



UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

One Lafayette Centre
1120 20th Street, N.W. — 9th Floor
Washington, DC 20036-3419

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SECRETARY OF LABOR,

Complainant,

v.

PROFESSIONAL MASONRY, INC.,

Respondent.

Docket No. 94-1687

ORDER

This matter is before the Commission on a direction for review entered by Stuart E. Weisberg, Chairman, on October 17, 1994. The parties have now filed a stipulation and joint motion disposing of all outstanding issues.

Having reviewed the record, and based upon the representations appearing in the stipulation and joint motion, we conclude that this case raises no matters warranting further review by the Commission. The terms of the stipulation and joint motion do not appear to be contrary to the purposes of the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651-678, and are in compliance with the Commission's Rules of Procedure.

Accordingly, we incorporate the terms of the stipulation and joint motion into this order, and we set aside the Administrative Law Judge's decision and order to the extent that it is inconsistent with the stipulation and joint motion. This is the final order of the Commission in this case.

BY DIRECTION OF THE COMMISSION

Dated December 2, 1994

Ray H. Darling, Jr.
Executive Secretary

Docket No. 94-1687

NOTICE IS GIVEN TO THE FOLLOWING:

Daniel J. Mick, Esq.
Counsel for Regional Trial Litigation
Office of the Solicitor, U.S. DOL
Room S4004
200 Constitution Ave., N.W.
Washington, D.C. 20210

Associate Regional Solicitor
Office of the Solicitor, U.S. DOL
Chambers Bldg, Highpoint Office Center
Suite 150, 100 Centerview Drive
Birmingham, AL 35216

Douglas L. Key, Esq.
Key, Frawley & Bulgarella
Post Office Box 360345
Birmingham, AL 35236

Irving Sommer
Administrative Law Judge
Occupational Safety and Health
Review Commission
One Lafayette Centre
1120 20th Street, Suite 990
Washington, D.C. 20036-3419

UNITED STATES OF AMERICA
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SECRETARY OF LABOR,)	OSHRC DOCKET NO.
)	
Complainant,)	94-1687
)	
v.)	REGION IV
)	
PROFESSIONAL MASONRY, INC.,)	
)	
Respondent.)	

STIPULATION AND JOINT MOTION

The parties stipulate and agree as follows:

1. Complainant hereby amends his Notifications of Penalty for violations alleged in the Citations issued May 18, 1994, so that they are as follows:

<u>CITATION NO.</u>	<u>ITEM NO.</u>	<u>PROPOSED PENALTY</u>
1	1	\$ 500
2	1	\$1,100

2. Respondent represents that all violations alleged in the Citations and Notifications of Penalty issued on May 18, 1994, have been and will remain abated.

3. Respondent hereby withdraws the Notice of Contest as to such Citations and Notifications of Penalty. Respondent states that this withdrawal was not induced by a promise of any other party hereto except as may appear herein.

4. Respondent will pay the amended penalty of \$1,600 in four equal installments. The first payment of \$400 will be due on November 15, 1994. The remaining payments of \$400 each will be due on December 15, 1994, January 15, 1995 and February 15, 1995.

5. Affected employees herein are not represented by a certified bargaining representative.

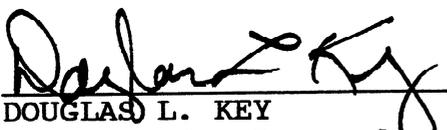
6. Each party hereby agrees to bear its own fees (including attorney fees) and other expenses incurred by such party in connection with any stage of this proceeding.

7. Respondent certifies that on 11-15-94, notice of the foregoing was given to employees by posting a true copy (as executed by respondent) of this Stipulation, in accordance with Commission's Rule 7(g) [29 C.F.R. 2200.7(g)].

ACCORDINGLY, the parties jointly move the Commission for an Order appropriate for final disposition of this matter.

This 14 day of Nov, 1994.

PROFESSIONAL MASONRY, INC.

By: 
DOUGLAS L. KEY
Attorney for Respondent

THOMAS S. WILLIAMSON, JR.
Solicitor of Labor

JAYLYNN K. FORTNEY
Regional Solicitor

CYNTHIA WELCH BROWN
Associate Regional Solicitor

By: 
Cynthia Welch Brown

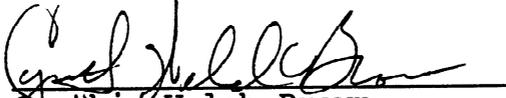
Attorneys for the Secretary
of Labor, United States
Department of Labor.

SOL Case No. 9400807

CERTIFICATE OF SERVICE

I certify that the foregoing Stipulation and Joint Motion was served on this 22nd day of November, 1994, by mailing a true copy thereof by postage prepaid, first-class mail, to the following:

Douglas L. Key, Esquire
Key, Frawley, Bulgarella & Key
Post Office Box 360345
Birmingham, AL 35236


Cynthia Welch Brown
Associate Regional Solicitor



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OSHRC DOCKET
NO. 94-1687

**NOTICE OF DOCKETING
OF ADMINISTRATIVE LAW JUDGE'S DECISION**

The Administrative Law Judge's Report in the above referenced case was docketed with the Commission on September 16, 1994. The decision of the Judge will become a final order of the Commission on October 17, 1994 unless a Commission member directs review of the decision on or before that date. **ANY PARTY DESIRING REVIEW OF THE JUDGE'S DECISION BY THE COMMISSION MUST FILE A PETITION FOR DISCRETIONARY REVIEW.** Any such petition should be received by the Executive Secretary on or before October 5, 1994 in order to permit sufficient time for its review. See Commission Rule 91, 29 C.F.R. 2200.91.

All further pleadings or communications regarding this case shall be addressed to:

Executive Secretary
Occupational Safety and Health
Review Commission
1120 20th St. N.W., Suite 980
Washington, D.C. 20036-3419

Petitioning parties shall also mail a copy to:

Daniel J. Mick, Esq.
Counsel for Regional Trial Litigation
Office of the Solicitor, U.S. DOL
Room S4004
200 Constitution Avenue, N.W.
Washington, D.C. 20210

If a Direction for Review is issued by the Commission, then the Counsel for Regional Trial Litigation will represent the Department of Labor. Any party having questions about review rights may contact the Commission's Executive Secretary or call (202) 606-5400.

FOR THE COMMISSION

Date: September 16, 1994

Ray H. Darling, Jr.
Executive Secretary

DOCKET NO. 94-1687

NOTICE IS GIVEN TO THE FOLLOWING:

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Counsel for Regional Trial Litigation
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