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Attorney General of Hawaii

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Transaction ID 56269944
Case No. 2014-26

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General, State of Hawaii
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Attorneys for Complainant Director
of Labor and Industrial Relations

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of) CASE NO. OSH 2014-26
) (Inspection No. 316274661)
DIRECTOR, DEPARTMENT OF LABOR)
AND INDUSTRIAL RELATIONS,) STIPULATION AND SETTLEMENT
) AGREEMENT; EXHIBIT A; APPROVAL
Complainant,) AND ORDER
)
vs.)
)
ALOHA CONTRACT SERVICES LLC,)
)
Respondent.)

STIPULATION AND SETTLEMENT AGREEMENT

Complainant Director of Labor and Industrial Relations ("Director") and
Respondent ALOHA CONTRACT SERVICES LLC ("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 March 24, 2014 to April 22, 2014, the Director, by and through the
State of Hawaii's Occupational Safety and Health Division ("HIOSH"), inspected Respondent's

workplace located at 111 Keehi Place, Honolulu, Hawaii 96819.

As a consequence of said inspection, the Director, through HIOSH's Administrator, issued a Citation and Notification of Penalty on July 14, 2014 ("Citation") to Respondent alleging violations of the Hawaii Occupational Safety and Health Standards and assessed an aggregate penalty of \$13, 557.50. See Exhibit A.

Respondent timely contested the Citation.

THEREFORE, to avoid the expense of litigation and to compromise and settle the above-captioned case, the parties, by and through their respective representatives, stipulate and agree as follows:

1. The Board has jurisdiction over this contested case pursuant to section 396-11, Hawaii Revised Statutes ("HRS").
2. At all relevant times, Respondent maintained a workplace at 111 Keehi Place, Honolulu, Hawaii 96819.
3. At all relevant times, Respondent was an employer, as defined in HRS § 396-3, and employed employees, as defined in HRS § 396-3, and was therefore subject to the requirements of HRS chapter 396, the Hawaii Occupational Safety and Health Law.
4. Respondent agrees that it has or will abate each violation listed in the Citation in compliance with the abatement requirements under Hawaii Administrative Rule § 12-51-22. Respondent shall submit the completed abatement certification to HIOSH no later than ten (10) days after this Stipulation and Settlement Agreement ("Agreement") is approved and filed; failure to timely do so may result in additional penalties or follow up inspections.
5. The violations and corresponding characterizations as stated in the Citation are affirmed. See Exhibit A.

6. The Director reduces the aggregate penalty from \$13,557.50 to \$8,000.00 which shall be paid in full to the Director of Budget and Finance upon execution of this Agreement.

7. If Respondent fails to fulfill any condition of this Agreement within the time stated, then, Respondent shall automatically and without further notice be liable for the entire original penalty in the amount of \$13,557.50. All amounts shall be immediately due and owing. If Respondent fails to pay all penalties and the Director institutes legal action to collect on the outstanding amount due, Respondent agrees to pay all fees and costs, including reasonable attorney's fees, incurred to collect on the unpaid penalties. Any forbearance by the Director in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

8. Except for the stipulated amendments described above, the Citation is confirmed in all other respects and upon approval by the Board, this Agreement and the Citation, as amended, shall become a final order of the Director.

10. 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).

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

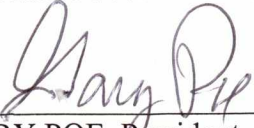
12. Nothing in this Agreement shall bar the Director from taking any action regarding future acts or practices by Respondent which may be alleged to violate HRS chapter 396, the Hawaii Occupational Safety and Health Law, or the related rules.

13. Upon approval of this Agreement, all proceedings before the Board shall

be dismissed.

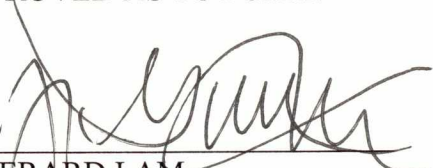
DATED: Honolulu, Hawaii, October 30, 2014.

