

October 23, 2020

Occupational Safety and
Health Review Board
443 Lafayette Road N.
St. Paul, MN 55155

**Re: Commissioner v. BellPro Architectural, LLC
Inspection No. 318150943
Response to Petition to Vacate**

Dear Occupational Safety and Health Review Board Members:

I am counsel for the Minnesota Occupational Safety and Health Administration division (“MNOSHA”) of the Department of Labor and Industry in the above-referenced matter.

Petitioner BellPro Architectural, LLC (“Petitioner”) filed a Petition to Vacate the Commissioner’s September 8, 2020, Final Order (“Commissioner’s Final Order”). I am submitting this letter in opposition to the Petition to Vacate. The Petition to Vacate should be denied for two reasons. First, the Commissioner’s Final Order correctly determined that Petitioner’s Notice of Contest was late. Second, Petitioner has not demonstrated good cause to vacate the Commissioner’s Final Order, which is required by Minnesota Statutes, section 182.664, subdivision 5 (2018).

FACTS

During the period of February 28, 2020 - June 12, 2020, MNOSHA inspected Petitioner’s worksite located at 14425 James Road, Rogers, Minnesota. On June 24, 2020, MNOSHA issued a Citation and Notification of Penalty (“Citation”) for violations of occupational safety and health standards.¹ The Citation clearly states, in multiple places, that a Notice of Contest must be filed within 20 calendar days of the date of receipt. The first paragraph of the Citation provides the following instruction:

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 you file a Notice of Contest with the Commissioner* Your contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of the Citation. (Emphasis added.)

The following instruction appears on page three of the Citation:

Employer Right to Contest - The employer has the right to a hearing to contest

¹ A copy of the Citation is attached as Exhibit A.

any or all parts of this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statutes § 16D.17.

Petitioner received the Citation on June 25, 2020, as evidenced by the signed receipt form.² The deadline for filing a Notice of Contest to the Citation was 4:30 p.m. on July 15, 2020. *See* Minnesota Rules, part 5210.0536, subpart 2. Petitioner did not file its Notice of Contest to the citation until July 17, 2020, 2 days after the deadline.³

On September 8, 2020, Petitioner was served with a Final Order of the Commissioner.⁴ This Final Order determined that Petitioner's Notice of Contest was late. The Commissioner's Final Order also provided Petitioner with information related to filing a Petition to Vacate the determination that its Notice of Contest was late.

On October 6, 2020, Petitioner filed a Petition to Vacate. In its Petition, Petitioner "disputes the allegations the company did not respond within 20 days of receipt of the Citation and Notification of Penalty." Petitioner states that the person who signed for the Citation was not in a position of authority and was not the addressee.

ARGUMENT

I. THE REVIEW BOARD SHOULD DENY PETITIONER'S PETITION TO VACATE BECAUSE THE COMMISSIONER'S SEPTEMBER 8, 2020, FINAL ORDER CORRECTLY DETERMINED THAT PETITIONER'S NOTICE OF CONTEST WAS LATE.

² A copy of the receipt form is attached as Exhibit B.

³ A copy of Petitioner's Notice of Contest is attached as Exhibit C. No employee or authorized representative of employees filed a Notice of Contest.

⁴ A copy of the Commissioner's September 8, 2020, Final Order is attached as Exhibit D.

The Commissioner's Final Order should be affirmed because the decision is correct under the facts. Petitioner received the Citation on June 25, 2020, as evidenced by the signed receipt form. Minnesota Rules, part 5210.0536, subpart 2, requires employers to file a Notice of Contest within 20 days of receiving the Citation. There is no ambiguity in determining Petitioner's deadline for filing a Notice of Contest. Petitioner's Notice of Contest should have been filed on or before 4:30 p.m. on July 15, 2020.

In its Petition to Vacate, Petitioner asserts that it met the 20-day deadline, but does not explain how. Petitioner notes that the person who signed for the Citation was "not in a position of authority" and was not the addressee, Mr. David Bell. Petitioner appears to take the position that the 20-day time period for filing a Notice of Contest should begin when a person in a position of authority or the named addressee obtains the physical Citation. But there is no legal basis for this position, and for good reason—MNOSHA does not have the authority or responsibility to determine how Petitioner processes the mail it receives.

MNOSHA is required to issue a Citation by certified mail under Minnesota Statutes, section 182.66, subdivision 1. The employer's 20-day time period to file a Notice of Contest begins when an employee receives and signs for the Citation as part of the certified mailing process. There is no statute or administrative rule that requires MNOSHA to ensure that a Citation reaches the physical possession of a particular representative of the employer. MNOSHA does not know when an employee who receives and signs for the employer's mail physically delivers the mail to a particular representative of the employer, so it would not make sense for the 20-day deadline for filing a Notice of Contest to be tied to that event.

Petitioner's Petition to Vacate should be denied because the Commissioner correctly determined that Petitioner filed its Notice of Contest 2 days after the statutory deadline had passed.

II. THE REVIEW BOARD SHOULD DENY PETITIONER'S PETITION TO VACATE BECAUSE PETITIONER HAS NOT ESTABLISHED GOOD CAUSE.

Minnesota Statutes, section 182.664, subdivision 5, states that, without a showing of good cause, the Review Board may not vacate a final order of the Commissioner. It further provides that "good cause is limited to fraud, mistake of law or fact, or newly discovered evidence." *Id.* Petitioner has not established the required good cause, so the Review Board cannot vacate the Commissioner's Final Order.

In its Petition to Vacate, Petitioner states that it has had limited operations and staff in place since March of 2020 due to COVID-19. But Petitioner does not explain how this constitutes good cause to vacate the Commissioner's Final Order. Petitioner had an employee at its office who received and signed for the Citation. And Petitioner had employees who filled out and emailed its Notice of Contest. Petitioner does not explain why or how changes to its operations due to COVID-19 prevented it from timely filing its Notice of Contest.

MNOSHA gave clear instructions on how to contest the Citation, so Petitioner's failure to timely file the Notice of Contest "can only logically be construed as negligent and undeserving of

pardon.” *Secretary of Labor v. Barretto Granite Corp.*, 830 F.2d 396, 400 (1st Cir. 1987). Mere carelessness or negligence does not constitute good cause to vacate a final order of the Commissioner. *See Secretary of Labor v. Keefe Earth Boring Co.*, 14 O.S.H. Cas. (BNA) 2187, 2192 (Rev. Comm. 1991). In sum, Petitioner has not shown the existence of fraud, any mistake in law or fact, or any newly discovered evidence. Therefore, Petitioner’s Petition to Vacate the Commissioner’s Final Order should be denied.

CONCLUSION

First, the Commissioner’s Final Order correctly determined that Petitioner’s Notice of Contest was late. Additionally, Petitioner has not demonstrated good cause to vacate the Commissioner’s Final Order. Therefore, the Petition to Vacate should be denied.

Petitioner BellPro Architectural, LLC is served with a copy of this letter as stated in the enclosed Affidavit of Service.

Respectfully submitted,

s/ Matthew Jobe

General Counsel
Office of General Counsel
Minnesota Department of Labor and Industry
(651) 284-5019 (main)
(651) 284-5725 (fax)

Enclosures

cc: Daryl Gemar, BellPro Architectural, LLC

Minnesota Department of Labor and Industry
Occupational Safety and Health Division
443 Lafayette Road
St. Paul, MN 55155-4307
Phone: 651-284-5050 FAX: 651-284-5741

Citation and Notification of Penalty

To:
BellPro Architectural LLC
14425 James Rd
Rogers, MN 55374

Inspection Number: 318150943
OSHI ID: Q0151
Optional Report No.: 00720
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020

Inspection Site:
14425 James Rd
Rogers, MN 55374

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 (this Citation) describes violations of the Minnesota Occupational Safety and Health Act of 1973 (the Act). The penalty amounts listed herein 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 you file a Notice of Contest with the Commissioner of the Department of Labor and Industry. Your contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of this Citation. The description of alleged violations begins on page 5 of this Citation.

