyor belts from the rear of the
15 Terry Folders to the main conveyor belt. *See*, State's Exhibit 1, pp. 113, 115, *see also*, 1Tr., pp.
16 95;16-24, 96;1-20. Photograph No. 115 shows a nip point located between the beige bands and
17 the spinning roller. *See, Id.* Photograph No. 118 shows one of the Terry Folder's conveyor belts
18 without a plastic strip guide. The implication is that it fell off and was not replaced. *See, Id.* In
19 this instance, there is a gap of over an inch between the roller and the metal guide. The risk here
20 is that an employee's finger might get caught under the spinning belt. *See, Id.* Photograph No.
21 119 shows more potential catch hazards and nip points. *See, Id.* The band was moved for this
22 photograph to show the plastic guide strip has been broken due to the belt rubbing against it. *See*,
23 *Id.* The photograph also serves to show that the bands of the conveyor belt wander from side to
24 side and can cut through a plastic strip, which increases the size of the gap between the belts. *See*,
25 State's Exhibit 1, p. 119, *see also*, 1Tr., p. 98;14-24. Additional photographs of nip points on the
26 rear conveyor belt were supplied in the State's evidence package. *See*, State's Exhibit 1, pp. 120-
27 123. The arrows on Photograph No. 123 show the direction of travel and the rotation of the
28 bottom rollers. *See, Id.* The photograph also shows the gaps between the roller and the flat panel

1 where the belt sits on top. *See, Id.* Further, the photograph shows the gap between the two rollers.
2 *See, Id.*

3 The Respondent's general knowledge of the hazards of conveyor belts is shown in one of
4 the photographs. *See, State's Exhibit 1, p. 125.* As Mr. Zamora explained, the covering of the end
5 of the main conveyor belt, "show[s] the employer had knowledge the guarding belts, especially at
6 the end where the motors are [located]." *See, 1Tr., p. 101;9-15.*

7 Mr. Zamora provided testimony regarding his understanding of the working conditions at
8 the Losee Plant. Mr. Zamora believed that the Operators were pressured to keep the work
9 flowing at a high pace. *See, 1Tr., 105;2-21.*

10 During the walk-around I observed those television monitors up on the top left,
11 and those indicate their production numbers, and [the monitors] will have the
12 name of the machine, and [possibly] the name of the employee [who is] running
it, and it will give them like a percentage rate of where they are at with their
production. And if they are in the green they are good. *See, Id.*

13 Mr. Zamora testified that certain types of safety warnings were present on the Terry
14 Folders. *See, State's Exhibit 1, pp. 136, 137, 138, see also, 1Tr., pp. 106;8-24, 107;1-10.* These
15 warnings were standard pictograms⁷ showing among other things that there were nip points in the
16 immediate vicinity of the incline conveyor belts. *See, Id.*

17 Mr. Selert cross-examined Mr. Zamora regarding OSHA's allegation that management
18 knew of the bypassed interlocks. Specifically, he questioned whether any of Mr. Bailey's
19 supervisors told Mr. Zamora that they knew of the bypassed interlocks. *See, 1Tr., pp. 121;18-24,*
20 *122;1-13.* Ms. Angi also denied knowing that the interlocks on the Terry Folders were bypassed.
21 *See, Id.* Mr. Selert further questioned whether Mr. Zamora knew that Mr. Bailey was a member
22 of the International Union of Operating Engineers Local 501⁸. *See, 1Tr., p. 122;14-16.* The
23 implication here was that Mr. Bailey was not a member of management.

24 Mr. Selert then questioned whether Mr. Zamora had tested whether an employee could or
25

26 ⁷A pictogram is a graphic symbol that conveys its meaning through its pictorial resemblance to a
27 physical object. <https://en.wikipedia.org/wiki/Pictogram>.

28 ⁸Mr. Bailey's position, Chief Engineer, was expressly provided for in the Labor Agreement for
the Losee Plant. *See, Respondent's Exhibits D and DA.*

1 would be exposed to moving belts and rollers if they opened the back panel of a Terry Folder to
2 clear a jam.

3 Mr. Selert: Well, as I read many of your statements and some of these
4 conclusions, you're under the impression these jams occur all of the time. It's a
5 very routine kind of thing, and you're implying that the employer is asking these
6 employees to stick their hands in the moving parts to remove those jams. My
7 simple question to you is did you actually ask the employer, A, whether or not the
8 machines run when a jam condition is detected and, B, to demonstrate that for you
9 so that you can see it for yourself?

10 Mr. Zamora: No. *See*, 1Tr., p. 126;4-14.

11 Mr. Selert continued on this theme, by inquiring whether Mr. Zamora had specifically
12 determined whether the Terry Folders would continue to operate when a towel was jammed into
13 them, regardless of the status of the interlocks. *See*, 1Tr., p. 140;6-10. Mr. Selert then referred
14 Mr. Zamora to Ms. Lara's statement which refuted this claim. *See*, Respondent's Exhibit, II, JJ.⁹

15 Mr. Selert then asked if Mr. Zamora had considered returning to the Losee Plant to
16 determine whether the Terry Folders could run if towels were jammed in them. *See*, 1Tr., p.
17 142;6-10. Mr. Zamora indicated that he could not return to an investigation site once the citation
18 was issued. *See*, 1Tr., p. 142;11-12.

19 Mr. Selert cross examined Mr. Zamora regarding his belief that the four previous injuries
20 in the area would give the Respondent notice of the danger to the employees in attempting to fix
21 jams in the Terry Folders and related conveyor belts. *See*, 1Tr., p. 129;3-13. Mr. Selert then
22 questioned Mr. Zamora as to how these violations could have provided the Respondent with the
23 requisite knowledge.

24 Mr. Selert: So how do or does the fact that an employee could have been injured
25 in any of these other ways give Brady Linen a heightened awareness of the
26 specific hazard of sticking your hands in the moving parts of this machine by the
27 rear panel or that top guard?

28 Mr. Zamora: Well, especially in the case of like the conveyer belt, they have very
similar components, features, hazards. So just reaching into a machine, pulling out
a jammed item may cause you to be exposed to hazards, and these are -- and I was
only looking at laundry machines. It's not related to other things other than
laundry *per se*. *See*, 1Tr., p. 130;8-18.

⁹Ms. Lara's declaration was provided at some time after the inspection at the direction of the Respondent. Versions of her declaration were provided in both Spanish and English.

1 On cross examination Mr. Zamora further explained his belief as to why the four referenced
2 injuries were relevant to the specific violation and the finding that it was a serious violation.

3 Ms. Ortiz: Can you please just for the record tell us why you found those four
4 accidents out of all of the accidents listed on the 300 logs why you felt these four
accidents relevant to this citation item.

5 Mr. Zamora: Because they produced injuries. They involved some type of jammed
6 item and some type of laundry machinery. So it wasn't necessarily that it was
specific to one folder or other or even a top folder itself. It's sufficient enough to
7 say, oh, it would be reasonable to me for an employer to say, hey, we've had a few
accidents when people are pulling jams. Let's review our machinery. Let's review,
8 you know, our safety procedures and things like that in regards to jams. *See*, 1Tr.,
158;9-21.

9 Mr. Selert also questioned Mr. Zamora regarding the allegations of Citation 2, Item 1,
10 that the conveyor belts were unguarded. *See*, 1Tr., pp. 150-154. Mr. Selert then referred to
11 Photograph No. 122 which showed the meeting of the incline conveyor belt from the Terry
12 Folder and the main conveyor belt. *See, Id.* A gap of approximately one half inch is seen between
13 the incline conveyor belt and the plastic guide.¹⁰ *See, Id.* That half inch gap constitutes a pinch
14 point or nip point. Further, a pinch point can be seen between the incline conveyor belt and the
15 frame of the main conveyor belt. *See*, 1Tr., pp. 150-154. In discussing this photograph, Mr.
16 Zamora explained that the plastic guide offers some protection. *See*, 1Tr., p. 151;14-23.
17 However, OSHA interprets 29 CFR 1910.212(a)(1) to require something more substantial than
18 the plastic flex guards. *See*, 1Tr., p. 154;6-11.

19 Mr. Selert then questioned Mr. Zamora as to whether warning stickers placed on the
20 frame of the main conveyor belt constituted a guard. *See, Id.* Mr. Zamora explained that the
21 warning labels did not constitute a guarding method as required by 29 CFR 1910.212(a)(1). *See*,
22 1Tr., p. 153;11-22. Mr. Zamora further explained, that the plastic guides were intended to guide
23 the towels as they transferred from the incline conveyor belt to the main conveyor, keeping them
24 from being sucked into the conveyor belt system. *See*, 1Tr., pp. 153;24, 154;1-11, *see also*, 2Tr.,
25 pp. 41;23-24, 42;1-3.

