

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

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SECRETARY OF LABOR, United States \*  
Department of Labor, \*

DOCKET NO. 10-2043  
2403

Complainant, \*

v. \*

REGION I

BLACK MAG LLC, dba BMI & \*  
& dba BLACK MAG INDUSTRIES \*

INSPECTION NO. 314043290

Respondent. \*

\*\*\*\*\*

SETTLEMENT AGREEMENT

Complainant and Respondent hereby stipulate and agree that:

(1) On October 22, 2010 Respondent was cited for alleged violations of the Occupational Safety and Health Act of 1970, 29 USC 651, et seq., hereinafter referred to as the Act and was issued a Notification of Proposed Penalty in the total amount of \$1,232,500.

(2) Respondent, an employer within the meaning of section 3(5) of the Act, duly filed with a representative of the Secretary of Labor a notice of intent to contest all citations and penalties. This notice was duly transmitted to the Review Commission and it is agreed that jurisdiction of this proceeding is conferred upon said Commission by section 10(c) of the Act.

(3) The Secretary of Labor has filed a Complaint herein stating with particularity the violations alleged, the penalty proposed and the issues in contest before the Commission.

(4) Complainant thereafter withdrew Items 31 and 33 of Serious Citation 1 and their affiliated penalties, which were thereby amended to \$1,218,500.

(5) Complainant and Respondent have agreed to resolve this matter, without the necessity of further pleadings, as follows:

(5)(a)

Concurrent with its execution of this agreement, Respondent will execute and return to the Complainant the attached "Exhibit A" Notice with regard to its explosives manufacturing license FEL # 6-NH-007-21-3A-00271; and upon approval of this Agreement by the OSHRC Administrative Law Judge, Complainant will forward that document to the USDOJ-Bureau of Alcohol Tobacco Firearms and Explosives (hereafter, "ATF"), with a copy to Respondent's counsel. Respondent agrees not to seek any ATF explosives license or permit in the future.

(5)(b)

Black Mag LLC President/Managing Member/ Primary Owner Craig M. Sanborn as an individual agrees that he will not conduct, establish, own or manage by himself or with others or through others any current or future business (whether in New Hampshire or any other state) that has employees or individual independent contractors where that business engages in the manufacture of explosives as defined under 29 CFR 1910.109 (hereafter, "OSHA's explosives regulation") or is covered under 29 CFR 1910.119 (OSHA's process safety management regulation) or is located within one thousand yards of a business that is covered under either OSHA's explosives regulation or OSHA's process safety management regulation. Mr. Sanborn acknowledges his understanding that the definitions and official interpretations under OSHA's regulations of terms such as "explosive," "small arms ammunition," "small arms ammunition primers" etc are different than the definitions and official interpretations of such terms in the statutes enforced by ATF.

(5)(c)

Complainant agrees to limit proceedings to collect the penalties for the citations

affirmed herein to Black Mag LLC and any assets it has or acquires.

(5)(d)

The parties agree that within 20 days of approval of this Agreement by the OSHRC Administrative Law Judge, by copy of the Agreement to all interested parties,<sup>1</sup> Complainant will provide notice that OSHA will terminate its custody of the equipment now in storage at Colebrook Industrial Park 90 days after entry of the OSHRC Final Order in this matter unless one or more interested parties has initiated steps to obtain custody of said equipment with 60 days of the Final Order date.

(6) In view of the aforesaid, Respondent hereby withdraws its Notice of Contest and the parties agree that this Agreement, including all of its terms, shall become a Final Order of the Commission which is enforceable under Section 11(b) of the Act. Black Mag LLC and Craig M. Sanborn agree that they will neither oppose nor defend against the entry of a Section 11(b) order by the U.S. Court of Appeals as to this Agreement, including all of its terms, with respect to both Black Mag, LLC and Craig M. Sanborn individually.

(7) Black Mag LLC certifies that the violations alleged have been abated by termination of all its employees and all its production operations.

Respondent agrees to comply with the Act in all respects in the future.

(8) Respondent certifies that there is no authorized employee representative, at Respondent's workplace. It is hereby further certified by respondent that this Settlement Agreement has been served on employees, by posting this agreement on 5/24/11, in a place where the Citation is required to be posted, in accordance with Rules 7 and 100 of the Commission's Rules of Procedure.

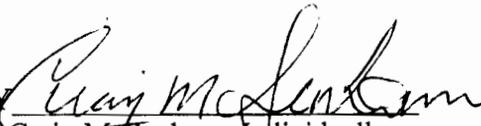
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<sup>1</sup> The term "interested parties" is defined to include all parties to Docket # 1:10-cv-00544-LM in U.S. District Court for New Hampshire and federal and state agencies as determined by the Complainant.

(9) None of the foregoing agreements, statements, stipulations, and actions taken by Respondent shall be deemed an admission by Respondent of the allegations contained within the Citation, Notification of Penalties and the Complaint herein. The agreements, statements, stipulations, findings and actions taken herein are made for the purpose of settling this matter economically and amicably and they shall not be used for any purpose, except for proceedings and matters arising under the Occupational Safety and Health Act (29 USC 651, et seq.).

(10) Each party hereby agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceedings.

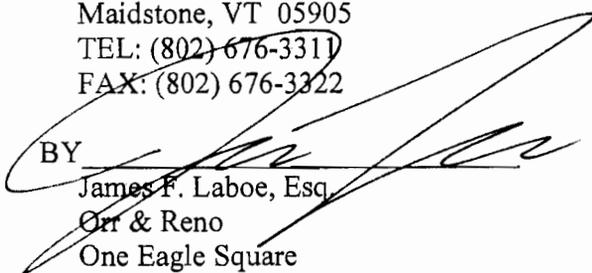
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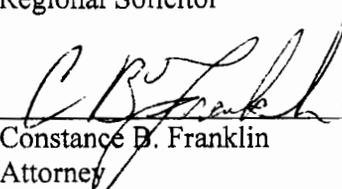
  
Craig M. Sanborn, Individually  
and as President/Managing Member of  
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FAX: (617)565-2142

Attorney for Respondent

DATE

5/26/11

### Notice of Discontinuance of Business

Please consider the below listed License/Permit to be discontinued. I am no longer engaged in the type of activity which required the License/Permit. This discontinuance notice is submitted voluntarily.

#### Licensee/Permittee Information

Owner/Corporation: BlackMag, LLC  
Trade Name: BlackMag Industries  
Address: 23 Gould St.  
Colebrook, NH 03576  
Permit/License# 6NH007213A00271

Original License/Permit:  Attached  
 Not Available (explain) **NOT RECOVERED BY ME AFTER FIRE**

Required Records:  Submitted to: *National Tracing Center  
244 Neady Road  
Martinsburg, WY 25405*

Date submitted:

Submitted to ATF Officer:

Date submitted:

No business activity, no records

Records not available (explain) **NOT RECOVERED BY ME AFTER FIRE**

Succession:  Records Transferred to Successor Entity:  
Name:  
Address:  
Succession Date:

Inventory:  Transferred to another licensee/permittee  
Name:  
#:

Inventory transferred to self

Inventory sold to non-licensee or non-permittee

No Inventory on hand

*Raymond Sanderson* PRESIDENT/MANAGING MEMBER 5/24/11  
Signature Title Date

For Official Use Only