EMPLOYER AND EMPLOYEE RIGHTS AND RESPONSIBILITIES

Posting - The Act requires that a copy of this Citation shall be promptly posted at or near each place that an alleged violation referred to in the citation occurred or, if not practicable, in a prominent place where it will be readily visible by all affected employees. If uncontested, this Citation must remain posted until all alleged violations cited therein are corrected, or for 20 days, whichever is longer. If contested, this Citation must remain posted until the contestation is resolved.

Penalty Payment - Payment of all penalties is to be made by check or money order payable to "Minnesota Department of Labor and Industry, MNOSHA", and remitted to the Occupational Safety and Health Division at P.O. Box 64025, St. Paul, MN, 55164-0025, within 20 calendar days following receipt of this Citation. After 60 days, unpaid penalties shall increase 25 percent and shall accrue an additional interest of 10 percent per month compounded monthly until the fine is paid in full.

Effective August 1, 2003, the minimum \$25,000 penalty issued to employers with fewer than 50 employees for serious citations connected to the death of an employee may be made in five payments of \$5,000. The first \$5,000 payment is due within 20 calendar days following receipt of this Citation. The 2nd-5th payments of \$5,000 are due on the next four anniversary dates of this Citation becoming a Final Order. The Commissioner may elect to waive the 2nd-5th \$5,000 payment if in the preceding year the employer receives no citations. MNOSHA will provide written notice of the 2nd-5th payments dates or of any penalty waiver.

Notification of Corrective Action - Progress reports on correction of alleged violations not immediately abated as observed by the occupational safety and health investigator shall be submitted on the Progress Report form provided with this Citation. Written progress reports must be mailed to the address shown on the top of page 1 of this Citation by the latest abatement date on the citation, or within 30 days after receipt of the citation, whichever is earliest. Reports must state the specific corrective action taken on each cited item, the date of such action and the anticipated abatement date of uncompleted items. Additional written progress reports shall be submitted every thirty days until the items are fully abated. Facsimile (FAX) transmittal is acceptable.

All alleged violations not contested must be corrected by the abatement date specified in this Citation. A followup inspection may be made for the purpose of ascertaining that the employer has corrected the alleged violations and posted this Citation as required by the Act. Failure to correct an alleged violation by the abatement date on this Citation may result in further penalties for each day the alleged violation has not been corrected.

Petition for Modification of Abatement Date (PMA) - If, due to factors beyond reasonable control, compliance cannot be achieved by the abatement day on the citation, the employer may file a Petition for Modification of Abatement Date (PMA) to obtain an extension of the abatement time period. The PMA must be in writing and received at the address shown on the top of page 1 of this Citation prior to the expiration of the abatement date on the citation. Facsimile (FAX) transmittal of a PMA is acceptable. A copy of the PMA must be posted for ten days in the location where this Citation is posted. A copy of the PMA must also be served upon authorized employee representatives.

The employer's written petition must describe:

- 1) The action that has been taken so far to achieve compliance;
- 2) The amount of additional time needed for compliance;
- 3) The reasons why additional time is needed;
- 4) A description of the interim steps that will be taken to safeguard employees against the cited hazard;
- 5) A statement that employees have been notified of the PMA filing.

Employees have the right to file a written objection to the Commissioner regarding the employer's PMA request. A copy of the objection must be served on the employer within 10 days of the employer's posting of the PMA. The employee objection must be received by the Commissioner within 15 days of the employer's PMA request. Facsimile (FAX) transmittal is acceptable.

Employer Right to Contest - The employer has the right to a hearing to contest any or all parts of this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on the top of page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Contest - An employee or authorized representative of employees has the right to a hearing to contest this Citation by filing a letter with the Commissioner of the Department of Labor and Industry at the address shown on page 1 within 20 calendar days of the employer's receipt of this Citation.

Important: To be considered filed, an employee letter of contest must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employee fails to file a letter of contest on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Party Status - Affected employees or their authorized employee representatives may elect to participate as parties in the formal contested case hearing by filing written notice with the Commissioner at the address shown above at least 45 days before the start of the hearing. The notice must contain the employees' names, addresses, authorized employee representatives, if any, and a statement that they are affected employees of the cited employer.

Employer Discrimination Unlawful - Employees who believe that they have been discharged or otherwise discriminated against by any person because the employees have exercised any right authorized under the provisions of Minnesota Statutes §§ 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the Commissioner of the Department of Labor and Industry at the address shown above, alleging the discriminatory act.

PENALTY INFORMATION

Types of Violations - There are 5 types of violations that may be cited by MNOSHA. They are: Nonserious, Serious, Willful, Repeat and Failure to Abate.

Penalties - In cases not involving the death of an employee, the law allows the following maximum penalties: Nonserious, \$7,000; Serious, \$7,000; Willful, \$70,000; Repeat, \$70,000; and Failure to Abate, \$7,000 per day the violation remains unabated. If a Willful or Repeat violation caused or contributed to the death of an employee, however, MNOSHA is compelled by law to assess the employer a total non-negotiable penalty of at least \$50,000 for all citations connected to the employee's death. If there are no Willful or Repeat violations among the violations that caused or contributed to the employee's death, MNOSHA must assess the employer a non-negotiable penalty of at least \$25,000 for each citation connected to the employee's death. The following violations are not subject to these minimums and will be processed according to MNOSHA's ordinary penalty system: (a) any serious violations issued to an employer with fewer than 50 employees when the victim of a workplace fatality owned a controlling interest in the business unless the Commissioner determines that a fine shall be assessed, and (b) any violations found during a fatality investigation but determined not to be connected to the death of an employee.

Credits - A penalty for a violation may be credited by as much as 95 percent, depending on the employer's good faith (up to 30%), size of business (up to 55%), and previous violation history (up to 10%). The penalties which appear on the Citation and Notification of Penalty have been reduced by the credits described.

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 01 Item 001 Type of Violation: Repeat

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

The employer had not developed a written Hazard Communication program for employees who were exposed to workplace hazards such as carbon monoxide, Lord adhesive, and welding fumes.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

Abatement Guidelines: The written program must be made available, upon request to employees, their designated representatives, and representatives of the Occupational Safety & Health Division and shall include:

- 1) A description of how the training, availability of information, and labeling provision will be met for hazardous chemicals.
- 2) A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate safety data sheet. The list may be compiled for the workplace as a whole or for individual work areas.
- 3) The methods the employer will use to inform employees of the hazards of non-routine tasks that involve exposure to hazardous chemicals, and the hazards associated with hazardous chemicals contained in unlabeled pipes in their work areas.
- 4) Additionally, in multiemployer workplaces where the employer produces, uses or stores hazardous chemicals in such a way that employees of other employers may be exposed, the written program shall include:

a) the methods the employer will use to provide the other employers with a copy of the safety data sheet, or to make it available at a central location in the workplace, for each hazardous chemical the

other employers' employees may be exposed to while working;

b) the methods the employer will use to inform the other employers on any precautionary measures that need to be taken to protect employees during normal operating conditions and in foreseeable emergencies; and

c) the methods the employer will use to inform the other employers of the labeling system used in the workplace.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated:

7/18/2020

Penalty:

\$2,000.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 01 Item 002 Type of Violation: **Repeat**

29 CFR 1910.1200(h)(1): Employees were not provided information and training as specified in 29 CFR 1910.1200(h)(1) and (2) on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard was introduced into their work area:

The employer had not trained employees on workplace hazards they were exposed to such as carbon monoxide, Lord adhesive, and welding fumes.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

Abatement Guidelines: The employer must conduct initial and ongoing evaluations of the workplace to determine the hazardous chemicals for which there is a reasonable potential for employee exposure during the normal course of assigned work. A written program must be developed and implemented which describes how the training, availability of information, and labeling requirements will be met.