26
27
28 ¹⁰ The Respondent describes the guide as being made of semi-rigid hard plastic. *See*, 2Tr., p.
82;3-6.

1 The State's second witness was Nick LaFronz (Mr. LaFronz), a Nevada OSHA
2 supervisor. *See*, 1Tr., pp. 174-276. As part of his testimony, Mr. Lafronz explained how the State
3 determined the amount of the fine for Citation 1, Item 1. The fine was determined using objective
4 evaluations of certain factors. *See*, State's Exhibit 1, pp. 40-46, *See also*, 1Tr., pp. 217-222. The
5 fine is a gravity based penalty, a combination of the severity and the probability of the alleged
6 violation causing injury, calculated prior to any penalty adjustments. *See*, 1Tr., p. 219;15-24. Mr.
7 LaFronz testified to the severity of the alleged violation of 29 CFR 1910.264(d)(2)(i)(a). *See*,
8 1Tr., pp. 217-219. There are three levels of severity high, medium and low. *See*, 1Tr., p. 218;15-
9 24. Brady Linen's violation was considered highly serious because there was a substantial
10 probability that death or serious physical harm could result, should an injury occur. *See*, State's
11 Exhibit 1, p. 40, *see also*, 1Tr., pp. 216;20-24, 217;1-3. Mr. LaFronz explained that exposure to
12 the internal mechanics of the Terry Folders could lead to full or partial amputations. *See*, 1Tr.
13 pp. 184;2-17, 217;24, 218;1-3. Mr. LaFronz then addressed the likelihood of injuries from the
14 hazardous condition. *See*, 1Tr., pp. 218;18-24, 219;1-12. In this instance, a greater the probability
15 was determined. *See, Id.* Mr. LaFronz then testified to the determination of the probability
16 calculation. *See*, State's Exhibit 1, p. 44, *see also*, 1Tr., p. 219;8-12. Using a numerical system,
17 OSHA determined that there was a greater probability of injury. *See, Id.* Mr. LaFronz explained
18 that the gravity was a combination of the severity and probability of the alleged violation. *See*,
19 State's Exhibit 1, p. 40, *see also*, 1Tr., p. 219;15-24. The gravity based penalty started at the
20 amount of \$7,000. *See*, State's Exhibit 1, p. 40, *see also*, 1Tr., p. 220;1-3.

21 This gravity based penalty was subject to a multiple of ten because the alleged violation
22 of this regulation was deemed to be a willful violation. *See*, State's Exhibit 1, p. 40, *see also*
23 1Tr., p. 220;1-3. The State found the violation to be willful because the Respondent knew that
24 the interlocks on the back panels of all of the Terry Folders were jumped and would not prevent
25 the employees from being exposed to the internal workings of the machine, the moving rollers
26 located behind the panels. *See*, State's Exhibit 1, p. 43, *see also* 1Tr., pp. 198;16-24, 199;1-8,
27 217;4-17. This resulted in the fine being subject to the multiplier. The fine was, thus, increased to
28 \$70,000. *See*, State's Exhibit 1, p. 43, *see also*, 1Tr., p. 220;4-20. The Respondent's failure to

1 abate caused the proposed fine to increase by another \$7,000. *See*, State's Exhibit 1, p. 41, *see*
2 *also*, 1Tr., p. 222;11-18. However, the proposed fine was limited to \$70,000 because that amount
3 was the statutory maximum, at the time of the alleged violation. *See*, State's Exhibit 1, p. 41, *see*
4 *also*, 1Tr., p. 222;19-24.

5 Mr. LaFronz testified to the calculation of the proposed penalty for Citation 2, Item 1.
6 *See*, 1Tr. pp. 223;1-24, 224;1-19. This was considered serious because of the potential injuries or
7 illnesses that could occur as a result of a violation if an incident were to occur. *See*, State's
8 Exhibit 1, p. 48, *see also*, 1Tr., p. 223;13-19. The probability of injury was listed as greater
9 because the same number of workers were exposed with the same frequency. *See*, 1Tr., pp.
10 223;22-24, 224;1-3. The gravity was a function of the severity and probability of the alleged
11 violation. *See*, State's Exhibit 1, p. 48, *see also*, 1Tr., p. 224;4-7. The amount of the fine
12 proposed for the Citation 2, Item 1, was then \$7,000. *See*, State's Exhibit 1, p. 48, *see also*, 1Tr.,
13 p. 224;4-7. However, the proposed fine for the was limited to \$7,000 because that amount was
14 the statutory maximum at the time. *See*, 1Tr., p. 224;7-15.

15 Mr. LaFronz testified to the calculation of the proposed penalty for Citation 2, Item 2.
16 *See*, 1Tr. pp. 225;1-24, 226;1-6. This was considered serious because of the potential injuries that
17 could occur as a result of a violation if an incident were to occur. *See*, State's Exhibit 1, p. 53,
18 *see also*, 1Tr., p. 225;7-14. Mr. LaFronz found the severity to be high because of the potential
19 injuries or illnesses that could occur as a result of a violation if an incident were to occur. *See*,
20 State's Exhibit 1, p. 53, *see also*, 1Tr., p. 225;15-19. The probability of injury was listed as
21 greater because the same number of workers were exposed with the same frequency. *See*, 1Tr.,
22 pp. 225;20-24. The gravity was a function of the severity and probability of the alleged violation.
23 *See*, State's Exhibit 1, p. 54, *see also*, 1Tr., p. 225;23-24. However, the proposed fine for the
24 incident was limited to \$7,000 because that amount was the statutory maximum at the time. *See*,
25 1Tr., p. 226;1-6.

26 The State's third witness was Ms. Sandoval, who worked in the towel folding area at the
27 time of the inspection. *See*, 2Tr., p. 7;3-6. Ms. Sandoval testified that she had, on an unspecified
28 number of times, taken towels from under the Terry Folders. *See*, 2Tr., pp. 11;22-24, 12;1-15.

1 She did this because it often took longer to locate an Engineer than it did to resolve the matter
2 herself. *See Id., see also*, 2Tr., pp. 19;20-24, 20;1-3. Ms. Sandoval testified that she had
3 witnessed several of the Operators remove jammed towels without the aid of Engineers. *See*,
4 2Tr., pp. 25;24, 26;1-4. Surprisingly, she testified that this is still occurring. *See, Id.* Ms.
5 Sandoval stated that she turned the Terry Folder off before removing towels or unjamming the
6 machine. *See*, 2Tr., p. 12;16-22. However, there were certain times she had reached inside of an
7 operating Terry Folder. *See*, 2Tr., pp. 19;13-17, 22;11-17. Ms Sandoval stated that she had her
8 fingers caught in the Terry Folder on two or three occasions. *See*, 2Tr., pp. 15;22-24, 16;1.

9 The State's final witness was Mr. Bailey, who explained the internal sensors and restart
10 mechanism of the Terry Folders. *See*, 2Tr., p. 65;8-22. He explained that when any of the linens
11 cease to travel through the Terry Folders, the internal sensors would detect the position of that
12 item and the machine would stop itself. *See, Id.* This feature protects the Terry Folders because
13 the machine would tear itself apart if linens were continuously added without being expelled at
14 the back end. *See, Id.* Once the machine stops, it gives an error code which indicates that there is
15 a problem inside the machine. *See*, 2Tr., p. 66;4-9. After the problem is resolved, the machine
16 has to be restarted.¹¹ *See*, 2Tr., pp. 65;4-7, 73;20-24, 74;1-8. As the result of the operations of the
17 internal sensors and restart requirement, there was no possibility that a Terry Folder would
18 continue to operate if it were jammed, Mr. Bailey assured the Board. *See*, 2Tr., pp. 73;20-24,
19 74;1-8. Mr. Bailey also testified that the internal sensors and restart function work in the same
20 manner, regardless of whether the interlock was disabled. *See*, 2Tr., pp. 74;18-24, 75;1.

21 Mr. Selert's first witness was Mr. Swartz, who was the highest ranking person at the
22 Losee plant at the time of the inspection. *See*, 2Tr., p. 127;6-13. In testimony regarding Mr.
23 Bailey's authority, Mr. Swartz provided the following:

24 Under Lance Bailey there [were] three senior watch engineers. The senior watch is
25 essentially the lead engineer for every shift. They areassigning work to the
26 other working engineers on that shift or at least helping prioritize what should be
done or repaired next. And then under senior watch are the maintenance
engineers. [I]n conjunction with the senior watch the maintenance engineers are

27
28 ¹¹Mr. Swartz also testified that the Terry Folders need to be reset from a console to restart their
operation. *See*, 2Tr., p. 162;19-24.

