

TO: J. DAFFRON

COPY FOR FIN OLD BOOKS

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF PULASKI

2.28.07

303095280

C. RAY DAVENPORT,)
 Commissioner of Labor and Industry)
)
 Plaintiff,)
)
 v.)
)
 VOLVO TRUCKS OF NORTH)
 NORTH AMERICA, INC.)
)
 Defendant.)

Case No. CH02-358

AGREED FINAL ORDER

WHEREAS, on or about June 11, 2002, Commissioner C. Ray Davenport issued a citation to the defendant, Volvo Trucks of North America, Inc., alleging a serious violation of the Virginia Occupational Safety and Health Standards (VOSH) for General Industry, and proposing a civil penalty of \$7,000.00; and

WHEREAS, Volvo Trucks of North America, Inc., filed within 15 working days from the date of the receipt of the citation, a written notice contesting the violation and proposed penalty, 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 1, § 1910.176(b) is vacated.
 - b. Citation 1, Item 1, Va. Code § 40.1-51.1.A, which was issued in the alternative, is amended from a serious to an unclassified violation of Va. Code § 40.1-49.4. The initial penalty of \$7,000.00 remains unchanged. The language in the citation is amended as follows:

Citation 1, item 1, Va. Code § 40.1-51.1.A - The employer did not furnish employment and a place of employment which were free from recognized hazards that are causing or likely to cause death or serious physical harm to employees:

Employees were engaged in loading empty shipping crates (emballage) into a tractor trailer for transportation to another facility. Employees placed empty crates beneath heavier crates when stacking them in the trailer without taking precautions against the crates shifting and collapsing. Employees opening the doors of the trailer after transportation were exposed to struck by and crushing hazards from the collapse of crates near the trailer doors that had shifted during transportation.

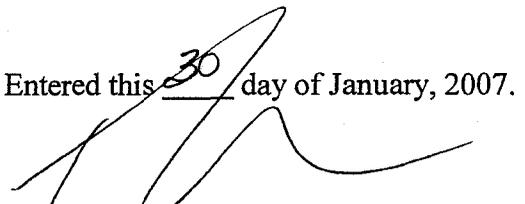
One feasible method of abatement is to place the heavier shipping crates on the floor of the trailer and place lighter shipping crates on top of the heavier shipping crates. For stacks of crates abutting the door of the trailer, a "stairstep down" methodology will be utilized which reduces stack height as the stacks approach the trailer door, resulting in one level of shipping crates near the trailer door.

2. Volvo Trucks of North America, Inc., shall pay the total penalty of \$7000.00 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 303093280 noted on the payment.
3. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), Volvo Trucks of North America, 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. Volvo Trucks of North America, Inc., certifies that the affirmed violation referenced above in this Order has 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 by Volvo Trucks of North America, 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. However, the affirmed general duty violation may only be used as the basis for a repeat and/or willful violation for a period of one year from the date of the entry of the order.

- 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.

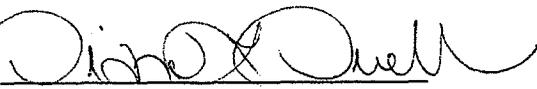
The Clerk shall send a certified copy of this order to the Special Assistant Commonwealth's Attorney and the Defendant's counsel.

Entered this 30 day of January, 2007.


Judge Robert M. D. Turk

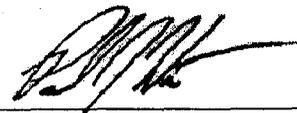
We ask for this:

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:

Volvo Trucks of North America, Inc.

By: 
Paul J. Waters (VSB No. 47923)

FILED 2007
RECEIVED


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