Employees must be provided with training in a manner which can be reasonably understood by them, and which addresses the required topics outlined in 1910.1200(h). Training is to be provided at the cost of the employer. Records of training must be maintained by the employer and kept for 3 years.

The training program for hazardous chemicals shall include:

- 1) the name or names of the chemical including any generic or chemical name, trade name, and commonly used name;
- 2) the level, if any and if known, at which exposure to the chemical has been restricted according to standards adopted by the commissioner, or, if no standard has been adopted, according to guidelines established by competent professional groups which have conducted research to determine the hazardous properties of potentially hazardous chemicals;
- 3) the known acute and chronic effects of exposure at hazardous levels, including routes of entry;

- 4) the known symptoms of the effects;
- 5) any potential for flammability, explosion, or reactivity of the chemical;
- 6) appropriate emergency treatment;
- 7) the known proper conditions for use of and exposure to the chemical;
- 8) procedures for cleanup of leaks and spills;
- 9) the name, phone number, and address of a manufacturer of the hazardous chemical; and
- 10) a written copy of all of the above information which shall be readily accessible in the area or areas in which the hazardous chemical is used or handled.

Records of training must be kept by the employer for three years, and at a minimum, must include:

- 1) the dates training was conducted;
- 2) the name, title, and qualifications of the person who conducted the training;
- 3) the names and job titles of employees who completed the training; and
- 4) a brief summary or outline of the information that was included in the training session.

The following is the minimum required frequency of training:

- 1) before the initial assignment to a job where there is a reasonable potential for exposure during the course of assigned work,
- 2) prior to the time an employee may be exposed to any additional hazardous chemical(s), and
- 3) training updates, to be provided no less than annually.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated:
Penalty:

7/18/2020
\$4,000.00

- 4) the known symptoms of the effects;
- 5) any potential for flammability, explosion, or reactivity of the chemical;
- 6) appropriate emergency treatment;
- 7) the known proper conditions for use of and exposure to the chemical;
- 8) procedures for cleanup of leaks and spills;
- 9) the name, phone number, and address of a manufacturer of the hazardous chemical; and
- 10) a written copy of all of the above information which shall be readily accessible in the area or areas in which the hazardous chemical is used or handled.

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- 1) the dates training was conducted;
- 2) the name, title, and qualifications of the person who conducted the training;
- 3) the names and job titles of employees who completed the training; and
- 4) a brief summary or outline of the information that was included in the training session.

The following is the minimum required frequency of training:

- 1) before the initial assignment to a job where there is a reasonable potential for exposure during the course of assigned work,
- 2) prior to the time an employee may be exposed to any additional hazardous chemical(s), and
- 3) training updates, to be provided no less than annually.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated:

7/18/2020

Penalty:

\$4,000.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 01 Item 003 Type of Violation: Repeat

Minn. Rules 5205.0116 subp. 1: The employer failed to monitor environmental exposure of employees to carbon monoxide whenever internal combustion engine powered industrial trucks as defined in these regulations are operated indoors to ensure that carbon monoxide levels do not exceed an eight-hour time-weighted average of 35 parts per million and/or a five-minute ceiling of 200 parts per million. The air monitoring shall be done at least quarterly and represent exposures during a day of highest usage in the areas where employee carbon monoxide exposure is most likely:

Quarterly environmental monitoring for carbon monoxide was not performed where the two Yale and one Toyota propane forklifts operate indoors.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

Abatement Guidelines: The employer must monitor environmental exposure of employees to carbon monoxide to ensure that carbon monoxide levels do not exceed an 8-hour time-weighted average of 35 parts per million and/or a 5-minute ceiling of 200 parts per million. The air monitoring shall be done at least quarterly and represent exposures during a day of highest usage in the areas where employee carbon monoxide exposure is most likely.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

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Quarterly environmental monitoring for carbon monoxide was not performed where the two Yale and one Toyota propane forklifts operate indoors.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

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Abatement Guidelines: The employer must monitor environmental exposure of employees to carbon monoxide to ensure that carbon monoxide levels do not exceed an 8-hour time-weighted average of 35 parts per million and/or a 5-minute ceiling of 200 parts per million. The air monitoring shall be done at least quarterly and represent exposures during a day of highest usage in the areas where employee carbon monoxide exposure is most likely.

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Date By Which Violation Must Be Abated:
Penalty:

7/18/2020
\$4,000.00

Minnesota
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Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 02 Item 001 Type of Violation: Serious

29 CFR 1910.178(f): Operators were not trained in the safe operation of powered industrial trucks:

Employees operated the two Yale and one Toyota propane powered forklifts without first completing the required training or evaluations.

Abatement Guidelines: Powered industrial truck operators shall receive initial training in the following topics, with the exception of those which the employer can demonstrate are not applicable to safe operation of the truck in the employer's workplace:

1) Truck-related topics:

- a) Operating instructions, warnings, and precautions for the types of truck the operator will be authorized to operate;
- b) Differences between the truck and the automobile;
- c) Truck controls and instrumentation: where they are located, what they do, and how they work;
- d) Engine or motor operation;
- e) Steering and maneuvering;
- f) Visibility (including restrictions due to loading);
- g) Fork and attachment adaptation, operation, and use limitations;
- h) Vehicle capacity;
- i) Vehicle stability;
- j) Any vehicle inspection and maintenance that the operator will be required to perform;
- k) Refueling and/or charging and recharging batteries;
- l) Operating limitations; and
- m) Any other operating instructions, warnings, or precautions listed in the operator's manual for the types or vehicle that the employee is being trained to operate.

2) Workplace-related topics:

- a) Surface conditions where the vehicle will be operated;
- b) Composition of loads to be carried and load stability;
- c) Load manipulation, stacking, and unstacking;
- d) Pedestrian traffic in areas where the vehicle will be operated;
- e) Narrow aisles and other restricted places where the vehicle will be operated;
- f) Hazardous (classified) locations where the vehicle will be operated;
- g) Ramps and other sloped surfaces that could affect the vehicle's stability;

h) Closed environments and other areas where insufficient ventilation or poor vehicle maintenance could cause a buildup of carbon monoxide or diesel exhaust; and
i) Other unique or potentially hazardous environmental conditions in the workplace that could affect safe operation.

3) The requirements of section 29 CFR 1910.178(l).

Date By Which Violation Must Be Abated:

7/18/2020

Penalty:

\$800.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 02 Item 002 Type of Violation: **Serious**

29 CFR 1910.1026(d)(1): The employer did not determine the 8-hour TWA exposure for each employee exposed to chromium (VI).

The employer did not determine the exposure of employees to hexavalent chromium while welding on stainless steel in the welding shop.

Abatement Guidelines:

A. Each employer who has a workplace or work operation covered by this section shall determine the 8-hour TWA exposure for each employee exposed to chromium (VI). This determination shall be made in accordance with either paragraph (d)(2) Scheduled Monitoring Option, or paragraph (d)(3) Performance-oriented Option.