ALOHA CONTRACT SERVICES LLC



GARY POE, President

APPROVED AS TO FORM:



J. GERARD LAM
Deputy Attorney General
Attorney for Director of Labor and
Industrial Relations, State of Hawaii

DIRECTOR OF LABOR AND
INDUSTRIAL RELATIONS

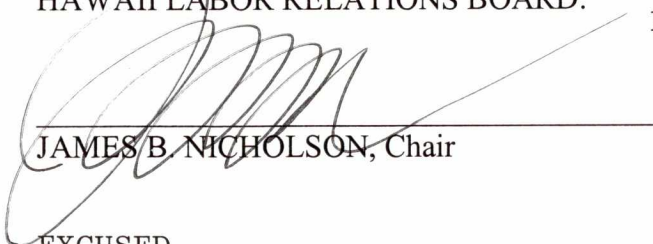


DWIGHT TAKAMINE

APPROVED AND SO ORDERED BY
HAWAII LABOR RELATIONS BOARD:

ORDER NO. 624

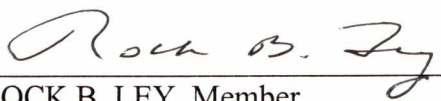
DATED: October 30, 2014



JAMES B. NICHOLSON, Chair

EXCUSED

SESNITA A.D. MOEPONO, Member



ROCK B. LEY, Member

State of Hawaii

Department of Labor and Industrial Relations
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION
830 PUNCHBOWL STREET, ROOM 423
HONOLULU, HI 96813
Phone: (808)586-9110 FAX: (808)586-9104



Certified Number: 7012 2210 0002 6730 3510

Citation and Notification of Penalty

To:
Aloha Contract Services LLC
and its successors
111 Keehi Pl
Honolulu, HI 96819

Inspection Number: 316274661
Inspection Date(s): 03/24/2014- 04/22/2014
Issuance Date: 07/14/2014

Inspection Site:
111 Keehi Pl
Honolulu, HI 96819

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 5, 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 violations 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 (examples: 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 12-51-22 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.

ABATEMENT CERTIFICATION

DIANTHA M. GOO, ADMINISTRATOR
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION
830 PUNCHBOWL STREET, ROOM 423
HONOLULU, HI 96813

Aloha Contract Services LLC
111 Keehi Pl
Honolulu, HI 96819

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____.

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____.

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____.

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____.

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____.
How corrected: _____.

I attest that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement activities described in this certification.

Signature

Typed or Printed Name

State of Hawaii

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



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with HIOSH to discuss the citation(s) issued on 07/14/2014. The conference will be held at the HIOSH office located at 830 PUNCHBOWL STREET, ROOM 423, HONOLULU, HI, 96813 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.



Citation and Notification of Penalty

Company Name: Aloha Contract Services LLC
Inspection Site: 111 Keehi Pl, Honolulu, HI 96819

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

29 CFR 1910.125(e)(1)(ii): [Refer to chapter 12-60-50(a), HAR]: In each vapor area and any adjacent area you must ensure that there are no flames, spark producing devices or other surfaces that are hot enough to ignite vapors:

Maintenance Shop, East wall, North side - A solvent tank/parts washer was located less than two feet from eleven lead acid batteries that were being charged or stored. Batteries can produce sparks that could come in contact with the flammable Unitek 146 solvent vapors, exposing employees to a potential fire hazard which could result in second degree burns.

Date By Which Violation Must be Abated:	Corrected
Penalty:	\$ 1,870.00

Citation 1 Item 2 Type of Violation: **Serious**

29 CFR 1910.133(a)(1): [Refer to chapter 12-60-50(a), HAR]: The employer shall ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation:

Maintenance shop, middle - An employee did not wear safety glasses or a face shield while operating a pneumatic tool while removing the two piece rim wheel and tire from the axle of PAC 14.