1 performing maintenance tasks on a routine basis. I believe the most we've had
2 was maybe ten engineers, but we also had some quality assurance technicians that
3 at one point I believe that number was five quality assurance employees. So the
4 engineering department was roughly 14 employees, 15 employees. *See*, 2Tr., p.
5 128;1-17

6 Mr. Swartz contradicted Ms. Sandoval's testimony regarding the scarcity of supervisory
7 personnel. Mr. Swartz testified that on most days there a supervisor was within eye sight and
8 earshot range of the Operators. *See*, 2Tr., pp. 132;21-24, 133;1-4. Further, above the supervisors,
9 there were shift managers and a plant manager. *See*, 2Tr., p. 133;16-20.

10 Mr. Swartz testified that the Company took several steps to remedy the issues with the
11 Terry Folders, once the deficiencies were pointed out by OSHA. First, the functionality of all of
12 the interlocks was restored. *See*, 2Tr., pp. 138;22-24, 139;1-3. Second, the Company's LOTO
13 policy was revised. *See*, 2Tr., p. 139;4-12. Third, the Company invested in new software to
14 enhance the preventative maintenance schedule. *See*, 2Tr., p. 139;13-17. The Company
15 considered disciplining the entire engineering staff and, in particular, Mr. Bailey. *See*, 2Tr., pp.
16 139;22-24, 140;1-13. However, no disciplinary actions were taken because the Company could
17 not ascertain which individual or individuals were ultimately responsible for bypassing the
18 interlocks on all of the Terry Folders in plant B. *See, Id.*

19 Mr. Swartz explained the Respondent's lack of urgency regarding the disabled interlocks.

20 I believe the reasons why the interlocks being bypassed was never on my radar or
21 other senior management radar, their radar was because the machine jammed --
22 when it jams it stops running. You cannot open a panel that has bypassed
23 interlocks and expose yourself to rotating equipment because the machine is
24 jammed....When the machine is running freely there's no reason for an employee
25 to engage in a panel or an area where interlocks are bypassed because the
26 equipment is operating as it should. The only time they would be in that area of
27 bypass interlocks is if the equipment is jammed but at that point it's stopped. The
28 machine is stopped. *See*, 2Tr., p. 188;3-15

29 Further, Mr. Swartz testified, there are numerous sensors throughout the machines that detect
30 faults and anytime a fault is detected the machine stops. *See*, 2Tr., p. 189;2-5. Accordingly, Mr.
31 Swartz firmly believed that no employee was endangered by the bypassed interlocks.

32 Mr. Swartz refuted the allegation that the Operators were under intense production
33 demands. He testified that the production standards were set at a monthly basis, not daily or
34 weekly. *See*, 2Tr., p. 146;9-17. Therefore, an Operator could have a bad day or a bad week

1 without, necessarily falling below production standards. *See, Id.* Mr. Swartz said that in his four
2 years, only one employee had been terminated as the result of low productivity. *See, Id.* Further,
3 the company could revise the productivity standards for down time such as when a piece of
4 equipment is not working. *See, 2Tr.*, pp.147;8-14, 148;1-5. Mr. Swartz stated that there were
5 several productivity log out stations in the plant. *See, Id.* Employees can log out when a piece of
6 equipment is off line and for their breaks. *See, Id.* Moreover, management can go into this
7 system and account for lost productivity in the case of meetings or other non-productive events.
8 *See, Id.* As a final point on the productivity standards, Mr. Swartz says that anywhere over 90%
9 is passable. *See, 2Tr.*, p. 148;16-22. This standard was developed in concert with the union
10 which represented the Operators. *See, Id.*

11 On cross examination Mr. Swartz stated that it was a common practice in 2017 to allow
12 employees to violate their training, without repercussions. *See, 2Tr.*, p. 178;22-24. In fact, Mr.
13 Swartz admitted that he, personally, had ignored training violations.

14 Ms. Ortiz: And you testified that you have seen employees open the top grate to remove
15 simple jams. Is that fair to say?

16 Mr. Swartz: Yes, ma'am.

17 Ms. Ortiz: Can you tell me were those employees disciplined when you saw them
18 do that?

19 Mr. Swartz: No, ma'am.

20 Ms. Ortiz: Can you tell me why?

21 Mr. Swartz: I did not believe that they were jeopardizing their safety or the safety
22 of anyone else.

23 Ms. Ortiz: But you've testified that they were trained not to do that; isn't that
24 correct?

25 Mr. Swartz: That's correct.

26 Ms. Ortiz: So is it -- was it a practice in 2017 of allowing employees to get away
27 with violating their training?

28 Mr. Swartz: Yes. *See, 2Tr.* 178;9-24.

Ms. Ortiz then brought the section of the manual for the Terry Folders to Mr. Swartz'
attention. *See, State's Exhibit 2*, p. 177, *see also, 2Tr.*, pp. 180;15-24, 180;1-24. Therein, the

1 manual states, “[f]requent jamming may indicate that the unit needs adjustment or repair.” *See*,
2 *Id.* Mr. Swartz responded that he did not view multiple jams within a day to be an issue based
3 upon the large amount of linen processed at the facility. *See, Id.*

4 The Respondent’s third witness was Michael Altendorf (Mr. Altendorf), vice president of
5 environmental health and safety of Pure Star Group. *See*, 2Tr., p. 206;15-23. Brady linen is a
6 subsidiary of Pure Star Group. *See, Id.* Mr. Altendorf provided testimony regarding the
7 Respondent’s safety and training programs. *See*, Respondent’s Exhibits C through and including
8 K, *see also*, 2Tr., pp. 206-214. Mr. Altendorf also testified regarding the Company’s safety
9 related discipline program and its use to enforce safety rules. *See*, Respondent’s Exhibit L, *see*
10 *also*, 2Tr., p. 215;6-20. The discipline program records showed that the Respondent was
11 enforcing its safety policies. *See*, 2Tr., p. 215;6-16. Based upon the Company’s programs and its
12 enforcement of them, Mr. Altendorf opined that the Company was not indifferent to the safety of
13 its employees. *See*, 2Tr., p. 216;6-13. Mr. Altendorf explained another of the Respondent’s main
14 propositions, that the missing interlocks were not responsible for Ms. Lara’s injury or the injury
15 of any other of its employees. *See*, 2Tr., pp. 230;24, 231;1-5.

16 Mr. Altendorf then testified regarding the Respondent’s efforts to improve its safety
17 polices and procedures before the inspection. Specifically, the hiring of Ms. Angi (Respondent’s
18 Exhibit A) and Charles Hawkins (Respondent’s Exhibit B). Both of these individuals were
19 brought on to enhance the Company’s safety efforts. *See*, 2Tr., pp. 217-220.

20 On cross examination Mr. Altendorf made two important admissions. First, that he was
21 not employed by the Respondent in 2017. *See*, 2Tr., p. 234;11-13. Accordingly, his testimony
22 was not based upon first hand knowledge, only a review of the documents. *See, Id.* Second, he
23 admitted that OSHA can issue a citation regardless of whether any employee was injured by the
24 allegedly hazardous condition. *See*, 2Tr., p. 237;4-7.

25 The Respondent’s final witness was Ms. Jiminez. Ms. Jiminez is currently a supervisor
26 for the Respondent overseeing the Operators of the Terry Folders. She testified that she trains the
27 Operators not to attempt to clear the machine when it is jammed. *See*, 2Tr., pp. 251;18-24, 252;1-
28 7. Further, she has never witnessed an Operator reach into a Terry Folder while it is running.

1 See, 2Tr., p. 252;8-16. Ms. Jiminez stated that she also trains the new Operators on the Terry
2 Folder's functions such as how to stop and restart the machine. See, 2Tr., p. 250;10-21. However,
3 she does not use any printed rules or bulletins in the training of new employees. See, 2Tr., p.
4 256;14-22. Ms. Jiminez also agreed with Mr. Bailey and Mr. Swartz, the Terry Folders cease to
5 operate when the machine jams. See, 2Tr., p. 252;1-3.

6 To the extent that any of the Conclusions of Law constitute Findings of Fact, they are
7 incorporated herein.

8 CONCLUSIONS OF LAW

9 The burden is on the State to prove by a preponderance of the evidence, a *prima facie*
10 case against the Respondent. See, NAC 618.788(1), *see also, Original Roofing Company LLC v.*
11 *Chief Administrative Officer of the Nevada OSHA*, 442 P.3d 146, 149, (Nev. 2019). Thus, in
12 matters before the Board of Review, the State must establish (1) the applicability of a standard
13 being charged; (2) the presence of a non-complying condition; (3) employee exposure or access
14 to the non-complying condition; and, (4) the actual or constructive knowledge of the employer's
15 violative conduct. *Id.* at 149, *see also, American Wrecking Corp. v. Secretary of Labor*, 351 F.3d
16 1254, 1261 (D.C. Cir., 2003).