1. Scheduled monitoring option.

- a. The employer shall perform initial monitoring to determine the 8-hour TWA exposure for each employee on the basis of a sufficient number of personal breathing zone air samples to accurately characterize full shift exposure on each shift, for each job classification, in each work area. Where an employer does representative sampling instead of sampling all employees in order to meet this requirement, the employer shall sample the employee(s) expected to have the highest chromium (VI) exposures.
- b. If initial monitoring indicates that employee exposures are below the action level, the employer may discontinue monitoring for those employees whose exposures are represented by such monitoring.
- c. If monitoring reveals employee exposures to be at or above the action level, the employer shall perform periodic monitoring at least every six months.
- d. If monitoring reveals employee exposures to be above the PEL, the employer shall perform periodic monitoring at least every three months.
- e. If periodic monitoring indicates that employee exposures are below the action level, and the result is confirmed by the result of another monitoring taken at least seven days later, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.
- f. The employer shall perform additional monitoring when there has been any change in the production process, raw materials, equipment, personnel, work practices, or control methods that may result in new or additional exposures to chromium (VI), or when the employer has any reason to believe that new or additional exposures have occurred.

2. Performance-oriented option.

The employer shall determine the 8-hour TWA exposure for each employee on the basis of any combination of air monitoring data, historical monitoring data, or objective data sufficient to accurately characterize employee exposure to chromium (VI).

B. Employee notification of determination results.

1. Where the exposure determination indicates that employee exposure exceeds the PEL, within 15 working days the employer shall either post the results in an appropriate location that is accessible to all affected employees or shall notify each affected employee individually in writing of the results.

2. Whenever the exposure determination indicates that employee exposure is above the PEL, the employer shall describe in the written notification the corrective action being taken to reduce employee exposure to or below the PEL.

C. Accuracy of measurement.

Where air monitoring is performed to comply with the requirements of this section, the employer shall use a method of monitoring and analysis that can measure chromium (VI) to within an accuracy of plus or minus 25 percent ($\pm 25\%$) and can produce accurate measurements to within a statistical confidence level of 95 percent for airborne concentrations at or above the action level.

D. Observation of monitoring.

1. Where air monitoring is performed to comply with the requirements of this section, the employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to chromium (VI).

2. When observation of monitoring requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with clothing and equipment and shall assure that the observer uses such clothing and equipment and complies with all other applicable safety and health procedures.

Date By Which Violation Must Be Abated:

7/18/2020

Penalty:

\$600.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 02 Item 003 Type of Violation: **Serious**

29 CFR 1910.1026(l)(1): In addition to the requirements of the Hazard Communication Standard, 29 CFR 1910.1200 (in MN, annual training and recordkeeping requirements must comply with MN Rules 5206), employers shall comply with the requirements found in 1910.1026(l)(2)(i) & (ii).

The employer did not provide training on the hazards associated with hexavalent chromium exposure to employees who welded on stainless steel as part of their job duties.

Abatement Guidelines:

A. Include chromium (VI) in Hazard Communication training (Right to Know) initially and annually.

B. In addition to the training required by the Hazard Communication Standard (MN Rules 5206.0700 Right to Know), provide information and training on the contents of the chromium (VI) standard, 29 CFR 1910.1026.

C. Ensure that each employee can demonstrate knowledge of at least the following:

- 1. The contents of the chromium (VI) standard; and**
- 2. The purpose and a description of the medical surveillance program required by paragraph (k) of the standard.**

D. Make a copy of 29 CFR 1910.1026 Chromium (VI) readily available without cost to all affected employees.

Date By Which Violation Must Be Abated:
Penalty:

7/18/2020
\$600.00

Nancy J. Leppink, Commissioner
MN Department of Labor and Industry

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- 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.

David Bell, President
BellPro Architectural LLC
14425 James Rd
Rogers, MN 55374
318150943 Q0151 00720



9590 9402 5760 0003 5176 64

2. Article Number (transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature]

- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

CLG RG

C. Date of Delivery

6-25-20

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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

7019 1640 0000 2392 7755

Domestic Return Receipt

EXHIBIT B

07252020 001318.001

**Minnesota
Department of Labor and Industry**

Occupational Safety and Health Division
443 Lafayette Road North
St. Paul, MN 55155-4307

Phone: 1-800-DIAL-DLI (1-800-342-6364)

(651) 284-6080

FAX: (651) 284-6741
www.dli.mn.gov

David Bell, President
BellPro Architectural LLC
14425 James Rd
Rogers, MN 55374
318150843 Q0151 00720
14425 James Rd Rogers MN 55374

JUL 17 2020

NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES
MINNESOTA OSH DIVISION

PURPOSE OF THIS FORM

If you have received a Citation and Notification of Penalty from the Minnesota Occupational Safety and Health Division (MNOSHA) and you wish to contest any part of the Citation, including the penalty, you must complete this form. For your contest to be valid, you must file this form within 20 calendar days of the date the employer received the Citation.

If you only wish to obtain an extension of time to correct the violation, you may file a Petition for Modification of Abatement Date according to the instructions on the Citation and Notification of Penalty.

By filing this Notice of Contest form, you are initiating a formal contested case proceeding before an administrative law judge of the parts of the Citation and Notification of Penalty you are contesting. This form must be filed in good faith and not solely for delay or avoidance of penalties.

HOW TO FILE THIS FORM

- This Notice of Contest form must be filed with the Commissioner of the Department of Labor and Industry at the above address within 20 calendar days after the date the employer received the Citation and Notification of Penalty. To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be mailed and postmarked, within 20 calendar days after the date the employer received the Citation and Notification of Penalty. You may also file electronically at contest@dli.state.mn.us, by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day.
- If you fail to file the fully completed Notice of Contest form on time, the Citation and Notification of Penalty becomes a final order of the Commissioner that is not subject to review by any court or agency.

APPEAL PROCESS

Upon receipt of a timely filed Notice of Contest form, MNOSHA will contact you and schedule a date, time and location for an informal conference. The purpose of the informal conference is to allow you to discuss with a MNOSHA representative the Citation and Notification of Penalty and the basis for your contest. The goal of the informal conference is to reach an early resolution of the contest. If you and MNOSHA are unable to reach a resolution at the informal conference then the contest will proceed to a formal contested case hearing.

COMPLETING THIS FORM

1. HOW TO IDENTIFY THE INSPECTION BEING CONTESTED.

Complete the box at the top of this form using the Inspection Number, OSHI ID, Optional Report Number and Employer's Mailing Address from the Citation and Notification of Penalty being contested.

2. HOW TO CONTEST THE CITATION AND NOTIFICATION OF PENALTY.

Indicate in the boxes on the next page which part(s) of the Citation and Notification of Penalty you wish to contest. Identify the citations you are contesting by indicating the citation and item numbers. Then indicate which part(s) of each item is being contested. Finally, state your reasons for contesting in the space provided below the boxes.

- Check the box **CITATION** if you wish to contest that the violation occurred.
- Check the box **TYPE OF VIOLATION** if you wish to contest the characterization of the violation as non-serious, serious, willful or repeat.
- Check the box **ABATEMENT DATE** if you wish to contest the date by which you must abate the violation.
- Check the box **PENALTY** if you wish to contest the amount of the penalty.

EXHIBIT C

FAILURE TO CHECK ANY PART WILL RESULT IN THAT PART OF THE CITATION BECOMING A FINAL ORDER OF THE COMMISSIONER THAT IS NOT REVIEWABLE BY ANY COURT OR AGENCY.

CITATION NUMBER	ITEM NUMBER	(check all that apply)			
01 001	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
01	002	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
01	003	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02	002	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02	003	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty

REASONS FOR CONTEST: (Additional sheets may be attached as necessary, and they will be considered part of this form.)

01 001 BallPro has signed employee handbook, weekly-monthly education opportunities for employees.

01 002 Photos of past meetings - notes - 2019 - to date

01 - 003 Training Completed 11-26-2019

02 - 002 Records indicate 1/2019 training 7/18/20 New class

02 - 003 NO stainless steel welding projects in house.

