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HAWAII
LABOR RELATIONS BOARD

Attorneys for Director of Labor
and Industrial Relations

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. OSH 2005-4
DIRECTOR, DEPARTMENT OF LABOR)	(Inspection No. 308482694)
AND INDUSTRIAL RELATIONS,)	
)	STIPULATION AND SETTLEMENT
Complainant,)	AGREEMENT; EXHIBIT A; APPROVAL
)	AND ORDER
vs.)	
)	
ABHE & SVOBODA, INC.,)	
)	
Respondent.)	
)	

STIPULATION AND SETTLEMENT AGREEMENT

Complainant Director of Labor and Industrial Relations
("Director") and Respondent ABHE & SVOBODA, INC. ("Respondent")
having reached a full and complete settlement of the above-
captioned contested case presently pending before the Hawaii
Labor Relations Board ("Board") stipulate and agree as follows:

On or about February 18, 2005, the Director, by and
through the State of Hawaii's Occupational Safety and Health

protection safety initiative by purchasing an approved eight-
Respondent will participate in the Department of Labor's Fall

4. The citation is withdrawn and in return the

and Health Law.

requirements of HRS chapter 396, the Hawaii Occupational Safety

defined in HRS § 396-3, and was therefore subject to the

employer, as defined in HRS § 396-3, and employed employees, as

3. At all relevant times, Respondent was an

workplace at 777 Punchbowl Street, Honolulu, Hawaii, 96813.

2. At all relevant times, Respondent maintained a

("HRS").

case pursuant to section 396-11, Hawaii Revised Statutes

1. The Board has jurisdiction over this contested

agree as follows:

and through their respective representatives, stipulate and

compromise and settle the above-captioned case, the parties, by

THEFORE, to avoid the expense of litigation and to

Respondent timely contested the citation.

\$2,400.00. See Exhibit A.

and Health Standards and assessed an aggregate penalty of

Respondent alleging violations of the Hawaii Occupational Safety

Notification of Penalty on March 30, 2005 ("citation") to

through HIOSH's Administrator, issued a citation and

As a consequence of said inspection, the Director,

777 Punchbowl Street, Honolulu, Hawaii, 96813.

Division ("HIOSH"), inspected Respondent's workplace located at

feet by four-foot banner, and posting it in a prominent place at its baseyard or a worksite for the remainder of the year 2005. The banner may be purchased from any printer of the Respondent's choice. The design of the banner shall be provided by the Director and any modification to the design will require approval from the Director prior to the printing of the banner. The Respondent shall coordinate with the Director in obtaining the Director's banner designs for its printer. Within thirty days of this Agreement the Respondent shall provide the Director with proof of the purchase of the banner.

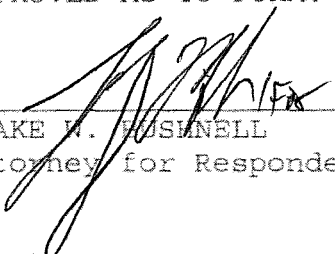
5. Respondent shall post a copy of this Agreement and Order in a prominent place at or near the location of the posting of the citation, and the Agreement and Order shall remain posted for three working days (excluding weekends and State holidays).

6. Respondent shall continue to comply with HRS chapter 396, the Hawaii Occupational Safety and Health Law, and the related rules.

7. Nothing in this Agreement shall bar the Director from taking any action regarding future acts or practices by Respondent which may be alleged to violate HRS chapter 396, the Hawaii Occupational Safety and Health Law, or the related rules.

DATED: Honolulu, Hawaii, OCTOBER 21, 2005


APPROVED AS TO FORM:


BLAKE W. BUSHNELL
Attorney for Respondent


ABHE & SVOBODA, INC.

