

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

C. RAY DAVENPORT, )  
Commissioner of Labor & Industry )

Plaintiff, )

Chancery No. 184408

COMMERCIAL ERECTORS, INC., )

Defendant )

AGREED ORDER

Upon agreement of the parties and for good cause shown, it is hereby ORDERED,  
ADJUDGED, and DECREED as follows:

1. In settlement of the matters alleged in this action, the citation attached to the Bill  
of Complaint is hereby amended as follows:

- a. Citation 1, Item 1, is amended from a willful to an unclassified violation of Va. Code § 40.1-49.4. The initial penalty of \$70,000.00 is reduced to \$35,000.00.
- b. Citation 1, item 2, remains serious as cited. The initial penalty of \$4000.00 is reduced to \$2000.00.
- c. Citation 1, Item 3 remains serious as cited. The initial penalty of \$4000.00 is reduced to \$2000.00.

2. The total penalty due to the Commonwealth is \$ 39,000.00. The Commissioner acknowledges that the defendant, Commercial Erectors is a defunct corporation. The Commonwealth agrees not to take any steps to enforce the terms of this Agreed Order against or collect the penalty from any shareholder, officer, director, employ, agent or alleged successor of Commercial Erectors.

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3. Commercial Erectors certifies that the conditions described in the citation in this matter were corrected and abated.

4. As consideration for the modification of the terms of the original citation, Commercial Erectors agrees to withdraw its notice of contest for this case and waives its right to contest the citation and penalty as amended by this Agreed Order.

5. Commercial Erectors represents that it is entering into this Agreed Order in the spirit of conciliation and cooperation and in an effort to avoid litigation. Commercial Erectors' consent to entry of this Agreed Order shall not constitute an admission by Commercial Erectors of a violation of the Virginia Occupational Safety and Health laws, standards or regulations promulgated thereunder. This Agreed Order shall not be offered, used or admitted into evidence in any proceeding or litigation, whether civil or criminal, other than proceedings arising under Title 40.1 of the Code of Virginia.

Pursuant to Va. Code §40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the Code of Virginia shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party.

Commercial Erectors is entering into said Agreed Order without any prejudice to its right to assert in any subsequent action or proceeding that any future existing conditions identical or similar to those alleged in the original citation do not violate the Virginia Occupational Safety and Health laws, standards or regulations promulgated thereunder.

By entering into this agreement, Commercial Erectors does not admit the truth of any alleged facts, any of the characterizations of Commercial Erectors' alleged conduct, or any conclusions set forth in the citation issued in this matter.

This agreement shall not preclude the Commissioner from introducing this Agreed Order

into evidence in connection with any future citations issued under the Virginia Occupational Safety and Health laws, standards or regulations, provided the Commissioner demonstrates under applicable law that this Agreed Order is relevant in the future proceeding.

6. The Clerk shall strike this matter from the docket of this Court, place it among the ended civil cases, and shall send an attested copy of this Order to counsel of record.

Entered this 20 day of July, 2006.



WE ASK FOR THIS:

C. Ray Davenport,  
Commissioner of Labor and Industry

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Local Counsel for Commercial Erectors, Inc.

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Counsel for Commercial Erectors, Inc.

A COPY TESTE: <sup>Page 3</sup>  
JOHN T. FREY, CLERK  
BY: Indumathi S. Sosa  
Deputy Clerk  
Date: 8/10/06  
Original retained in the office of  
the Clerk of the Circuit Court of  
Fairfax County, Virginia