3. DATES OF POSTING AND SERVING. You must certify in Box A or B below the dates you posted and served this form.

→ 02 - 001 - Post Training Completed NewTray 7/19/20

A. Union: Complete part A if you have affected Employees Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on _____ (date) at the locations where the Citation and Notification of Penalty is required to be posted; and I served fully completed copies of this form on _____ (date) upon the authorized employee representatives of affected employees.

B. Non-Union: Complete part B if you have affected Employees Not Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on 7/17/20 (date) at the locations where the Citation and Notification of Penalty is required to be posted and that I do not have any affected employees who are represented by authorized employee representatives.

4. OATH. The employer completing this form must sign and have notarized the following statement.

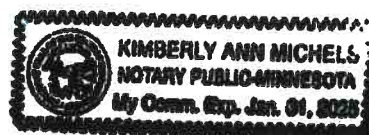
I SWEAR THAT THE INFORMATION PROVIDED ON THIS FORM AND ATTACHED TO THIS FORM IS ACCURATE AND TRUTHFUL TO THE BEST OF MY KNOWLEDGE.

State of Minnesota County of Wright

Daryl Gerner - CEO 651-295-2050
Name of Employer Representative, Title Phone

[Signature] 7/17/20
Signature Date

Subscribed and sworn to before me
this 17 day of July 2020
Notary Public [Signature]
My Commission expires 11/31/2025



007202020 001311 003

Jones, Tonya (DU)

From: joanne fay <1811woodland@gmail.com>
Sent: Friday, July 17, 2020 2:19 PM
To: MN_DLI_Contestation
Cc: paula@bellproarch.com; jsloan@bellproarch.com
Subject: inspection: 318150943 Report:Q0151
Attachments: Report 00720 BellPro Notes to Contest & Mandatory Progress Report 7-2020.pdf

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

September 8, 2020

Daryl Gemar
BellPro Architectural, LLC
14425 James Road
Rogers, MN 55374

Re: BellPro Architectural, LLC
Inspection No. 318150943
FINAL ORDER DETERMINING LATE FILING

Dear Mr. Gemar:

The Department has issued a Final Order Determining Late Filing related to this inspection by the Occupational Safety and Health Division (MNOSHA). It is attached to this letter.

You have the right to file a Petition to Vacate this Final Order Determining Late Filing. The procedures for filing a Petition to Vacate are explained in Minnesota Statutes § 182.664, subd. 5 (2018), and Minnesota Rules, parts 5215.0700 and 5215.5350, which are available at www.revisor.mn.gov. As the statute and rules clearly state, any Petition to Vacate must be filed within 30 days following service by mail of this Final Order Determining Late Filing. If you would like to appear before the OSH Review Board, you may make a request for oral argument in the Petition to Vacate.

The statute sets forth the grounds under which the Board may grant a Petition to Vacate this Final Order. The Board may only vacate this Final Order upon a showing of good cause. Good cause is limited to fraud, mistake of fact or law, or newly discovered evidence. At this time, the Board may only review the determination that the Notice of Contest and Certification of Service was late.

The Petition to Vacate must be filed with the Board by mail or personal delivery to: Debra Jevne, Executive Secretary, OSH Review Board, 443 Lafayette Road N., St. Paul, Minnesota, 55155. Additionally, a copy of the Petition to Vacate must be served on the Department by mail or personal delivery to: Occupational Safety and Health Division, Department of Labor & Industry, 443 Lafayette Road N., St. Paul, Minnesota 55155.

This letter does not constitute legal advice.

Sincerely,

s/ Matthew P. Jobe

General Counsel for the
Occupational Safety and Health Division
Minnesota Department of Labor and Industry
(651) 284-5019

MPJ/pr

Enclosures

Equal Opportunity Employer

STATE OF MINNESOTA

**DEPARTMENT OF LABOR
AND INDUSTRY**

Roslyn Robertson, Temporary Commissioner,
Minnesota Department of Labor and Industry,

Complainant,

**FINAL ORDER DETERMINING
LATE AND INCOMPLETE FILING**

v.

BellPro Architectural, LLC

Inspection No. 318150943

Respondent.

To: Daryl Gemar
BellPro Architectural, LLC
14425 James Road
Rogers, MN 55374

On June 24, 2020, the Occupational Safety and Health Division, on behalf of Roslyn Robertson, Temporary Commissioner, Minnesota Department of Labor and Industry, issued a Citation and Notification of Penalty (Citation) in this inspection. (Exhibit A). The certified mail return receipt indicates that BellPro Architectural, LLC, Respondent, received the Citation on June 25, 2020. (Exhibit B). On July 17, 2020, the Department of Labor and Industry received a copy of the Notice of Contest and Service to Affected Employees (Notice of Contest) form stating Respondent was contesting the Citation. (Exhibit C).

Minnesota Statutes § 182.661, subds. 1 & 3b (2018), and Minnesota Rules, part 5210.0007 (2019), require that a Notice of Contest and Certification of Service be filed on forms provided by the commissioner and postmarked, faxed, emailed, or hand-delivered within twenty (20) calendar days from the date the Citation was received. This requirement is clearly stated on both the Citation and the Notice of Contest form that were received by Respondent on June 25, 2020.

Respondent did not properly file a Notice of Contest and Certification of Service within the 20-day time period, so the Notice of Contest and Certification of Service was late. As a result, the Citation is final.

Dated: September 8, 2020

s/ Matthew P. Jobe
Attorney Reg. No. 0391513
Department of Labor and Industry
Office of General Counsel
443 Lafayette Road N.
St. Paul, Minnesota 55155

Minnesota Department of Labor and Industry
Occupational Safety and Health Division
443 Lafayette Road
St. Paul, MN 55155-4307
Phone: 651-284-5050 FAX: 651-284-5741

Citation and Notification of Penalty

To:
BellPro Architectural LLC
14425 James Rd
Rogers, MN 55374

Inspection Number: 318150943
OSHI ID: Q0151
Optional Report No.: 00720
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020

Inspection Site:
14425 James Rd
Rogers, MN 55374

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 (this Citation) describes violations of the Minnesota Occupational Safety and Health Act of 1973 (the Act). The penalty amounts listed herein 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 you file a Notice of Contest with the Commissioner of the Department of Labor and Industry. Your contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of this Citation. The description of alleged violations begins on page 5 of this Citation.

EMPLOYER AND EMPLOYEE RIGHTS AND RESPONSIBILITIES

Posting - The Act requires that a copy of this Citation shall be promptly posted at or near each place that an alleged violation referred to in the citation occurred or, if not practicable, in a prominent place where it will be readily visible by all affected employees. If uncontested, this Citation must remain posted until all alleged violations cited therein are corrected, or for 20 days, whichever is longer. If contested, this Citation must remain posted until the contestation is resolved.

Penalty Payment - Payment of all penalties is to be made by check or money order payable to "Minnesota Department of Labor and Industry, MNOSHA", and remitted to the Occupational Safety and Health Division at P.O. Box 64025, St. Paul, MN, 55164-0025, within 20 calendar days following receipt of this Citation. After 60 days, unpaid penalties shall increase 25 percent and shall accrue an additional interest of 10 percent per month compounded monthly until the fine is paid in full.

Effective August 1, 2003, the minimum \$25,000 penalty issued to employers with fewer than 50 employees for serious citations connected to the death of an employee may be made in five payments of \$5,000. The first \$5,000 payment is due within 20 calendar days following receipt of this Citation. The 2nd-5th payments of \$5,000 are due on the next four anniversary dates of this Citation becoming a Final Order. The Commissioner may elect to waive the 2nd-5th \$5,000 payment if in the preceding year the employer receives no citations. MNOSHA will provide written notice of the 2nd-5th payments dates or of any penalty waiver.

