

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,	:	
Complainant,	:	
v.	:	Docket No. 99-1882
MID CITY MOTORS,	:	
Respondent.	:	

APPEARANCES: Michelle DeBaltzo, Esq.
 Office of the Solicitor
 United States Department of Labor
 For Complainant

 Edward S. Sowinski, Jr., Esq.
 Youngstown, Ohio
 For Respondent

BEFORE: MICHAEL H. SCHOENFELD,
 Administrative Law Judge

DECISION AND ORDER

This is a proceeding brought before the United States Occupational Safety and Health Review Commission pursuant to § 10(c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651-678.

On or about July 22, 1999, through September 2, 1999, the Occupational Safety and Health Administration of the United States Department of Labor (OSHA) conducted an inspection of Respondent's work site. As a result of that inspection a citation was issued to Respondent alleging three serious violations of the Act. A total civil penalty of \$2850 was proposed by OSHA.

A hearing on the record in this matter opened on April 24, 2000, in Akron, Ohio. No affected employees sought to exercise the right to party status. The parties were afforded an

opportunity to discuss settlement. They were successful in reaching an agreement as to all pending issues in this matter.

The accord reached and announced on the record has been memorialized in a stipulation between the parties which is made part of the record and is incorporated, in its entirety, into this Decision and Order.

Conclusions of Law

1. Respondent, Mid City Motors, engaged in a business affecting commerce and was an employer within the meaning of § 3(5) of the Act. The Commission has jurisdiction of the parties and the subject matter of this proceeding.

2. Respondent was in violation of 29 C.F.R. §§ 1910.151(b), 1910.252(a)(3)(i), 1910.1200(g)(8) and 1910.1200(h).

3. Each of the above violations was serious.

4. A total civil penalty of \$750 is appropriate.

ORDER

On the basis of the foregoing, it is ORDERED that;

1. Items 1, 2, 3a, as amended, and 3b are AFFIRMED.

2. A civil penalty of \$750 is assessed.

3. The terms of the stipulated settlement are incorporated, in their entirety, by reference in this Order.

_____/s/_____
Michael H. Schoenfeld
Judge, OSHRC

Dated: 6/19/00
Washington, D.C.