17 The State is obligated to demonstrate the alleged violation by a preponderance of the
18 reliable evidence in the record. Mere estimates, assumptions and inferences fail this test.
19 Conjuncture is also insufficient. Findings must be based upon the kind of the evidence upon
20 which responsible persons are accustomed to rely in serious affairs. *William B. Hopke Co., Inc.*
21 1982 OSHARC LEXIS 302 * 15, 10 BNA OSHC 1479 (No. 81-206, 19820 (ALJ). The Board's
22 decision must be based on consideration of the whole record and shall state all facts officially
23 noticed and relied upon. 29 CFR 1905.27(b). *Armor Elevator Co.*, 1 OSHA 1409, 1973-1974
24 OHSD ¶ 16, 958 (1973). *Olin Construction Inc. v. OSHARC and Peter J Brenan, Secretary of*
25 *Labor*, 525 F. 2d 464 (1975).

26 Where the citation alleges a willful-serious violation and employer must either 1) have a
27 heightened awareness of the illegality of the conduct or 2) show a conscience disregard for or
28

1 plain indifference to the health and safety of its employees. *General Motors Corp.*, 14 OSHA
2 cases 2064.

3 With regard to this Citation 1, Item 1, the State's evidence shows that standard of 29 CFR
4 1910.264(d)(2)(i)(a) applies and that it was violated. The interlocks are safety devices provided
5 on the six Air Chicago towel folders utilized in Plant 2 of the Losee Facility. *See*, State's Exhibit
6 2, p. 170. The interlocks are placed on the rear panels and air permeable barriers at the top of the
7 Terry Folders. *See, Id.* The interlocks ensure that the Terry Folders stop when access to their
8 interior is obtained through the back panel or air permeable grate. *See, Id.* The panels and barriers
9 are in place to prevent "fingers and hands from coming into contact with movable parts" of the
10 Terry Folders. *See, Id.* However, the interlock switches are not intended to be the sole safety
11 device of the Terry Folders. *See, Id.*

12 The interlocks are a part of a system of safety devices for the Terry Folder. As the manual
13 expressly provides:

14 **WARNING**
15 **Never operate the unit unless**
16 **all safety covers are in place**
and all safety equipment is
working correctly.

17 *See*, State's Exhibit 2, p. 171 (emphasis in original).

18 The State met its evidentiary burden of showing that the standard was violated based
19 upon several observations and statements of witnesses. On November 8, 2017, the interlocks on
20 the back of all six of the Terry Folders in Plant 2 were deliberately bypassed. *See*, State's Exhibit
21 1, pp. 19, 105, 106. Further, the interlocks on the top grates of Terry Folders Nos. 1 and 2 were
22 bypassed. *See*, State's Exhibit 1, pp. 93-96, *see also*, 1Tr., pp. 81;15-24, 84;6-20. In fact, the
23 interlock on the top grate of Terry Folder No. 2 was bypassed electronically, *i.e.*, someone had
24 wired around the device. *See*, 2Tr., pp. 47;13-19, 56; 2-5.

25 The State's burden was to show that employees were routinely exposed to hazards as the
26 result of the bypassing of the interlocks. The inquiry of this element is broader than a
27 determination of whether there is a theoretical possibility of exposure. *Bergelectric Corp. v. Sec'y*
28 *of Lab.*, 925 F.3d 1167, 1171-72 (9th Cir. 2019). Instead, the inquiry is whether exposure is

1 reasonably predictable either by operational necessity or otherwise, including that employees
2 have been, are, or will be in the zone of danger.” *See, Id.* Here, the State has shown by the
3 statements of the Respondent’s employees and photographs taken at the location that exposure to
4 hazards was reasonably predictable.

5 Mr. Bailey admitted that employees are asked to clear simple jams when the Operator can
6 pull the towel out. *See, State’s Exhibit 1, p. 38, see also, 2Tr., p. 72;18-20.* Further, he has
7 personally witnessed Operators doing it. *See, Id.* Mr. Bailey admitted it was a common
8 occurrence for the Operators to clear jams on their own rather than waiting for maintenance to
9 come and shut down the machines. *See, 2Tr., p.112;6-21.* Mr. Bailey further stated that it was
10 common for employees to crawl under the machine to retrieve fallen towels. *See, State’s Exhibit*
11 *1, p. 38.*

12 Mr. Swartz testified to witnessing Terry Folder operators removing jams, specifically by
13 opening the top grate. *See, 2Tr., p. 134;6-12.* He also admitted he has seen Operators reach under
14 Terry Folders to grab a towel while the machine was still running. *See, 2Tr., pp. 192;15-24,*
15 *193;1-7.* Mr. Bailey acknowledged that the machines can run with the back door panel open and
16 further that there was nothing to prevent an employee from accessing the back of the Terry
17 Folder.

18 Ms Ortiz: If the interlock was disabled... would an employee need any tools in
19 order to open that back panel?

20 Mr. Bailey: Not in the condition they were in.

21 Ms. Ortiz: Would they be able to just lift the door open themselves?

22 Mr. Bailey: That’s the condition they were in. They were not bolted down, but that
23 would be the only panel. All of the other panels on the machine do not require
tools to take apart.

24 Ms. Ortiz: So every other panel they would always be able to access without tools.
Is that what you’re saying?

25 Mr. Bailey: Yeah. *See, 2Tr., pp. 84;14-24, 85-1.*

26 Mr. Bailey’s statements and testimony were extensively corroborated by other of the
27 Respondent’s employees. Ms Canizalez told the investigators that the Respondent’s employees
28 are always pulling out jams, or calling supervisors to get engineers, or picking up towels. *See,*

1 State's Exhibit 1, p. 28. She stated that, if towels get stuck on top of the Terry Folders, the
2 Operators just open the top grate and pull the towels out. *See*, State's Exhibit 1, p. 29. If folded
3 linens get stuck on the top back of machine, the Operators open the back door of the Terry
4 Folders. *See, Id.* This, she claimed, occurs on average between 4-5 times every day. *See, Id.*

5 Ms. Sandoval stated that she does not open the door in back of the machine *unless* a
6 towel is stuck, then she sometimes has to open it to pull the towel out. *See*, State's Exhibit 1, p.
7 31. Ms. Sandoval stated that, 1-2 times per week, she can grab a stuck towel without opening the
8 door. *See, Id.* The Terry Folders sometimes will not shut off when the door(s) is/are open. *See, Id.*

9 Ms. Sandoval testified that when a towel was stuck, and she was not able to readily find a
10 supervisor, she would unstick it herself. *See*, 2Tr., p., 12;3-7. Ms. Sandoval also stated that
11 calling a supervisor when a linens jammed was not always feasible, particularly when there was
12 only one supervisor for the entire floor, *See*, 2Tr. pp. 19;22-24, 20;1-3. She said that she needed
13 to remove stuck towels several times. *See*, 2Tr., p. 12;8-15. She stated that, in November of
14 2017, towels frequently got stuck in the Terry Folders. *See*, 2Tr., pp. 10;13-14, 11;21. She
15 admitted that she has had to open the top grate and the back doors to get to jammed towels. *See*,
16 2Tr., pp. 12;23-24, 13;1-16. While she stated that she sometimes turns the machine off before
17 unsticking a towel, sometimes she pulls out a jammed towel while the machine is running. Ms.
18 Sandoval has worked on a live Terry Folder as a result of the production demands under which
19 the Operators work. *See*, 2Tr., pp. 19;13-21; 22;11-17. Ms. Sandoval testified that, not only did
20 several Operators remove jams on their own at the time of the inspection, they continue to do so.
21 *See*, 2Tr., p. 26;1-7.

