



UNITED STATES OF AMERICA  
**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**  
One Lafayette Centre  
1120 20th Street, N.W. — 9th Floor  
Washington, DC 20036-3419

FAX:  
COM (202) 606-6060  
FTS (202) 606-6060

SECRETARY OF LABOR  
Complainant,

v.

CRESCENT STREET CONSTRUCTION CORP.  
Respondent.

OSHRC DOCKET  
NO. 92-2454

**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 June 9, 1993. The decision of the Judge will become a final order of the Commission on July 9, 1993 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 June 29, 1993 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

Ray H. Darling, Jr.  
Executive Secretary

Date: June 9, 1993

DOCKET NO. 92-2454

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

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

Jerry Papapanayotou, Esquire  
Crescent Street Construction Corp.  
14 Upper Mountain Avenue  
Montclair, NJ 07042

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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FAX:  
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SECRETARY OF LABOR,

Complainant,

v.

CRESCENT STREET CONSTRUCTION  
 CORPORATION,

Respondent.

Docket No. 92-2454

Appearances:

Alan L. Kammerman, Esq.  
 U.S. Department of Labor  
 New York, New York  
 For the Complainant

J. Papapanayotou, Esq.  
 14 Upper Mountain Avenue  
 Montclair, New Jersey 07042  
 For the Respondent

Before: Administrative Law Judge Irving Sommer

**DECISION AND ORDER**

On July 9, 1992, respondent was issued a serious citation for 15 violations (items 1 through 15), and a notification of proposed penalty of \$15,300; additionally an other than serious citation was issued for 3 violations with no penalty assessed. The Secretary withdrew Citation no. 1, item 1 in her complaint. The respondent contested the remaining items in citation no. 1.

A hearing was held on March 31, 1993 in New York, New York. At the opening of the hearing, the parties informed the undersigned that a settlement agreement had been entered into immediately prior to the trial with the following terms:

1. The Secretary amends the proposed penalty and complaint relating to Citation no. 1 to reflect a total penalty of \$3200 as follows:

a. Citation one, item 2. The proposed penalty of \$1050. is amended to \$225.

b. Citation one, item 3. The proposed penalty of \$1050. is amended to \$225.

c. Citation one, item 4. The proposed penalty of \$1050. is amended to \$225.

d. Citation one, item 5. The proposed penalty of \$1050. is amended to \$225.

e. Citation one, item 6. The proposed penalty of \$1050. is amended to \$225.

f. Citation one, item 7. The proposed penalty of \$750. is amended to \$150.

g. Citation one, item 8. The proposed penalty of \$750. is amended to \$150.

h. Citation one, item 9. The proposed penalty of \$750. is amended to \$150.

i. Citation one, item 10-The proposed penalty of \$1050. is amended to \$225.

j. Citation one, item 11-The proposed penalty of \$1050. is amended to \$225.

k. Citation one, item 12-The proposed penalty of \$1050. is amended to \$225.

l. Citation one, item 13-The proposed penalty of \$1050. is amended to \$225.

m. Citation one, item 14-The proposed penalty of \$1500. is amended to \$500.

o. Citation one, item 15-The proposed penalty of \$1050. is amended to \$225.

2. Based on the above, the respondent withdraws its notice of contest and answer as to the citations and proposed penalties as modified without admitting any responsibility as to the violations charged. The parties agree that this settlement may be used in future OSHA proceedings.

3. Respondent affirmatively states that all violations alleged in the complaint are deemed to have been abated and that it will comply with the Occupational Safety and Health Act in the future.

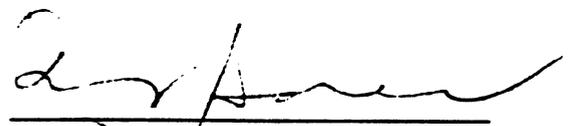
4. Respondent certifies that a copy of this DECISION and ORDER incorporating the settlement agreement will be posted where affected employees may see it within ten days after receiving this ORDER.

5. Respondent agrees to pay the amended proposed penalty of \$3200 by forwarding sixteen installment checks in the amount of \$200, each made payable to the Occupational Safety and Health Labor, to the Occupational Safety and Health Administration at 4240 Bell Boulevard, fifth floor, Bayside, New York 11361. The first such check will be due by May 1, 1993. Subsequent checks will be due by the first of each succeeding month during the period June, 1993 through August 1994.

In the event that any such two hundred dollar installment check is not received by OSHA by the tenth of the month, then the entire unpaid balance of the thirty-two hundred dollars will become immediately due.

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

IT IS ORDERED that the terms of the settlement agreement entered above is APPROVED.

  
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IRVING SOMMER  
Judge

DATED: JUN - 7 1993  
Washington, D.C.