



UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

One Lafayette Centre  
1120 20th Street, N.W. — 9th Floor  
Washington, DC 20036-3419

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SECRETARY OF LABOR,

Complainant,

v.

MCGINNES BROS CONSTRUCTION, INC.,

Respondent.

Docket No. 93-3196

**ORDER**

This matter is before the Commission on a direction for review entered by Chairman Stuart E. Weisberg on April 4, 1994. The parties have now filed a stipulation and settlement agreement.

Having reviewed the record, and based upon the representations appearing in the stipulation and settlement agreement, we conclude that this case raises no matters warranting further review by the Commission. The terms of the stipulation and settlement agreement do not appear to be contrary to the purposes of the Occupational Safety and Health Act and are in compliance with the Commission's Rules of Procedure.

Accordingly, we incorporate the terms of the stipulation and settlement agreement into this order, and we set aside the Administrative Law Judge's decision and order to the extent that it is inconsistent with the stipulation and settlement agreement. This is the final order of the Commission in this case. See 29 U.S.C. §§ 659(c), 660(a), and (b).

By Direction of the Commission

Dated June 16, 1994

*Ray H. Darling, Jr.*  
Ray H. Darling, Jr.  
Executive Secretary

NOTICE OF ORDER

The attached Order by the Occupational Safety and Health Review Commission was issued and served on the following on June 16, 1994.

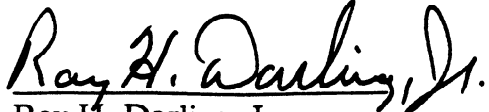
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Irving Sommer  
Administrative Law Judge  
Occupational Safety and Health  
Review Commission  
One Lafayette Centre  
1120 20th Street, Suite 990  
Washington, D.C. 20036-3419

FOR THE COMMISSION

  
Ray H. Darling, Jr.  
Executive Secretary



steps remain in compliance both now and in the future.

Respondent understands that future violations may be cited as willful or repeated.

4. The parties agree that this Stipulation and Settlement Agreement is effective upon execution. Respondent agrees to pay the penalty in the total amount of \$6650 by submitting its check, made payable to "U.S. Department of Labor -- OSHA," to the OSHA Area Office within 20 days from the date of this agreement.

5. Each party agrees to bear its own litigation costs and other expenses incurred in this proceeding.

6. There are no authorized representatives of affected employees. No affected employee has elected party status in this proceeding.

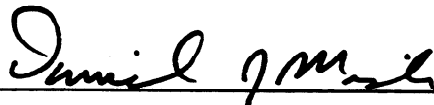
7. Respondent certifies that a copy of this Stipulation and Settlement Agreement was posted at its main office on the 1<sup>st</sup> day of ~~April~~, 1994, in accordance with Commission Rules 7 and 100, and will remain posted for a minimum period of ten days.

Dated this 1<sup>st</sup> day of ~~April~~, 1994.



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Houston, TX 77002-6707

Attorney for McGinnes Brothers  
Construction, Inc.



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U.S. Department of Labor  
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Attorney for the Secretary  
of Labor



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SECRETARY OF LABOR  
Complainant,

v.

MCGINNES BROTHERS CONSTRUCTION, INC.  
Respondent.

OSHR DOCKET  
NO. 93-3196

**NOTICE OF DOCKETING  
OF ADMINISTRATIVE LAW JUDGE'S DECISION**

The Administrative Law Judge's Report in the above referenced case was docketed with the Commission on March 3, 1994. The decision of the Judge will become a final order of the Commission on April 4, 1994 unless a Commission member directs review of the decision on or before that date. **ANY PARTY DESIRING REVIEW OF THE JUDGE'S DECISION BY THE COMMISSION MUST FILE A PETITION FOR DISCRETIONARY REVIEW.** Any such petition should be received by the Executive Secretary on or before March 23, 1994 in order to permit sufficient time for its review. See Commission Rule 91, 29 C.F.R. 2200.91.

All further pleadings or communications regarding this case shall be addressed to:

Executive Secretary  
Occupational Safety and Health  
Review Commission  
1120 20th St. N.W., Suite 980  
Washington, D.C. 20036-3419

Petitioning parties shall also mail a copy to:

Daniel J. Mick, Esq.  
Counsel for Regional Trial Litigation  
Office of the Solicitor, U.S. DOL  
Room S4004  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

If a Direction for Review is issued by the Commission, then the Counsel for Regional Trial Litigation will represent the Department of Labor. Any party having questions about review rights may contact the Commission's Executive Secretary or call (202) 606-5400.

FOR THE COMMISSION

Ray H. Darling, Jr.  
Executive Secretary

Date: March 3, 1994

DOCKET NO. 93-3196

NOTICE IS GIVEN TO THE FOLLOWING:

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Irving Sommer  
Chief Administrative Law Judge  
Occupational Safety and Health  
Review Commission  
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UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

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SECRETARY OF LABOR,

Complainant,

v.

MCGINNES BROS. CONSTRUCTION, INC.

Respondent,

---

Docket No. 93-3196

ORDER

On JANUARY 13, 1994 the undersigned issued an ORDER TO SHOW CAUSE to the Respondent as to why his Notice of Contest should not be dismissed for failure to file an answer to the complaint as required by the Commission Rules of Procedure. The Respondent failed to reply to the ORDER. His actions demonstrate either that he has abandoned the case or treats the Rules of Procedure of the Commission with disdain. This cannot be countenanced as it seriously impedes the administration of justice.

Accordingly, the Notice of Contest filed by the Respondent is dismissed. The Secretary's citation(s) and proposed penalties are AFFIRMED in all respects.

  
IRVING SOMMER  
Judge

DATE: MAR 1 1994  
Washington, D.C.