22 Ms. Tapia stated that she routinely opens the back panel to the Terry Folders, albeit, after
23 turning off the machine. *See*, State's Exhibit 1, p. 32. She admitted that she had witnessed other
24 employees opening the back door without turning machines off. *See*, State's Exhibit 1, p. 32. She
25 believes these employees take this action because of the requirement to meet production
26 numbers. *See, Id.* Ms. Tapia stated that some employees work with the door to Terry Folder No.
27 2 open since towels keep getting stuck in it. *See, Id.*

28 ///

1 Finally, Ms. Galarza stated that she is constantly going under the Terry Folder to retrieve
2 fallen towels. *See, State's Exhibit 1, p. 34.* Sometimes she is unable to stop the Terry Folder
3 because some of the machine's E-Stop buttons are unreliable. *See, Id.* Terry Folder No. 2 is the
4 least reliable, requiring the Operators to open the top grate between two and six times per day.
5 *See, Id.* She admitted she occasionally opens the back door to remove a jam. *See, State's Exhibit*
6 *1, p. 35.* Ms. Galarza confirmed sometimes the Terry Folders operate for an entire day with the
7 back panel open. *See, Id.* Ms. Galarza also informed OSHA that the employees access the
8 interior of the Terry Folders for other reasons than to clear jammed laundry. *See, Id.* They lift the
9 back panel to clean one or more of the sensors. *See, Id.* They also cover sensors in order to
10 activate the incline conveyor belts. *See, Id.*

11 Respondent argued that the Operators were never exposed to the internal moving parts of
12 the Terry Folders. This was because the Operators were trained not to remove jams from the
13 machines. *See, 2Tr., pp. 133;8-15, 147;18-24,* Further, and more importantly, Mr. Bailey and Mr.
14 Swartz testified that the Terry Folders automatically de-energize and shut down any time the
15 machine jams, regardless of the status of the interlocks. *See, 2Tr., pp. 72;1-5, 74;18-24, 75;1,*
16 *110; 22-24, 111;1-3, 189;15-24, 190;1-8.*

17 The Respondent's argument does not take into account that the legal standard for proof is
18 not limited to the single circumstance of jammed machines. As set forth above, there were
19 witness statements that some of the Operators leave the rear door to Terry Folder No. 2 open as a
20 matter of course. *See, State's Exhibit 1, pp. 32, 34.* Further, Ms. Galarza testified that Operators
21 open the Terry Folders' back panels to clean one or more of the sensor lights or reset them. *See,*
22 *State's Exhibit 1, p. 35.*

23 A further problem with the Respondent's argument is that certain witness interviews
24 contradicted it. Ms. Sandavol's and Ms. Galarza's statements indicate that they have witnessed
25 the Terry Folders continuing to run, even when jammed. *See, State's Exhibit 1, pp. 31, 34.*

26 The final element of Citation 1, Item 1, is the proof of the employer's actual or
27 constructive knowledge of the violative conduct. The Respondent's actual knowledge was the
28 most hotly contested issue of the case. As an initial matter, both Ms. Angi and Mr. Swartz

1 disavowed having any knowledge that the interlocks on the Terry Folders were bypassed. *See*,
2 2Tr., pp. 133-136, 229. This left only Mr. Bailey as a manager for whom the knowledge of the
3 bypassed interlocks could be imputed to the Respondent.

4 An employer's knowledge of the violative condition is established by demonstrating that
5 the employer either knew, or, with the exercise of reasonable diligence, could have known of its
6 presence. *Original Roofing Co., LLC v. Chief Admin. Officer of Occupational Safety & Health*
7 *Admin.*, 135 Nev. 140, 143, 442 P.3d 146, 149 (2019); *Pride Oil Well Serv.*, 15 BNA OSHC
8 1809, 1814 (No. 86-692, 1992) (discussing Federal OSHA criteria). Generally, an employer is
9 imputed with a supervisor's knowledge of deviations from OSHA's safety rules. *See, Adm'r of*
10 *Div. of Occupational Safety & Health v. Pabco Gypsum* 105 Nev. 371, 373, 775 P.2d 701,
11 702-03 (1989). This is done to encourage employers to exercise reasonable diligence to ensure
12 OSHA compliance by their employees. *See, Id.*

13 This raises the question of what or who is the supervisor. In *Secretary of Labor,*
14 *complainant, v. Kerns Brothers Tree Service, respondent*, OSHRC Docket No. 96-1719, the
15 commission in that case identified the following elements from which a determination of
16 supervisor might be gleaned. "An employee who has been delegated authority over other
17 employees, even if only temporarily, is considered to be a supervisor for purposes of imputing
18 knowledge to an employer." *Tampa Shipyards, Inc.*, 15 BNA OSHC 1533, 1537 (No. 86-630,
19 1992). *See also, Access Equipment*, 18, BNA OSHC at 1726, 1999 CCH OSHD at p. 46,782
20 (employee who is "in charge of" or "the lead person for" one or two employees who erected
21 scaffolds "can be considered a supervisor"). *See also, Mercer Well Serv.*, BNA OSHC 1893,
22 1894 (No. 76-2337, 1977) (crew chief was supervisor for purposes of the Act where he
23 maintained contact with designated supervisor to relay orders to crew and report problems to that
24 supervisor); *Dover Elevator Co.*, 16 BNA OSHC 1281, 1286 (No. 91-862, 1993) (an "employee
25 who is empowered to direct that corrective measures be taken is a supervisory employee.").

26 Mr. Bailey's testimony, consistent with his interview, established that he supervises all of
27 the engineers. *See*, 2Tr., p. 31;1-9. Specifically, Mr. Bailey testified that he was in charge of nine
28 or ten employees and he assigned tasks to them. *See*, 2Tr., pp. 119;3-5, 120;8-9. Mr. Bailey

1 further testified that he can make recommendations as to whether an employee can continue his
2 or her employment with the Respondent. *See*, 2Tr., p. 119;9-22. Further, Mr. Bailey stated that he
3 could initiate this process, the recommendation to terminate an employee. *See*, 2Tr., pp. 119;23-
4 24, 120;1-7. Based upon Mr. Bailey's authority over the engineering staff, Mr. Bailey is a
5 supervisor such that his knowledge could be imputed to the Respondent. *See*, 3Tr., pp. 32;20-24;
6 33;1-7.

7 Mr. Bailey admitted that he knew that some of the interlocks were bypassed. *See*, State's
8 Exhibit 1, p. 36, *see also*, 2Tr., pp. 38-41. Mr. Bailey testified that he did not know who bypassed
9 the interlocks, *See*, 2Tr., pp. 99;3-10, 107;20-24, 108;1-10. Further, he did not know the length
10 of time that they were bypassed. *See*, State's Exhibit 1, pp. 36, 37, *see also*, 2Tr., pp. 36;12-21,
11 37;19-24, 38;1-18,

12 Unfortunately for the Respondent, the imputation of knowledge of employee misconduct
13 is permissible even though it is not the supervisor's conduct at issue. *Terra Contracting, Inc. v.*
14 *Chief Admin. Officer of Occupational Safety & Health Admin.*, 132 Nev. 1037 (Court of Appeals
15 Case No, 67270, January 14, 2016, West) citing, *ComTran Grp., Inc. v. U.S. Dep't of Lab.*, 722
16 F.3d 1304, 1314 (11th Cir. 2013). Thus, Mr. Bailey's admitted knowledge of the bypassed locks
17 is properly attributed to the Respondent.

18 The Respondent's argument that Mr. Bailey was not a manager because he was a union
19 member is misplaced. Union membership or lack thereof, is not a relevant inquiry in OSHA
20 matters. *See, Dover Elevator, supra, see also*, 1Tr., pp. 259;24, 260;1-14. In fact, Mr. Bailey's
21 testimony established that he supervises all of the Engineers, sets their schedules, assigns them
22 work, issues some of their training, and handles their discipline. *See*, 2Tr., p. 31;1-9. Therefore,
23 the Board finds that Mr. Bailey was a supervisor. *See*, 3Tr., pp. 32-34.

24 Actual knowledge of the violative conduct was shown by Mr. Bailey's unequivocal
25 statements that he knew the Terry Folders' interlocks were bypassed. *See*, State's Exhibit 1, p.
26 37; *see also*, 2Tr., p. 51;9-13. While he speculated they could have been that way between one
27 day and five years, the Terry Folder Operators, some of who had been there up to 11 years, stated
28 the Terry Folders had been in that condition the entire length of their Brady Linen employment.

1 *See, Id., see also*, State's Exhibit 1, pp. 31-35. Mr. Bailey admitted it is a common occurrence
2 for interlock switches to be broken or missing. *See*, State's Exhibit 1, p. 37; *see also*, 2Tr. p.
3 39;17-33. Mr. Bailey explained that the Engineers bypass interlocks because need to work on the
4 Terry Folders while they are running. *See Id.; see also*, 2Tr., pp. 40;12-24, 41;1-77. The
5 Engineers then leave the machines in that condition because they have other calls to field. *See Id.*
6 It was common for the Engineers to receive multiple calls a day asking them to inspect the Terry
7 Folders and provide maintenance thereon. *See*, 2Tr., p. 54;3-7.

8 Mr. Bailey knew the cross fold devices behind the rear panels represent a hazard because
9 they consist of moving rollers. *See*, State's Exhibit 1, pp. 38, 44; *see also*, 1Tr., p. 45;4-24.
10 Regarding the top grate on Terry Folder No. 1, Mr. Bailey was asked how the Terry Folder
11 continued to be operational, despite the completely missing bracket. *See*, State's Exhibit 1, pp.
12 93-96, *see also*, 2Tr., p. 47;13-18. He responded that someone, presumably an Engineer, "routed
13 the electricity around that switch." *See*, 2Tr., pp. 47;19-24, 56;2-9. This was a specific instance
14 where a member of the Engineering staff deliberately disabled a safety feature and nothing was
15 done to correct it or discover who was responsible.

