



United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
1120 20th Street, N.W., Ninth Floor
Washington, DC 20036-3457

SECRETARY OF LABOR,

Complainant,

v.

PROFESSIONAL DIRECTIONAL, LTD.,

Respondent.

OSHRC Docket No. 12-0095

DIRECTION FOR REVIEW AND REMAND

On July 19, 2013, Administrative Law Judge Patrick B. Augustine issued an order approving a settlement agreement between the Secretary and Professional Directional, LTD (“Professional”), pursuant to which Professional agreed to withdraw its notice of contest of five citation items and pay a total reduced penalty of \$13,600. The judge’s order was docketed with the Commission on July 25, 2013.

On August 20, 2013, the Secretary filed with the Commission an “Unopposed Motion to Correct Settlement Agreement,” asserting that the agreement mistakenly states that Citation 1, Item 3, is amended to allege a serious violation of 29 C.F.R. § 1910.1200(g)(8) because “the employer *did ensure* that the safety data sheets for each hazardous chemical were available at the facility.” (Emphasis added.) According to the Secretary, the agreement should state that “the employer did *not ensure* that the safety data sheets for each hazardous chemical were available at the facility.” (Emphasis added.) The Secretary also indicates that he has consulted with Professional’s counsel and that Professional does not oppose the Motion.

We direct this case for review, set aside the order approving the settlement agreement, and remand to the judge to address the Motion. Specifically, the judge should direct the parties to submit a corrected settlement agreement in accordance with all requirements of Commission Rule of Procedure 100, 29 C.F.R. § 2200.100. Once these

procedural requirements have been met, the judge should issue a new order approving the corrected settlement agreement.

SO ORDERED.

/s/
Thomasina V. Rogers
Chairman

/s/
Cynthia L. Attwood
Commissioner

Dated: August 26, 2013



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SECRETARY OF LABOR,
Complainant,

v.

PROFESSIONAL DIRECTIONAL LTD,
Respondent

OSHRC DOCKET
NO.: 12-0095

ORDER APPROVING SETTLEMENT AGREEMENT

The Commission has jurisdiction over the subject matter of the case and over the parties by virtue of the filing of a timely notice of contest.

The *Settlement Agreement* ("*Agreement*") between the parties filed on June 28, 2013, has been considered. The *Agreement* has been served on all parties and authorized employee representatives and posted in the manner prescribed by Commission Rule 7(g).¹ Ten (10) days have since service and posting and no objection to the *Agreement* has been filed.

The *Agreement* is approved under 5 U.S.C. §554(c)(1) and Commission Rule 100(c) as in compliance with those sections. The terms of the *Agreement* are incorporated, in their entirety, by reference in this order.

The order shall become final thirty (30) days from the date of its docketing by the Executive Secretary, unless review thereof is directed by a Commission Member within that time. 29 U.S.C. §661(j).

SO ORDERED.

Dated: July 19, 2013
Denver, Colorado

/s/ Patrick B. Augustine

Patrick B. Augustine
Judge, OSHRC

¹Rules of Procedure of the Occupational Safety and Health Review Commission, 29 C.F.R. §2200.1 -.212, as amended, 55 Fed. Reg. 22780-4 (June 4, 1990).