Notification of Corrective Action - Progress reports on correction of alleged violations not immediately abated as observed by the occupational safety and health investigator shall be submitted on the Progress Report form provided with this Citation. Written progress reports must be mailed to the address shown on the top of page 1 of this Citation by the latest abatement date on the citation, or within 30 days after receipt of the citation, whichever is earlier. Reports must state the specific corrective action taken on each cited item, the date of such action and the anticipated abatement date of uncompleted items. Additional written progress reports shall be submitted every thirty days until the items are fully abated. Facsimile (FAX) transmittal is acceptable.

All alleged violations not contested must be corrected by the abatement date specified in this Citation. A followup inspection may be made for the purpose of ascertaining that the employer has corrected the alleged violations and posted this Citation as required by the Act. Failure to correct an alleged violation by the abatement date on this Citation may result in further penalties for each day the alleged violation has not been corrected.

Petition for Modification of Abatement Date (PMA) - If, due to factors beyond reasonable control, compliance cannot be achieved by the abatement day on the citation, the employer may file a Petition for Modification of Abatement Date (PMA) to obtain an extension of the abatement time period. The PMA must be in writing and received at the address shown on the top of page 1 of this Citation prior to the expiration of the abatement date on the citation. Facsimile (FAX) transmittal of a PMA is acceptable. A copy of the PMA must be posted for ten days in the location where this Citation is posted. A copy of the PMA must also be served upon authorized employee representatives.

The employer's written petition must describe:

- 1) The action that has been taken so far to achieve compliance;
- 2) The amount of additional time needed for compliance;
- 3) The reasons why additional time is needed;
- 4) A description of the interim steps that will be taken to safeguard employees against the cited hazard;
- 5) A statement that employees have been notified of the PMA filing.

Employees have the right to file a written objection to the Commissioner regarding the employer's PMA request. A copy of the objection must be served on the employer within 10 days of the employer's posting of the PMA. The employee objection must be received by the Commissioner within 15 days of the employer's PMA request. Facsimile (FAX) transmittal is acceptable.

Employer Right to Contest - The employer has the right to a hearing to contest any or all parts of this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on the top of page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Contest - An employee or authorized representative of employees has the right to a hearing to contest this Citation by filing a letter with the Commissioner of the Department of Labor and Industry at the address shown on page 1 within 20 calendar days of the employer's receipt of this Citation.

Important: To be considered filed, an employee letter of contest must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employee fails to file a letter of contest on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Party Status - Affected employees or their authorized employee representatives may elect to participate as parties in the formal contested case hearing by filing written notice with the Commissioner at the address shown above at least 45 days before the start of the hearing. The notice must contain the employees' names, addresses, authorized employee representatives, if any, and a statement that they are affected employees of the cited employer.

Employer Discrimination Unlawful - Employees who believe that they have been discharged or otherwise discriminated against by any person because the employees have exercised any right authorized under the provisions of Minnesota Statutes §§ 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the Commissioner of the Department of Labor and Industry at the address shown above, alleging the discriminatory act.

PENALTY INFORMATION

Types of Violations - There are 5 types of violations that may be cited by MNOSHA. They are: Nonserious, Serious, Willful, Repeat and Failure to Abate.

Penalties - In cases not involving the death of an employee, the law allows the following maximum penalties: Nonserious, \$7,000; Serious, \$7,000; Willful, \$70,000; Repeat, \$70,000; and Failure to Abate, \$7,000 per day the violation remains unabated. If a Willful or Repeat violation caused or contributed to the death of an employee, however, MNOSHA is compelled by law to assess the employer a total non-negotiable penalty of at least \$50,000 for all citations connected to the employee's death. If there are no Willful or Repeat violations among the violations that caused or contributed to the employee's death, MNOSHA must assess the employer a non-negotiable penalty of at least \$25,000 for each citation connected to the employee's death. The following violations are not subject to these minimums and will be processed according to MNOSHA's ordinary penalty system: (a) any serious violations issued to an employer with fewer than 50 employees when the victim of a workplace fatality owned a controlling interest in the business unless the Commissioner determines that a fine shall be assessed, and (b) any violations found during a fatality investigation but determined not to be connected to the death of an employee.

Credits - A penalty for a violation may be credited by as much as 95 percent, depending on the employer's good faith (up to 30%), size of business (up to 55%), and previous violation history (up to 10%). The penalties which appear on the Citation and Notification of Penalty have been reduced by the credits described.

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 01 Item 001 Type of Violation: Repeat

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

The employer had not developed a written Hazard Communication program for employees who were exposed to workplace hazards such as carbon monoxide, Lord adhesive, and welding fumes.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

Abatement Guidelines: The written program must be made available, upon request to employees, their designated representatives, and representatives of the Occupational Safety & Health Division and shall include:

- 1) A description of how the training, availability of information, and labeling provision will be met for hazardous chemicals.
- 2) A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate safety data sheet. The list may be compiled for the workplace as a whole or for individual work areas.
- 3) The methods the employer will use to inform employees of the hazards of non-routine tasks that involve exposure to hazardous chemicals, and the hazards associated with hazardous chemicals contained in unlabeled pipes in their work areas.
- 4) Additionally, in multiemployer workplaces where the employer produces, uses or stores hazardous chemicals in such a way that employees of other employers may be exposed, the written program shall include:

a) the methods the employer will use to provide the other employers with a copy of the safety data sheet, or to make it available at a central location in the workplace, for each hazardous chemical the

other employers' employees may be exposed to while working;

b) the methods the employer will use to inform the other employers on any precautionary measures that need to be taken to protect employees during normal operating conditions and in foreseeable emergencies; and

c) the methods the employer will use to inform the other employers of the labeling system used in the workplace.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated:	7/18/2020
Penalty:	\$2,000.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 01 Item 002 Type of Violation: Repeat

29 CFR 1910.1200(h)(1): Employees were not provided information and training as specified in 29 CFR 1910.1200(h)(1) and (2) on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard was introduced into their work area:

The employer had not trained employees on workplace hazards they were exposed to such as carbon monoxide, Lord adhesive, and welding fumes.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

Abatement Guidelines: The employer must conduct initial and ongoing evaluations of the workplace to determine the hazardous chemicals for which there is a reasonable potential for employee exposure during the normal course of assigned work. A written program must be developed and implemented which describes how the training, availability of information, and labeling requirements will be met.

Employees must be provided with training in a manner which can be reasonably understood by them, and which addresses the required topics outlined in 1910.1200(h). Training is to be provided at the cost of the employer. Records of training must be maintained by the employer and kept for 3 years.

The training program for hazardous chemicals shall include:

- 1) the name or names of the chemical including any generic or chemical name, trade name, and commonly used name;
- 2) the level, if any and if known, at which exposure to the chemical has been restricted according to standards adopted by the commissioner, or, if no standard has been adopted, according to guidelines established by competent professional groups which have conducted research to determine the hazardous properties of potentially hazardous chemicals;
- 3) the known acute and chronic effects of exposure at hazardous levels, including routes of entry;

- 4) the known symptoms of the effects;
- 5) any potential for flammability, explosion, or reactivity of the chemical;
- 6) appropriate emergency treatment;
- 7) the known proper conditions for use of and exposure to the chemical;
- 8) procedures for cleanup of leaks and spills;
- 9) the name, phone number, and address of a manufacturer of the hazardous chemical; and
- 10) a written copy of all of the above information which shall be readily accessible in the area or areas in which the hazardous chemical is used or handled.