By:


Its


KRISTINE SVOBODA
ASSISTANT SECRETARY

APPROVED AS TO FORM:


HERBERT B.K. LAU
Deputy Attorney General
Attorney for Director of Labor
and Industrial Relations,
State of Hawaii


DIRECTOR OF LABOR AND
INDUSTRIAL RELATIONS


NELSON B. BEFITEL


APPROVED AND SO ORDERED BY
HAWAII LABOR RELATIONS BOARD:

ORDER NO. 161

DATED: OCTOBER 21, 2005


BRIAN K. NAKAMURA, Chair


KATHLEEN RACUYA-MARKRICH, Member


EMORY J. SPRINGER, Member

Director of Labor and Industrial Relations v. Abhe & Svobeda,
Inc., Case No. OSH 2005-4, Inspection No. 308482694 -
Stipulation and Settlement Agreement

State of Hawaii

Department of Labor and Industrial Relations

HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION

830 PUNCHBOWL STREET, ROOM 425

Honolulu, HI 96813

Phone: (808) 586-9110

FAX: (808) 586-9104



Certified Number: 7003 1680 0004 2962 6112

Citation and Notification of Penalty

To:
Abhe & Svoboda Inc
and its successors
91-218 A Olai St
Kapolei, HI 96707

Inspection Number: 308482694 Conroy Dang

Inspection Date(s): 02/18/2005 - 02/18/2005

Issuance Date: 03/30/2005

OSHC ID: R1844

Optional Report No.: 026-05

Inspection Site:
777 Punchbowl St
Honolulu, HI 96813

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty describes violations of the Hawaii Occupational Safety and Health Law. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation and Notification of Penalty, you mail a notice of contest to the State of Hawaii Occupational Safety and Health Division (HIOSH) at the address shown above. Please refer to the enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the law has occurred unless there is a failure to contest as provided for in the law or, if contested, unless this Citation is affirmed by the Hawaii Labor Relations Board (HLRB) or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Administrator during the 20 calendar day contest period. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Administrator within 20 calendar days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 4, Notice to Employees, next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

Employers' Right to Contest - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Administrator in writing that you intend to contest the citation(s) and/or penalty(ies) within 20 calendar days after receipt, the citation(s) and the penalty(ies) will become a final order of the Department of Labor and Industrial Relations and may not be reviewed by any court or agency. Once a letter of contest is received, it becomes the jurisdiction of the HLRB.

Penalty Payment - Penalties are due within 20 calendar days of receipt of this notification unless contested. Make your check or money order payable to "Director of Budget and Finance." Please indicate the Inspection Number on the remittance.

HIOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Notification of Corrective Action - For each violation which you do not contest, you are required by Section 12-51-22 to submit an Abatement Certification to HIOSH. The certification must be sent by you within 5 calendar days of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by Section 12-55-22 to be sent to HIOSH, also be posted at the location where the violation appeared and the corrective action took place.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the Hawaii Occupational Safety and Health Division at the address shown above.

Employer Rights and Responsibilities - The enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Employees' Right to Contest - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Hawaii Occupational Safety and Health Division at the address shown above and postmarked within 20 calendar days of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data - you should be aware that OSHA publishes information on inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at WWW.OSHA.GOV. If you have any dispute with the accuracy of the information displayed, please contact this office.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with HIOSH to discuss the citation(s) issued on 03/30/2005. The conference will be held at the HIOSH office located at 830 PUNCHBOWL STREET, ROOM 425, Honolulu, HI 96813 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

STATE OF HAWAII

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division

Inspection Number: 308482694
Inspection Dates: 02/18/2005 - 02/18/2005



830 Punchbowl Street, Room 425
Honolulu, HI 96813

Issuance Date: 03/30/2005

Citation and Notification of Penalty

Company Name: Abhe & Svoboda Inc
Inspection Site: 777 Punchbowl St, Honolulu, HI 96813

Citation 1 Item 1 Type of Violation: **Repeat**

29 CFR 1926.501(b)(1) [Refer to chapter 12-121.2, HAR] was violated because:

One employee was working on a debris bin without any fall protection system in place. The top of the debris bin was 7 feet 3 inches above ground, thus the employee was exposed to a fall hazard.