16 The State also provided evidence of the Respondent's constructive knowledge of its
17 violative conduct. As an initial matter, the Terry Folders and their manuals and other materials
18 make it clear that these were dangerous machines to operate. First of all, affixed to the Terry
19 Folders are multiple warning and danger labels, referencing the types of hazards involved in the
20 operation of the machines. *See*, State's Exhibit 1, pp. 136-138, *see also*, State's Exhibit 2, p. 176.
21 Second, the Terry Folder computer display reads, "Top Guard Interlock Replace
22 Panel/Guard!" when the top grate is open and the safety feature is working properly, which
23 warning is in plain view of the Operators and the supervisors. *See*, State's Exhibit 1, p. 112; *see*
24 also, 1Tr., pp. 91;10-24, 92;1-19; 168;10-21.

25 _____The Instruction Manual for the Air Chicago Towel Folder, expressly informed the
26 Respondent that the daily operations of the Terry Folders required proper use of all safety
27 features. "Operate the folder only with all guards and endframe doors in place and all safety
28 features operating correctly. Never operate the unit with any safety features bypassed." *See*,

1 State's Exhibit 2, p.169 (emphasis in original). Further, the Terry Folders' manual describes the
2 interlocks' locations, functions and protections. *See*, State's Exhibit 2, p. 170. This section
3 expressly states that the safety guards help prevent fingers or hands from coming into contact
4 with the moving parts. *See*, State's Exhibit 2, p. 175. Mr. Bailey confirmed that he had read the
5 manual and that the manufacturer describes the interlocks as safety features. *See*, 2Tr., p. 86;17-
6 23.

7 Mr. Bailey represented that there was a preventative maintenance schedule for the Terry
8 Folders. *See*, 2Tr., p. 54;8-13. This maintenance was to have occurred monthly. *See*, 2Tr., p.
9 55;4-7. However, this scheduled maintenance does not involve identifying and/or repairing the
10 bypassed interlocks. *See*, 2Tr., pp. 54;20-24, 55;1-3.

11 _____ The Injury Logs show at least four related injuries which occurred in previous years. *See*,
12 State's Exhibit 2, pp. 148-149. Teresa Saucedo, Area Manager, received a contusion to her face
13 while trying to unjam a towel. *See*, State's Exhibit 2, p. 149. Blanca Hernandez received a 2nd
14 degree burn when her fingers were stuck between moving conveyor belts. *See*, *Id.* Jose
15 Hernandez, suffered contusions and abrasions when his right hand was pulled in to one of the
16 conveyor belts. *See*, State's Exhibit 2, p. 148. Maria Adriana Sanchez suffered burns to her right
17 thumb when the machine rollers pulled her right thumb upwards. *See*, *Id.* These accidents are
18 related to the cited hazard because they dealt with laundry machines and, if the interlocks were
19 working properly, the machines would not have any moving parts to create a hazard while
20 employees dealt with jams. *See*, State's Exhibit 2, pp. 148-149; *see also* 1Tr., pp. 130;8-18,
21 132;12-14; 157;15-24, 158;1- 21. These accidents should have provided Brady Linen with an
22 awareness regarding the potential hazards of the Terry Folders and incline conveyor belts
23 because these incidents relate to machine guarding issues on this or similar equipment. *See*, 1Tr.,
24 pp. 193;19-24, 194;1-16. All of this shows that Brady Linen knew, and should have known, of
25 the hazardous conditions caused by deliberately bypassing the interlocks. An employer must
26 exercise reasonable diligence. An employer is regarded to have requisite knowledge when it
27 could have known of the non-complying condition with exercise of reasonable diligence. *See*,
28 *Trinity Indus., Inc. v. Occupational Safety & Health Rev. Comm'n*, 206 F.3d 539, 542 (5th Cir.

1 2000); *Martin v. Occupational Safety & Health Rev. Comm'n*, 947 F.2d 1483, 1484 (11th Cir.
2 1991).

3 _____It was foreseeable that the Respondent's employees may overlook safety processes, such
4 as engineers deliberately bypassing the interlocks. Mr. Bailey indicated the interlocks were
5 "jumped out" because of the large number of calls that the Engineers were required to respond to
6 on a daily basis. *See*, State's Exhibit 1, p. 37, *see also*, 2Tr., p. 40;12-21. Most or all of the
7 interlocks on the Terry Folders were bypassed or missing. Many of the conditions were either in
8 plain view or could have been discovered with little effort. *See*, State's Exhibit 1, pp. 97, 103,
9 105, 106. 109. In fact, Mr. Swartz admitted that, from behind the Terry Folders, he would have
10 noticed the rear panels being ajar. 2Tr., p. 176;8-15.

11 Even if the bypassed interlocks might have been less than visible, improper operation was
12 still foreseeable because the Operators admitted frequently running the machines with the various
13 doors and grates completely up or open. *See*, State's Exhibit 1, pp. 32, 34. Further, some of the
14 Operators reported that the Terry Folders had been in that condition for significant amounts of
15 time.

16 For its part, the Respondent did not seem to view these matters as serious or in need of
17 resolution. Mr. Swartz testified that it was a common practice in 2017 to allow employees to
18 violate their training, without repercussions. *See*, 2Tr., p. 178;22-24. Mr. Bailey testified that it
19 was common knowledge that Operators often cleared jams, rather than waiting for maintenance
20 to come and shut down the machines. *See*, 2Tr., p. 112;6-21. Ms. Sandoval confirmed that she
21 and several Operators have always removed jams on their own, both at the time of the inspection
22 and to the present day. *See*, 2Tr., p. 26;1-7.

23 Lastly, the Respondent's management team seemed to view the interlocks as superfluous.
24 Mr. Bailey testified that their mindset regarding the Terry Folders' interlocks was, in part, due to
25 the fact that they have other equipment that has no such safety devices. He stated that, "it's hard
26 to wrap your head around why this machine is required to have these interlocks when 100 others
27 do not that are way more dangerous than these." *See*, 2Tr., p. 88;11-19. "[C]ollectively we [in
28 management] find it a little inconsistent in what needs to be protected and what doesn't." *See*,

1 2Tr., p. 89;1-3. This well-established, widespread, and unchecked process, which is allegedly
2 against company policy, make it foreseeable that employees would not follow other safety rules,
3 leading to potential employee exposure to hazardous conditions. *See*, State's Exhibit 1, pp. 31-
4 35.

5 The Respondent argued that this should not be considered a wilful violation because of its
6 documented safety and enforcement programs. Specifically, the Company had a Lock Out Tag
7 Out (LOTO) policy, which provided rules and procedures to protect employees and other from
8 injury as the result of the unexpected start-up, energization or release of stored energy. *See*,
9 Respondent's Exhibit K. The Respondent provided sign-in sheets for safety training which
10 occurred at the Losee plant in the years 2015 through 2017. *See*, Respondent's Exhibit 13. Lastly,
11 the Respondent provided disciplinary records showing actions taken when employees violated
12 work and safety rules. *See*, Respondent's Exhibit L.

13 Additionally, the Respondent argued that it was in the process of improving its safety
14 culture before Ms. Lara's accident. Ms. Angi had been brought on as the company's Safety
15 Manager shortly before the incident. *See*, Respondent's Exhibit A. She was considered to be a
16 significant upgrade to the safety department because of her lengthy background and work
17 experience in safety. *See*, 2Tr., p. 144;4-14. The Respondent had also recently brought on
18 Charles Hawkins, who had a very extensive background in safety in engineering departments.
19 *See*, Respondent's Exhibit B.

20 While the Respondent provided evidence of its efforts to maintain a safe work
21 environment, a reasonable mind could conclude that it was indifferent to the safety of employees
22 because the State presented evidence that the Terry Folders were temperamental, poorly
23 maintained and that the support personnel were often unavailable. Further, evidence shows that
24 the Operators involved themselves in several actions, aside from removing jams and fallen
25 towels, which placed them at risk. Accordingly, the State proved its *prima facie* case of a
26 violation of OSHA regulations and the Respondent failed to prove its defense of employee
27 misconduct. That is to say, the Respondent's professed concern for safety did not translate into

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1 action to protect employees. Moreover, the professed safety concerns came too late for the
2 employees.

3 With regard to this Citation 2, Item 1, the State's evidence shows that standard of 29 CFR
4 1910.212(a)(1) applies because the Respondent's employees were operating machinery that had
5 in-going nip points. *See*, State's Exhibit 1, pp. 113, 115, 118, 119, 121, 122, 123, 126, 127, 128,
6 129, 130, 131 & 139.