Date By Which Violation Must be Abated:	07/18/2014
Penalty:	\$ 1,870.00

State of Hawaii

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

Inspection Number: 316274661**Inspection Dates:** 03/24/2014 - 04/22/2014**Issuance Date:** 07/14/2014**Citation and Notification of Penalty****Company Name:** Aloha Contract Services LLC**Inspection Site:** 111 Keehi Pl, Honolulu, HI 96819**Citation 1 Item 3 Type of Violation: Serious**

29 CFR 1910.177(c)(1)(i): [Refer to chapter 12-60-50(a), HAR]: The employer shall assure that no employee services any rim wheel unless the employee has been trained and instructed in correct procedures of servicing the type of wheel being serviced, and in the safe operating procedures described in paragraphs (f) and (g) of this section:

Maintenance Shop - One employee worked on a Steward Stevenson Tug, PAC 14, Model# BT-345, Serial# BTL PG-105. The employee was trying to remove the front right tire on a two piece rim wheel from the axle to gain access to the leaf spring. The employee was removing the fourth lug nut about half way off when bottom of the wheel cocked bottom up and the nut broke off. The tire exploded and struck the employee on the leg. Two other employees also did not receive two piece rim wheel training that would make them aware of the hazards of working with two piece rim wheel. This condition exposed the employees serious injuries.

Date By Which Violation Must be Abated:**08/18/2014****Penalty:****\$ 3,272.50****Citation 1 Item 4 Type of Violation: Serious**

29 CFR 1910.177(f)(1): [Refer to chapter 12-60-50(a), HAR]: Tires shall be completely deflated before demounting by removal of the valve core:

Maintenance Shop - The employer did not require the employee to completely deflate the tire before removing the two piece rim wheel from the axle of the Steward Stevenson Tug, PAC 14, Model #BT-345, Serial #BTL PG-105. By not having a process to deflate the two piece rim wheel tire before demounting the tire, contributed to the two piece rim wheel exploding and the employee getting injured.

Date By Which Violation Must be Abated:**07/18/2014****Penalty:****\$ 3,272.50**

See pages 1 through 5 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

Inspection Number: 316274661
Inspection Dates: 03/24/2014-04/22/2014
Issuance Date: 07/14/2014



Citation and Notification of Penalty

Company Name: Aloha Contract Services LLC
Inspection Site: 111 Keehi Pl, Honolulu, HI 96819

Citation 1 Item 5 Type of Violation: **Serious**

29 CFR 1910.177(f)(10): [Refer to chapter 12-60-50(a), HAR]: Whenever multi-piece rim wheels are being handled, employees shall stay out of the trajectory unless the employer can demonstrate that performance of the servicing makes the employee's presence in the trajectory necessary:

Maintenance Shop - The employer did not require the employee to stay out of the trajectory area while removing a two piece rim wheel from the axle of the Steward Stevenson Tug, PAC-14, Model #BT-345, Serial #BTL PG-105. The employer did not have a safety policy for their employee when he was working on a two piece rim wheel and the employee stayed within the trajectory area. This condition exposed the employee of being struck by and getting injured.

Date By Which Violation Must be Abated:
Penalty:

07/18/2014
\$ 3,272.50

See pages 1 through 5 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

Inspection Number: 316274661
Inspection Dates: 03/24/2014 - 04/22/2014
Issuance Date: 07/14/2014



Citation and Notification of Penalty

Company Name: Aloha Contract Services LLC
Inspection Site: 111 Keehi Pl, Honolulu, HI 96819

Citation 2 Item 1 Type of Violation: **Other**

29 CFR 1910.212(b): [Refer to chapter 12-60-50(a), HAR]: Machine(s) designed for fixed location(s) shall be securely anchored to prevent walking or moving:

Maintenance shop - Three machines used by the employees, were not securely anchored to the table top or the floor.

1-DeWalt model D28715, 14 inch chop saw was not anchored to the table top.

2-Ryobi model BGH827 bench grinder was not anchored to the table top.

3-Craftsman 15 inch drill press was not anchored to the floor.

These three instances exposed the employees to the potential for struck by hazard which could result in potential bodily injuries.

