



United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
1120 20th Street, N.W., Ninth Floor
Washington, DC 20036-3419

Phone: (202) 606-5400
Fax: (202) 606-5050

SECRETARY OF LABOR
Complainant,
v.
LU MAR ENTNERPRISES
Respondent.

OSHRC DOCKET
NO. 95-1059

**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 July 3, 1996. The decision of the Judge will become a final order of the Commission on August 2, 1996 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 July 23, 1996 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

Handwritten signature of Ray H. Darling, Jr. in cursive script.
Ray H. Darling, Jr.
Executive Secretary

Date: July 3, 1996

DOCKET NO. 95-1059

NOTICE IS GIVEN TO THE FOLLOWING:

Patricia Rodenhausen, Esq.
Regional Solicitor
Office of the Solicitor, U.S. DOL
201 Varick, Room 707
New York, NY 10014

Joseph W. Rufolo
JW Rufolo and Associates, Inc.
Six Moyse Place
Edison, NJ 08820

Irving Sommer
Chief Administrative Law Judge
Occupational Safety and Health
Review Commission
One Lafayette Centre
1120 20th St. N.W., Suite 990
Washington, DC 20036 3419

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UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,

Complainant,

v.

LUMAR ENTERPRISES, INC.,

Respondent.

Docket No. 95-1059

Appearances:

Nancee Adams-Taylor, Esq.
U.S. Department of Labor
New York, New York

James W. Rufolo
J.W. Rufolo & Associates
Edison, New Jersey

For the Secretary

For the Respondent

Before: Chief Judge Irving Sommer

DECISION AND ORDER

This is a proceeding under Section 10(c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq. (the Act) to review citations issued by the Secretary of Labor pursuant to Section 9(a) of the Act, and the proposed assessment of penalties therein issued, under Section 10(a) of the Act.

Following an inspection of respondent's business site in Woodbridge, N.J. the Secretary of Labor issued two citations charging serious violations of the standard at 29 CFR 1926.21(b)(6)(I), 29 CFR 1926.651(c)(2), 29 CFR 1926.651(g)(1)(I) and wilful violation of the standard at 29 CFR 1926.651(h)(1) and 29 CFR 1926(a)(1). The respondent timely contested the citations. Following the filing of a complaint and answer and pursuant to a notice of hearing, the case came on to be heard in New York, N.Y. on November 30, 1995, December 1, 1995 and April 24, 1996. No jurisdictional

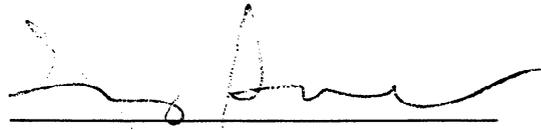
issues are in dispute, the parties having pleaded sufficient facts to establish that the respondent is subject to the Act and the Commission has jurisdiction of the parties and of the subject matter.

DISCUSSION

At the continued hearing held on April 24, 1996, the parties, through diligent efforts of counsel with the assistance of the Court achieved a settlement and spread said agreement on the record at the proceeding. The statements of settlement made at the hearing have been reduced to a written stipulated settlement.

ORDER

The terms and conditions of the stipulated settlement, incorporated herein in its entirety, are approved.



IRVING SOMMER
Chief Judge

DATED: JUL - 2 1996
Washington, D.C.

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION

-----X
ROBERT B. REICH, Secretary of Labor, :
United States Department of Labor, :
Complainant, : OSHRC Docket
v. : No. 95-1095
LU MAR ENTERPRISES, INC., :
Respondent. :
-----X

ORDER

Respondent in OSHRC Docket No. 95-1095 by a letter dated June 6, 1995 contested two (2) citations issued to it by Complainant on May 17, 1995. In that letter, Respondent also contested the penalties proposed by Complainant for the citations.

An executed Stipulated Settlement has been received from the parties, and this Stipulation addresses all matters at issue between the parties in this proceeding. The Stipulation having been read and considered it is hereby

ORDERED: (1) That the terms of the Stipulated Settlement are approved and incorporated as part of this Order; and

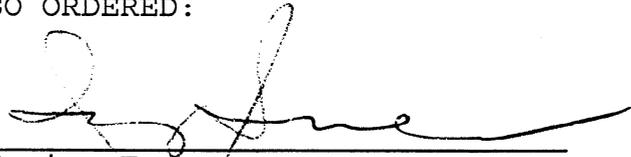
(2) That this Order, pursuant to Section 12(j) of the Act, 29 U.S.C. § 661(j), will become the final order of the Commission at the expiration of 30 days from the date of docketing by the Executive Secretary, unless within that time a member of the Commission directs that it be reviewed.

Dated this 2nd day of

July, 1996.

Washington, D.C.

SO ORDERED:



Irving Sommer
Chief Judge, Occupational Safety
& Health Review Commission



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FOR THE COMMISSION

Ray H. Darling, Jr.
Executive Secretary

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IRVING SOMMER
Chief Judge

DATED: JUL - 2 1996
Washington, D.C.

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION

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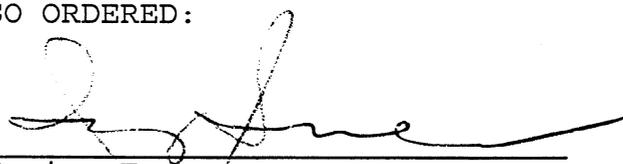
(2) That this Order, pursuant to Section 12(j) of the Act, 29 U.S.C. § 661(j), will become the final order of the Commission at the expiration of 30 days from the date of docketing by the Executive Secretary, unless within that time a member of the Commission directs that it be reviewed.

Dated this 2nd day of

July, 1996.

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