Records of training must be kept by the employer for three years, and at a minimum, must include:

- 1) the dates training was conducted;
- 2) the name, title, and qualifications of the person who conducted the training;
- 3) the names and job titles of employees who completed the training; and
- 4) a brief summary or outline of the information that was included in the training session.

The following is the minimum required frequency of training:

- 1) before the initial assignment to a job where there is a reasonable potential for exposure during the course of assigned work,
- 2) prior to the time an employee may be exposed to any additional hazardous chemical(s), and
- 3) training updates, to be provided no less than annually.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated:

7/18/2020

Penalty:

\$4,000.00

- 4) the known symptoms of the effects;
- 5) any potential for flammability, explosion, or reactivity of the chemical;
- 6) appropriate emergency treatment;
- 7) the known proper conditions for use of and exposure to the chemical;
- 8) procedures for cleanup of leaks and spills;
- 9) the name, phone number, and address of a manufacturer of the hazardous chemical; and
- 10) a written copy of all of the above information which shall be readily accessible in the area or areas in which the hazardous chemical is used or handled.

Records of training must be kept by the employer for three years, and at a minimum, must include:

- 1) the dates training was conducted;
- 2) the name, title, and qualifications of the person who conducted the training;
- 3) the names and job titles of employees who completed the training; and
- 4) a brief summary or outline of the information that was included in the training session.

The following is the minimum required frequency of training:

- 1) before the initial assignment to a job where there is a reasonable potential for exposure during the course of assigned work;
- 2) prior to the time an employee may be exposed to any additional hazardous chemical(s), and
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Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated:

7/18/2020

Penalty:

\$4,000.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 01 Item 003 Type of Violation: Repeat

Minn. Rules 5205.0116 subp. 1: The employer failed to monitor environmental exposure of employees to carbon monoxide whenever internal combustion engine powered industrial trucks as defined in these regulations are operated indoors to ensure that carbon monoxide levels do not exceed an eight-hour time-weighted average of 35 parts per million and/or a five-minute ceiling of 200 parts per million. The air monitoring shall be done at least quarterly and represent exposures during a day of highest usage in the areas where employee carbon monoxide exposure is most likely:

Quarterly environmental monitoring for carbon monoxide was not performed where the two Yale and one Toyota propane forklifts operate indoors.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

Abatement Guidelines: The employer must monitor environmental exposure of employees to carbon monoxide to ensure that carbon monoxide levels do not exceed an 8-hour time-weighted average of 35 parts per million and/or a 5-minute ceiling of 200 parts per million. The air monitoring shall be done at least quarterly and represent exposures during a day of highest usage in the areas where employee carbon monoxide exposure is most likely.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 01 Item 003 Type of Violation: Repeat

Minn. Rules 5205.0116 subp. 1: The employer failed to monitor environmental exposure of employees to carbon monoxide whenever internal combustion engine powered industrial trucks as defined in these regulations are operated indoors to ensure that carbon monoxide levels do not exceed an eight-hour time-weighted average of 35 parts per million and/or a five-minute ceiling of 200 parts per million. The air monitoring shall be done at least quarterly and represent exposures during a day of highest usage in the areas where employee carbon monoxide exposure is most likely:

Quarterly environmental monitoring for carbon monoxide was not performed where the two Yale and one Toyota propane forklifts operate indoors.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

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Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

Abatement Guidelines: The employer must monitor environmental exposure of employees to carbon monoxide to ensure that carbon monoxide levels do not exceed an 8-hour time-weighted average of 35 parts per million and/or a 5-minute ceiling of 200 parts per million. The air monitoring shall be done at least quarterly and represent exposures during a day of highest usage in the areas where employee carbon monoxide exposure is most likely.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated:
Penalty:

7/18/2020
\$4,000.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 02 Item 001 Type of Violation: Serious

29 CFR 1910.178(f): Operators were not trained in the safe operation of powered industrial trucks:

Employees operated the two Yale and one Toyota propane powered forklifts without first completing the required training or evaluations.

Abatement Guidelines: Powered industrial truck operators shall receive initial training in the following topics, with the exception of those which the employer can demonstrate are not applicable to safe operation of the truck in the employer's workplace:

1) Truck-related topics:

- a) Operating instructions, warnings, and precautions for the types of truck the operator will be authorized to operate;
- b) Differences between the truck and the automobile;
- c) Truck controls and instrumentation: where they are located, what they do, and how they work;
- d) Engine or motor operation;
- e) Steering and maneuvering;
- f) Visibility (including restrictions due to loading);
- g) Fork and attachment adaptation, operation, and use limitations;
- h) Vehicle capacity;
- i) Vehicle stability;
- j) Any vehicle inspection and maintenance that the operator will be required to perform;
- k) Refueling and/or charging and recharging batteries;
- l) Operating limitations; and
- m) Any other operating instructions, warnings, or precautions listed in the operator's manual for the types or vehicle that the employee is being trained to operate.

2) Workplace-related topics:

- a) Surface conditions where the vehicle will be operated;
- b) Composition of loads to be carried and load stability;
- c) Load manipulation, stacking, and unstacking;
- d) Pedestrian traffic in areas where the vehicle will be operated;
- e) Narrow aisles and other restricted places where the vehicle will be operated;
- f) Hazardous (classified) locations where the vehicle will be operated;
- g) Ramps and other sloped surfaces that could affect the vehicle's stability;

b) Closed environments and other areas where insufficient ventilation or poor vehicle maintenance could cause a buildup of carbon monoxide or diesel exhaust; and
i) Other unique or potentially hazardous environmental conditions in the workplace that could affect safe operation.

3) The requirements of section 29 CFR 1910.178(I).

Date By Which Violation Must Be Abated:

7/18/2020

Penalty:

\$800.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 02 Item 002 Type of Violation: **Serious**

29 CFR 1910.1026(d)(1): The employer did not determine the 8-hour TWA exposure for each employee exposed to chromium (VI):

The employer did not determine the exposure of employees to hexavalent chromium while welding on stainless steel in the welding shop.

Abatement Guidelines:

A. Each employer who has a workplace or work operation covered by this section shall determine the 8-hour TWA exposure for each employee exposed to chromium (VI). This determination shall be made in accordance with either paragraph (d)(2) Scheduled Monitoring Option, or paragraph (d)(3) Performance-oriented Option.

1. Scheduled monitoring option.

- a. The employer shall perform initial monitoring to determine the 8-hour TWA exposure for each employee on the basis of a sufficient number of personal breathing zone air samples to accurately characterize full shift exposure on each shift, for each job classification, in each work area. Where an employer does representative sampling instead of sampling all employees in order to meet this requirement, the employer shall sample the employee(s) expected to have the highest chromium (VI) exposures.
- b. If initial monitoring indicates that employee exposures are below the action level, the employer may discontinue monitoring for those employees whose exposures are represented by such monitoring.
- c. If monitoring reveals employee exposures to be at or above the action level, the employer shall perform periodic monitoring at least every six months.
- d. If monitoring reveals employee exposures to be above the PEL, the employer shall perform periodic monitoring at least every three months.
- e. If periodic monitoring indicates that employee exposures are below the action level, and the result is confirmed by the result of another monitoring taken at least seven days later, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.
- f. The employer shall perform additional monitoring when there has been any change in the production process, raw materials, equipment, personnel, work practices, or control methods that may result in new or additional exposures to chromium (VI), or when the employer has any reason to believe that new or additional exposures have occurred.

2. Performance-oriented option.

The employer shall determine the 8-hour TWA exposure for each employee on the basis of any combination of air monitoring data, historical monitoring data, or objective data sufficient to accurately characterize employee exposure to chromium (VI).

