

VIRGINIA:

1982 - 2006

IN THE CIRCUIT COURT FOR THE CITY OF PETERSBURG

C. RAY DAVENPORT,)
 Commissioner of Labor and Industry)
)
 Plaintiff,)
)
 v.)
)
 MID EASTERN BUILDERS, INC.)
)
 Defendant.)

AUG 28 2006

Case No. CH05-322

AGREED FINAL ORDER

WHEREAS, on or about December 1, 2004, Commissioner C. Ray Davenport issued a citation to the defendant, Mid Eastern Builders, Inc., alleging serious and other-than-serious violations of the Virginia Occupational Safety and Health Standards (VOSH) for the Construction Industry, and proposing a civil penalty of \$9,425.00; and

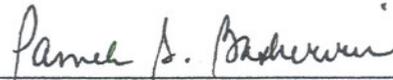
WHEREAS, Mid Eastern Builders, Inc., filed within 15 working days from the date of the receipt of the citation, a written notice contesting the violations and proposed penalties, as provided for in § 40.1-49.4, of the *Code of Virginia*;

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

1. That the citation attached to the Bill of Complaint is hereby amended as follows:
 - a. Citation 1, Item 1a, § 1926.350(a)(9) and Item 1b, § 1926.350(a)(10) are reduced from serious to other-than-serious, with an assessed penalty of \$1625.00;
 - b. Citation 1, Item 2a, § 1926.403(b)(2); Item 2b, §1926.404(b)(1)(ii); Item 2c, § 1926.405(b)(1) and Item 2d, § 1926.405(g)(2)(iv) are vacated, along with the \$1625.00 penalty;
 - c. Citation 1, Item 3, § 1926.651(c)(2) is vacated, along with the \$1625.00 penalty;
 - d. Citation 1, Item 4, § 1926.652(a)(1) is vacated, along with the \$3250.00 penalty.

- f. Citation 2, Item 2, § 1926.405(g)(2)(v) is vacated, along with the \$650.00 penalty.
2. Mid Eastern Builders, Inc., shall pay the total penalty of \$1625.00 within thirty (30) days of the date of entry of this order. Payment shall be made by check or money order, payable to the Treasurer of Virginia, with VOSH inspection number 307360867 noted on the payment.
 3. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), Mid Eastern Builders, Inc., shall post a copy of this order for ten (10) consecutive days at its workplaces in Virginia in a conspicuous location where notices to employees generally are posted.
 4. Mid Eastern Builders, Inc., certifies that the affirmed violations referenced above in this Order have been corrected and abated.
 5. This Order is meant to settle the above contested claims, and is not to be considered an admission of liability or guilt by Mid Eastern Builders, Inc. 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. This Order may be used for future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia.
 6. Each party will bear its own costs in this matter.
 7. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall send a certified copy of this order to the Special Assistant Commonwealth's Attorney and the Defendant's counsel.

Entered this 28th day of August, 2006.



Judge S. Pamela Baskervill

We ask for this:

C. Ray Davenport,
Commissioner of Labor and Industry

By: 

Diane L. Duell (VSB No. 27285)
Special Assistant Commonwealth's Attorney
Virginia Department of Labor & Industry
13 South 13th Street
Richmond, Virginia 23219-4101
804.786.4289
804.786.8418 (fax)

SEEN AND AGREED:

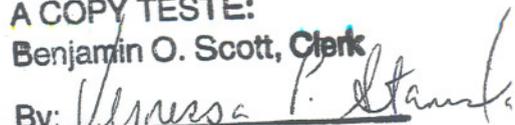
Mid Eastern Builders, Inc.

By: 

Devon Williams Cushman (VSB No. 50964)
HIRSCHLER FLEISCHER, P.C.
701 East Byrd Street
Post Office Box 500
Richmond, Virginia 23218-0500
804.771.9548
804.644.0957 (fax)

Counsel for Mid Eastern Builders, Inc.

A COPY TESTE:
Benjamin O. Scott, Clerk

By: 
Deputy Clerk