7 The standard was violated because appropriate machine guarding was not supplied. The
8 incline conveyor belts use several parallel bands to move stacked towels from underneath the
9 towel folder machines to the main conveyor belt. Ms. Jiminez confirmed that sometimes towels
10 will get caught between the Terry Folders conveyor belts and the incline conveyor belts, resulting
11 in them getting pulled off and falling on the floor. *See*, State's Exhibit 1, p. 26. While stating
12 that it is rare for towels to get caught on the incline conveyor, Ms. Jiminez acknowledged that
13 sometimes employees will take towels from underneath the Terry Folders and put them on the
14 main conveyor belt. *See, Id.* Ms. Jiminez contradicted herself in her interview, first stating it was
15 not normal for employees to have to take towels from the incline conveyor to the big conveyor
16 belt. Later, Ms. Jiminez stated that it was normal. *See*, State's Exhibit 1, pp. 26-27. She also
17 stated that it always seems they wait too long to replace the plastic strips on the conveyor, until it
18 is missing three bands. *See*, State's Exhibit 1, p. 27.

19 Ms. Lara stated that on the day she was injured, the towels were getting stuck on the
20 conveyor, with the incline conveyor moving slowly. *See*, State's Exhibit 1, pp. 1, 23-24. She saw
21 them going up the conveyor belt, but they were stuck. *See, Id.* She went around the side of the
22 machine to grab the top bundle of towels and lift them up onto the top of the conveyor belt. *See*,
23 *Id.* When she grabbed the next bundle, the incline conveyor started moving faster. *See, Id.* Ms.
24 Lara grabbed the bottom towel to pull it up to the top conveyor, and felt like the towel pulled
25 her finger. *See, Id.*

26 Ms. Lara stated that Terry Folders Nos. 1 and 4, on which she primarily works, were very
27 temperamental. *See* State's Exhibit 1, p. 24. Towels get stuck on the top of the incline conveyor
28 belt, about every half hour or so, requiring her to remove them. *See, Id.* Sometimes, the main

1 conveyor belt gets stuck, then she has to pick up the bundles and stack them by hand. *See, Id.*
2 Towels sometimes get stuck on the big band (conveyor belt), and sometimes the plastic guides on
3 the incline conveyor are missing so the towels get stuck in there and get pulled through. *See, Id.*
4 At the time of her interview, Ms. Lara stated that some of the plastic guides had not been fixed in
5 3-4 months. *See, Id.*

6 Ms. Sandoval reported that towels sometimes get stuck going from the incline conveyor
7 to the long conveyor, and they sometimes get stuck in the gaps. *See, State's Exhibit 1, p. 30.*
8 Towels get caught from 5-6 times per day. *See, Id.* Ms. Sandoval also stated that a lot of
9 machines have broken plastic tabs. *See, Id.* The tabs are replaced infrequently, so they are very
10 worn down. *See, State's Exhibit 1, p. 31.* She stated that sometimes the incline conveyor does not
11 work, so supervisors have employees stand there and move the towels to the big conveyor. *See,*
12 *Id.* She stated the incline conveyor with gaps has been that way as long as she can remember and
13 sometimes, on gaps in front belts, her finger gets painfully caught. *See, Id.* She also said she has
14 had her finger caught between the roller and the table. *See, Id.*

15 Ms. Tapia explained that how a machine is running determines whether she had to
16 move towels manually from the incline conveyor to the big conveyor. *See, State's Exhibit 1, p.*
17 *32.* When gaps get too wide, towels get pulled down between the incline and the big conveyor,
18 with it sometimes sucking the towel down underneath. *See, State's Exhibit 1, p. 33.* Ms.
19 Sandoval also stated that the bands are so loose, fingers can go between the roll and the band.
20 *See, Id.* Ms. Galarza similarly reported the plastic guides are left in place until they break, with
21 some machines not having them at all. *See, State's Exhibit 1, p. 35.* She explained that the plastic
22 strips are there so towels can go on to the top conveyor but, when they are missing, the towels
23 will get stuck and pulled through. *See, Id.*

24 Mr. Bailey admitted there was nothing in his maintenance program about checking the
25 gaps between the belts on the incline conveyor belts. *See, State's Exhibit 1, p. 37, see also, 2Tr.,*
26 *p. 41;16-22.* He noted that the plastic bands are intended to transition the towels from the incline
27 conveyor belt to the main conveyor belt, they are not there to guide the belts. *See, Id., see also,*
28 *2Tr., pp. 41;23-24, 42;1-26.* When towels get backed up, employees have to go to the back of the

1 Terry Folder to pick up the towels and move them to the big conveyor. *See*, State's Exhibit 1, p.
2 38. Mr. Bailey testified that pinch point, at the second towel fold, is "not covered, guarded or
3 interlocked." *See*, 2Tr., p. 58;11-16. The consistent statements from Mr. Bailey and all of the
4 Operators, in conjunction with the photographs, show that the standard was violated by failing to
5 guard the ingoing nip points on the six incline conveyors.

6 Employee exposure was also established through the statements made by the various
7 Operators and Mr. Bailey. Ms. Lara reported she spends 5 - 5 ½ hours a day operating the Terry
8 Folders. *See*, State's Exhibit 1, p. 24. Operator Canizalez said that everyone spends at least 2
9 hours a day on the folders. *See*, State's Exhibit 1, p. 28. Ms. Sandoval reported she works
10 between 6-10 hours a day on the Terry folders. *See*, State's Exhibit 1, p. 30. Ms. Galarza stated
11 that she works on the Terry Folders 6 to 8 hours a day. *See*, State's Exhibit 1, p. 34. All of these
12 Operators reported excessive wear on the plastic bands resulting increasingly larger gaps where
13 towels get caught, and the fact that fingers can also get caught when they move/remove those
14 towels.

15 Mr. Bailey admitted that the Operators have to go to the back of the Terry Folders to pick
16 up the towels and move them to the big conveyor when towels get backed up. *See*, State's
17 Exhibit 1, p. 38. Further, Mr. Zamora saw employees transfer backed-up stacks of towels from
18 the incline conveyors to the main conveyor, and photographed some burned plastic strips, with
19 the resultant gaps. *See*, State's Exhibit 1, pp. 128, 132. Thus, the preponderance of the submitted
20 evidence establishes employee exposure to the hazards created by the unguarded in-going nip
21 points.

22 Brady Linen had knowledge that these ingoing nip points were not guarded. It is
23 undisputed that there was no machine guarding for all six of the incline conveyor belts at their
24 in-running nip points. *See, e.g.*, 1Tr., p. 237. Mr. Bailey noted that the plastic bands are intended
25 to transition the towels from the incline to the main conveyor. *See*, Exhibit. 1, p. 37. Despite the
26 fact that gaps increase as the plastic tabs wear away, he admitted that there was nothing in his
27 maintenance program about checking the gaps. *See, Id.* He acknowledged that, when towels get
28 backed up, the Operators have to go to the back of the Terry Folders to pick up the towels from

1 the incline conveyor and move them to the big conveyor. *See*, State's Exhibit 1, p. 38. Similarly,
2 Ms. Jiminez confirmed that sometimes towels will get caught between the incline conveyor and
3 the main conveyor and get pulled through to the floor. She further confirmed that sometimes the
4 Operators have to take towels from the incline conveyor to the main conveyor. *See*, State's
5 Exhibit 1, p. 26.

6 These statements align with those of Ms. Sandoval, who stated that sometimes the incline
7 conveyor does not work, so supervisors have the employees stand there and move the towels to
8 the big conveyor. *See*, State's Exhibit. 1, p. 31. Operator Sandoval expressly reported that she
9 had asked management why they were required to do that, since it was not safe. However, she
10 never received an answer. *See, Id.* Further, near the top of the incline belt conveyors near the
11 moving parts, there is a label stating; "Warning Moving Equipment Can Cause Severe Injury
12 Keep Away." *See*, State's Exhibit 1, p. 120. This warning sign contains a pictogram showing a
13 hand with fingers going through an in-running nip point. *See, Id.*

14 Mr. Bailey's explanation of the purpose of the white plastic strips shows clear knowledge
15 that they are not installed as guarding. *See*, 2Tr., pp. 41;23-24, 42;1-3, 82;19-24, 83;1. Both Mr.
16 Bailey and Ms. Jiminez acknowledged that towels get stuck in the area of the in-going nip points,
17 due to gaps between the plastic tabs. Management was aware that the Terry Folder Operators had
18 to pick up the towels from the incline conveyor belts and place them onto the main conveyor belt,
19 bringing their hands and fingers in close proximity to exposed in-running nip point caught-in
20 hazards. *See, e.g.*, State's Exhibit 1, pp. 24, 40, 125; *see also*, 1Tr., pp. 189, 190, 237; *see*
21 *generally*, 1Tr., p. 204.