Date By Which Violation Must be Abated:	07/22/2014
Penalty:	\$ 0.00

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

Inspection Number: 316274661
Inspection Dates: 03/24/2014 - 04/22/2014
Issuance Date: 07/14/2014



Citation and Notification of Penalty

Company Name: Aloha Contract Services LLC
Inspection Site: 111 Keehi Pl, Honolulu, HI 96819

Citation 2 Item 2 Type of Violation: Other

29 CFR 1910.253(b)(4)(iii): [Refer to chapter 12-60-50(a), HAR]: Oxygen cylinders in storage shall be separated from fuel-gas cylinders or combustible materials (especially oil or grease), a minimum distance of 20 feet (6.1 m) or by a noncombustible barrier at least 5 feet (1.5 m) high having a fire-resistance rating of at least one-half hour:

Maintenance Shop, north side - One oxygen and one acetylene cylinder were stored side by side and not separated by a minimum distance of twenty feet.

Date By Which Violation Must be Abated:
Penalty:

Corrected
\$ 0.00

See pages 1 through 5 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

Inspection Number: 316274661

Inspection Dates: 03/24/2014 - 04/22/2014

Issuance Date: 07/14/2014



Citation and Notification of Penalty

Company Name: Aloha Contract Services LLC

Inspection Site: 111 Keehi Pl, Honolulu, HI 96819

Citation 2 Item 3 Type of Violation: **Other**

29 CFR 1910.305(g)(1)(iv)(A): [Refer to chapter 12-60-50(a), HAR]: Flexible cords and/or cables may not be used as a substitute for the fixed wiring of a structure:

Maintenance Shop, East wall, South side - A green electrical extension cord used for the microwave oven, an extension cord in a reel and a battery charger were plugged into a white power strip being used as a substitute for fixed wiring.

Date By Which Violation Must be Abated:

08/18/2014

Penalty:

\$ 0.00

A handwritten signature in black ink, appearing to read "Diantha M. Goo".

DIANTHA M. GOO
Administrator

See pages 1 through 5 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 423
HONOLULU, HI 96813

SUMMARY OF PENALTIES

Company Name: Aloha Contract Services LLC
Inspection Site: 111 Keehi Pl, Honolulu, HI 96819
Issuance Date: 07/14/2014

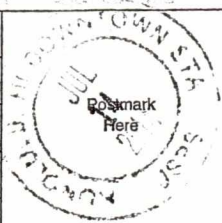
Summary of Penalties for Inspection Number 316274661

Citation 1, Serious	= \$	13,557.50
Citation 2, Other	= \$	0.00
TOTAL PENALTIES	= \$	13,557.50

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.

7012 2210 0002 6730 3510

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$ 9.00 Certified Fee 3.30 Return Receipt Fee (Endorsement Required) 2.70 Restricted Delivery Fee (Endorsement Required) Total Postage & Fees \$ 6.90	
Sent To Street, Apt. No., or PO Box No. Alpha Contract Services LLC 111 Keahi Pl City, State, ZIP+4 Honolulu, HI 96819	
PS Form 3800, August 2006 See Reverse for Instructions	

Tracking Number: 70122210000267303510

Product & Tracking Information

Postal Product:

Features:
Certified Mail™

DATE/TIME	STATUS/ITEM	LOCATION
July 15, 2014, 2:42 pm	Delivered	HONOLULU, HI 96819
Your item was delivered at 2:42 pm on July 15, 2014 in HONOLULU, HI 96819.		
July 15, 2014, 2:30 am	Departed USPS Facility	HONOLULU, HI 96820
July 14, 2014, 6:10 pm	Arrived at USPS Facility	HONOLULU, HI 96820
July 14, 2014, 5:53 pm	Departed Post Office	HONOLULU, HI 96813
July 14, 2014, 1:50 pm	Acceptance	HONOLULU, HI 96813

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: **316274661**

Alpha Contract Services LLC
111 Keahi Pl
Honolulu, HI 96819

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature **X** *Allyson Torres* ☐ Agent ☐ Addressee

B. Received by (Printed Name) **Allyson Torres** C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

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