29 CFR 1926.501(b)(1) states "Unprotected sides and edges. Each employee on a walking/working surface (horizontal and vertical surface) with an unprotected side or edge which is 6 feet (1.8 m) or more above a lower level shall be protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems."

Location: 777 Punchbowl Street

Abhe & Svoboda Inc was previously cited for a violation of this occupational safety and health standard (29 CFR 1926.501(b)(1)), which was contained in HIOSH inspection number 307262675, citation number 1, item number 1, issued on January 27, 2005, for job site at 777 Punchbowl Street, Honolulu, Hawaii 96813 and became a final order on February 17, 2005.

Date By Which Violation Must be Abated:

04/04/2005

Penalty:

\$2,400.00


NELSON B. BEFITEL
DIRECTOR

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of Hawaii
Department of Labor and Industrial Relations
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION
830 PUNCHBOWL STREET, ROOM 425
Honolulu, HI 96813



SUMMARY OF PENALTIES

Company Name: Abhe & Svoboda Inc
Inspection Site: 777 Punchbowl St
Honolulu, HI 96813
Issuance Date: 03/30/2005

Summary of Penalties for Inspection Number	308482694
Citation 01, Repeat	= \$2,400.00
TOTAL PENALTIES	= \$2,400.00

Make check or money order payable to the "Director of Budget and Finance." Please indicate the inspection number and dba, if company name is different, on the remittance. A fee of \$15.00 will be charged for any returned checks.

If receipt is desired, please indicate with payment; otherwise, your cancelled check will be your receipt.

USPS - Track & Confirm

Page 1 of 1



Track & Confirm

Current Status

You entered 7003 1680 0004 2962 6112

Your item was delivered at 11:38 am on March 31, 2005 in KAPOLEI, HI 96707.

Track & Confirm
Enter label number:

[Shipment Details >](#)

021
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DISTRIBUTION SHEET

CASE NO. _____ DECISION NO. _____ ORDER NO. _____ DATE SENT _____

NOTICE _____

EMPLOYERSSTATE OF HAWAII

_____ Governor
 _____ Attorney General
 _____ Chief Negotiator
 _____ DHRD

UNION & ATTORNEYS

_____ HFEA	_____ ATTORNEY
_____ HGEA	_____ ATTORNEY
_____ HSTA	_____ ATTORNEY
_____ SHOPO	_____ ATTORNEY
_____ UHPA	_____ ATTORNEY
_____ UPW	_____ ATTORNEY

DEPARTMENT OF EDUCATION

_____ Chairman, Board of Education
 _____ Superintendent

UNIVERSITY OF HAWAII

_____ Chairman, Board of Regents
 _____ President

MISCELLANEOUS

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CITY & COUNTY OF HONOLULU

_____ Mayor _____
 _____ Dept of Human Resources
 _____ Corporation Counsel

HLRB

_____ Chairperson
 _____ Board Member
 _____ Board Member
 _____ Executive Officer
 _____ DECISION FILE
 _____ ORDER FILE
 _____ BULLETIN BOARD

HAWAII COUNTY

_____ Mayor _____
 _____ Dept of Personnel
 _____ Corporation Counsel

KAUAI COUNTY

_____ Mayor _____
 _____ Dept of Personnel
 _____ County Attorney

MAUI COUNTY

_____ Mayor _____
 _____ Dept of Personnel
 _____ Corporation Counsel

OTHER PARTIES IN INTEREST OR ATTORNEYS

COPIES SENT

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 _____ OTHER _____

UPON NOTIFICATION FROM HLRB ON _____
 A COPY OF ATTACHED WAS PICKED UP:
 BY _____ FOR _____ ON _____

TOTAL COPIES _____

*CRRR: Sent by Certified Mail, _____

Return Receipt Requested _____

** Send copies of ALL decisions. _____