22 Mr. Zamora agreed with Mr. Bailey's conclusion that the plastic strips were not
23 considered machine "guards." *See*, 1Tr., pp. 153;24, 154;1-5. Mr. Zamora clarified that the
24 guards are flexible, not substantial in nature, they get burned through and that they are not made
25 to withstand the forces that the conveyer belts impose upon them. *See*, 1Tr., p. 154;6-10. Mr.
26 LaFronz agreed with this position, as the hazard was still present and accessible to the
27 employees. Tr. 1, pp. 252;17 through 254;1. Mr. Zamora clarified that the warning signs on the
28

1 equipment are also not considered guards, a contention with which Mr. LaFronz agreed. *See*,
2 1Tr., pp. 153;8-23, 190;9-20.

3 The Respondent argued that the plastic strips which covered or partially covered the nip
4 points at the top end of the incline conveyor belts were guards which complied with the
5 regulations. *See*, Respondent's Post Hearing Brief, p. 19;2-9. This argument is inconsistent with
6 Mr. Zamora's and Mr. Bailey's statements that the plastic strips were not machine guards. *See*,
7 1Tr., pp. 153;24, 154;1-5. Respondent also argued that the bottoms of the incline conveyor belt
8 contained no hazard and, accordingly, should not be the subject of this citation. *See*,
9 Respondent's Post Hearing Brief, p. 19;10-15. This was a novel argument, unsupported by
10 testimony.¹²

11 With regard to this Citation 2, Item 2, the State's evidence shows that standard of 29 CFR
12 1910.164(d)(1)(v) applies because the Respondent's supervisors failed to adequately instruct
13 employees of the hazards associated with their work. The standard is applicable because the
14 Respondent's employees were operating the Terry Folders and their corresponding inclined belt
15 conveyors, each of which presented hazards to the operators.

16 Brady Linen violated the standard by failing to provide bulletins and printed rules, and by
17 failing to instruct their employees in safe practices related to their work when operating and
18 working around the six Terry Folders and their corresponding inclined belt conveyors. Many of
19 the Folder operators interviewed by the State, specifically stated that they had not received
20 information on how to safely work on the machines.

21 Ms. Lara related to OSHA that there was no training regarding working with, or hazards
22 associated with, the conveyor belts. *See*, State's Exhibit 1, p. 23. Ms. Lara noted that, during
23 employee orientation, the Operators were given general hazards training, but no hazards
24 specifically associated with the Terry Folders.¹³ *See, Id.* Ms. Canizalez stated that they were

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26 ¹²Mr. LaFronz was quoted out of context. In fact, immediately before the quoted language Mr.
27 LaFronz stated, "But I think there's, I guess there's a potential for something to happen there." *See*, 1Tr.,
p. 240;2-3.

28 ¹³This was contradicted by her declaration obtained by the Respondent.

1 given very little information about the machines, not even how they are supposed to work. *See*,
2 State's Exhibit 1, p. 28. Ms. Sandoval clarified that her coworkers showed her how the machines
3 really work. *See*, State's Exhibit 1, p. 30. However, those co-workers are not actually assigned to
4 provide training. *See Id.* Ms. Tapia noted that it seems like training was only provided after an
5 accident, and then only limited to the employees for the work area involved in the accident. *See*,
6 State's Exhibit 1, p. 32. Ms. Jiminez testified that when she does on-the-job training for new
7 employees, she does not show employees any documents at all. *See*, 2Tr., p. 256;14-22.

8 Brady Linen was unable to provide any printed rules or bulletins regarding the Terry
9 Folders and the incline conveyor belts, nor was it able to any provide training records showing
10 the Operators were instructed on the hazards associated with their work. *See*, State's Exhibit 2,
11 pp. 146-147. This was despite the fact that Section 5.0, Brady Linen's Workplace Safety Program
12 states, "employees will receive training, as applicable, on a variety of safety topics, including
13 Specific Job Hazards." *See*, State's Exhibit 2, p. 153. Additionally, Mr. Swartz testified that,
14 according to Brady Linen's own policy, training is supposed to be documented. *See*, 2Tr., p.
15 177;1-3. All of this establishes that the standard was violated by Brady Linen.

16 Employee exposure is shown by the lack of training and printed material to educate
17 the operators on the hazards associated with the Folders and the incline conveyor belts. In the
18 course of their work, the Operators were exposed to the Terry Folder's moving parts, pinch
19 points, caught, and crushed hazards when working with it, including when feeding the folder,
20 removing jams, or moving towels from the incline conveyor to the big one. This inspection was
21 triggered by an accident in which an operator's hand was caught in a pinch point on the incline
22 conveyer belt of Folder No. 1, resulting in the tip of her finger being amputated.

23 Employer knowledge is similarly established. Brady Linen is responsible for providing
24 the printed information, and appropriate training, on the hazards to which its employees are
25 exposed. Knowledge of this responsibility is shown in its own Workplace Safety Program, which
26 states as much. *See*, State's Exhibit 2, p. 153. No printed rules or bulletins were provided
27 regarding the hazards associated with the Terry Folders and incline conveyors. *See*, State's
28 Exhibit 2, p. 146.

1 The Respondent argued that the combination of the verbal instructions given to Operators
2 combined with the warnings posted on the Terry Folders provided sufficient instruction as to the
3 hazards of the work and safe practices to be followed. However, no support for this claim was
4 provided. Moreover, the Respondent did not provide as evidence any printed rules or
5 instructions. As Brady Linen was aware of its responsibility, but it had not been fulfilled,
6 employer knowledge is established by the preponderant evidence.

7 ORDER

8 It was moved by Board Member Mulligan that the citation for a violation of 29 CFR
9 1910.264(d)(2)(i)(a) and the fine of \$70,000 be upheld. *See*, 3Tr., p. 35;4-11. The motion was
10 seconded by Board Member Macias. *See*, 3Tr., p. 35;12-16. The motion was approved
11 unanimously upon a vote of five in favor and none in opposition. *See*, 3Tr. p. 35;12-16.

12 It was moved by Board Member Speilberg that violation for 29 CFR 1910.212(a)(1) and
13 fine of \$7,000 be upheld. *See*, 3Tr., p. 37;21-22. The motion was seconded by Board Member
14 Mulligan. *See*, 3Tr., pp. 37;24-22, 38;1-4. The motion was approved unanimously upon a vote of
15 five in favor and none in opposition. *See*, 3Tr., p. 38;5-8.

16 It was moved by Board Member Milligan that the violation for 29 CFR 1910.264(d)(1)(v)
17 and the fine of \$7,000 be upheld. *See*, 3Tr., p. 43;7-9. The motion was seconded by Board
18 Member Macias. *See*, 3Tr., pp. 43;11-12. The motion was approved unanimously upon a vote of
19 five in favor and none in opposition. *See*, 3Tr., p. 43;19-22. Accordingly, the State OSHA Board
20 of Review hereby upholds the citations and fines assessed against Brady Linen.

21 This is the Final Order of the Board.

22 IT IS SO ORDERED.

23 On December 13, 2023 the Board convened to consider adoption of this decision, as
24 written or as modified by the Board, as the decision of the Board.


25 Those present and eligible to vote on this question consisted of the 4 current members of
26 the Board, to-wit, Chairman, Rodd Weber, Secretary William Spielberg, Frank Milligan and
27 Jorge Macias. Upon a motion by Jorge Macias, seconded by Frank Milligan, the Board voted 4-0
28 to approve this Decision of the Board as the action of the Board and to authorize Chairman Rodd

1 Weber, after any grammatical or typographical errors are corrected, to execute, without further
2 Board review this Decision on behalf of the Nevada Occupational Safety and Health Review
3 Board. Those voting in favor of the motion either attended the hearing on the merits or had in
4 their possession the entire record before the Board upon which the decision was based.

5 On December 13, 2023 this Decision is, therefore, hereby adopted and approved as the
6 Final Decision of the Board of Review.

7 Dated this 9th day of January, 2024.

NEVADA OCCUPATIONAL SAFETY
AND HEALTH REVIEW BOARD

8
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10 By: 
Rodd Weber, Chairman

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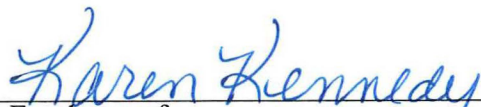
CERTIFICATE OF SERVICE

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

Salli Ortiz, Esq.
DIR Legal
400 West King Street, Suite 201
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Fisher & Phillips, LLP
300 S. Fourth St. Ste. 1500
Las Vegas, NV 89101

Dated this 9th day of January, 2024.



Employee of
The Law Offices of Charles R. Zeh, Esq.

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