

SECRETARY OF LABOR,

Complainant,

v.

ALUMINUM & VINYL PRODUCT, INC.,

Respondent.

OSHRC Docket No. 07-1232

APPEARANCES:

Patricia Rodenhausen, Regional Solicitor; Michael P. Doyle, Counsel for Appellate Litigation;
Charles F. James, Counsel for Appellate Litigation; U.S. Department of Labor, Washington, DC

For the Complainant

Adam D. Perlmutter, Esq.; Law Offices of Adam D. Perlmutter, P.C., New York, NY

For the Respondent

DIRECTION FOR REVIEW AND REMAND ORDER

Before: THOMPSON, Chairman; ROGERS, Commissioner.

BY THE COMMISSION:

On July 5, 2007, the Occupational Safety and Health Administration (“OSHA”) issued Aluminum & Vinyl Product, Inc. (“AVP”) a six-item serious citation and a one-item other-than-serious citation, alleging various violations of the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651-678. On July 27, 2007, AVP filed a Notice of Contest, contesting only Citation 1, Item 4. That same day, AVP signed an Informal Settlement Agreement with OSHA, settling all citation items except Citation 1, Item 4. In an order dated August 9, 2007, the administrative law judge approved the settlement agreement. This order, however, did not dispose of Citation 1, Item 4.

Accordingly, we direct this case for review *sua sponte* and remand the matter to the judge to dispose of Citation 1, Item 4. **See Commission Rules of Procedure 91(a) and 92(b), 29 C.F.R. 2200.91(a) and 92(b) (Commission review of judge’s decision discretionary; review may be directed by Commissioner on his own motion).**

SO ORDERED.

/s/
Horace A. Thompson III
Chairman

Dated: August 30, 2007

/s/
Thomasina V. Rogers
Commissioner

Secretary of Labor,

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ALUMINUM & VINYL PRODUCT, INC.

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ORDER
APPROVING STIPULATED SETTLEMENT

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

The stipulated settlement between the parties filed on 7/27/07 has been considered. The parties certify that affected employees were properly notified of the settlement on 7/27/07. No objection to the settlement has been filed.

The settlement is approved under 5. U.S.C. § 554(c)(1) and Commission Rule 100.¹ The terms of the stipulated settlement are incorporated, in their entirety, by reference in this order.

/s/ _____

Irving Sommer

Chief Judge

Dated: Aug 09, 2007

Washington, D.C.

¹Rules of Procedure of the Occupational Safety and Health Review Commission, 29 C.F.R. §§ 2200.1-.212 (1991).