B. Employee notification of determination results.

1. Where the exposure determination indicates that employee exposure exceeds the PEL, within 15 working days the employer shall either post the results in an appropriate location that is accessible to all affected employees or shall notify each affected employee individually in writing of the results.

2. Whenever the exposure determination indicates that employee exposure is above the PEL, the employer shall describe in the written notification the corrective action being taken to reduce employee exposure to or below the PEL.

C. Accuracy of measurement.

Where air monitoring is performed to comply with the requirements of this section, the employer shall use a method of monitoring and analysis that can measure chromium (VI) to within an accuracy of plus or minus 25 percent ($\pm 25\%$) and can produce accurate measurements to within a statistical confidence level of 95 percent for airborne concentrations at or above the action level.

D. Observation of monitoring.

1. Where air monitoring is performed to comply with the requirements of this section, the employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to chromium (VI).

2. When observation of monitoring requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with clothing and equipment and shall assure that the observer uses such clothing and equipment and complies with all other applicable safety and health procedures.

Date By Which Violation Must Be Abated:

7/18/2020

Penalty:

\$600.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318150943
Inspection Date(s): 02/28/2020 - 06/12/2020
Issuance Date: 06/24/2020
OSHI ID: Q0151
Optional Report No.: 00720

Citation and Notification of Penalty

Company Name: BellPro Architectural LLC
Inspection Site: 14425 James Rd, Rogers, MN 55374

Citation 02 Item 003 Type of Violation: Serious

29 CFR 1910.1026(l)(1): In addition to the requirements of the Hazard Communication Standard, 29 CFR 1910.1200 (in MN, annual training and recordkeeping requirements must comply with MN Rules 5206), employers shall comply with the requirements found in 1910.1026(l)(2)(i) & (ii).

The employer did not provide training on the hazards associated with hexavalent chromium exposure to employees who welded on stainless steel as part of their job duties.

Abatement Guidelines:

A. Include chromium (VI) in Hazard Communication training (Right to Know) initially and annually.

B. In addition to the training required by the Hazard Communication Standard (MN Rules 5206.0700 Right to Know), provide information and training on the contents of the chromium (VI) standard, 29 CFR 1910.1026.

C. Ensure that each employee can demonstrate knowledge of at least the following:

- 1. The contents of the chromium (VI) standard; and**
- 2. The purpose and a description of the medical surveillance program required by paragraph (k) of the standard.**

D. Make a copy of 29 CFR 1910.1026 Chromium (VI) readily available without cost to all affected employees.

Date By Which Violation Must Be Abated:
Penalty:

7/18/2020
\$600.00

Nancy J. Leppink, Commissioner
MN Department of Labor and Industry

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- 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.

David Bell, President
BellPro Architectural LLC
14425 James Rd
Rogers, MN 55374
318150943 Q0151 00720



9590 9402 5760 0003 5176 64

2. Article Number (transfer from service label)

7039 1640 0000 2392 7755

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature]

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

CLG RG

C. Date of Delivery

6-25-20

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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

EXHIBIT B

07202020 001310.001

Minnesota
Department of Labor and Industry

Occupational Safety and Health Division
 443 Lafayette Road North
 St. Paul, MN 55155-4307

Phone: 1-800-DIAL-DLI (1-800-342-6364)
 (651) 284-6050
 FAX: (651) 284-5741
 www.dli.mn.gov

David Bell, President
 BellPro Architectural LLC
 14425 James Rd
 Rogers, MN 55374
 318150843 Q0151 00720
 14425 James Rd Rogers MN 55374

JUL 17 2020

NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES
MINNESOTA OSH DIVISION

PURPOSE OF THIS FORM

If you have received a Citation and Notification of Penalty from the Minnesota Occupational Safety and Health Division (MNOSHA) and you wish to contest any part of the Citation, including the penalty, you must complete this form. For your contest to be valid, you must file this form within 20 calendar days of the date the employer received the Citation.

If you only wish to obtain an extension of time to correct the violation, you may file a Petition for Modification of Abatement Date according to the instructions on the Citation and Notification of Penalty.

By filing this Notice of Contest form, you are initiating a formal contested case proceeding before an administrative law judge of the parts of the Citation and Notification of Penalty you are contesting. This form must be filed in good faith and not solely for delay or avoidance of penalties.

HOW TO FILE THIS FORM

- This Notice of Contest form must be filed with the Commissioner of the Department of Labor and Industry at the above address within 20 calendar days after the date the employer received the Citation and Notification of Penalty. To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be mailed and postmarked, within 20 calendar days after the date the employer received the Citation and Notification of Penalty. You may also file electronically at contestatn.dli@state.mn.us, by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day.
- If you fail to file the fully completed Notice of Contest form on time, the Citation and Notification of Penalty becomes a final order of the Commissioner that is not subject to review by any court or agency.

APPEAL PROCESS

Upon receipt of a timely filed Notice of Contest form, MNOSHA will contact you and schedule a date, time and location for an informal conference. The purpose of the informal conference is to allow you to discuss with a MNOSHA representative the Citation and Notification of Penalty and the basis for your contest. The goal of the informal conference is to reach an early resolution of the contest. If you and MNOSHA are unable to reach a resolution at the informal conference then the contest will proceed to a formal contested case hearing.

COMPLETING THIS FORM

1. HOW TO IDENTIFY THE INSPECTION BEING CONTESTED.

Complete the box at the top of this form using the Inspection Number, OSHI ID, Optional Report Number and Employer's Mailing Address from the Citation and Notification of Penalty being contested.

2. HOW TO CONTEST THE CITATION AND NOTIFICATION OF PENALTY.

Indicate in the boxes on the next page which part(s) of the Citation and Notification of Penalty you wish to contest. Identify the citations you are contesting by indicating the citation and item numbers. Then indicate which part(s) of each item is being contested. Finally, state your reasons for contesting in the space provided below the boxes.

- Check the box **CITATION** if you wish to contest that the violation occurred.
- Check the box **TYPE OF VIOLATION** if you wish to contest the characterization of the violation as non-serious, serious, willful or repeat.
- Check the box **ABATEMENT DATE** if you wish to contest the date by which you must abate the violation.
- Check the box **PENALTY** if you wish to contest the amount of the penalty.

EXHIBIT C

FAILURE TO CHECK ANY PART WILL RESULT IN THAT PART OF THE CITATION BECOMING A FINAL ORDER OF THE COMMISSIONER THAT IS NOT REVIEWABLE BY ANY COURT OR AGENCY.

CITATION NUMBER	ITEM NUMBER	(check all that apply)			
01 001	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
01 002	002	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
01 003	003	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02 002	002	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02 003	003	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02 001	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty

REASONS FOR CONTEST: (Additional sheets may be attached as necessary, and they will be considered part of this form.)

01 001 Bellpro has signed employee handbooks, weekly-monthly education opportunities for employees.

01 002 Photos of past meetings - notes - 2019 - to date

01-002 Testing Completed 1/26/2020

02-002 Records indicate 1/2019 training 7/18/20 New class

02-003 No staples steel welding projects in house.

3. DATES OF POSTING AND SERVING. You must certify in Box A or B below the dates you posted and served this form.

→ 02-001 - Past training completed Newtry 7/19/20

A. Union: Complete part A if you have affected Employees Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on _____ (date) at the locations where the Citation and Notification of Penalty is required to be posted; and I served fully completed copies of this form on _____ (date) upon the authorized employee representatives of affected employees.

B. Non-Union: Complete part B if you have affected Employees Not Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on 7/17/20 (date) at the locations where the Citation and Notification of Penalty is required to be posted and that I do not have any affected employees who are represented by authorized employee representatives.

4. OATH. The employer completing this form must sign and have notarized the following statement.

I SWEAR THAT THE INFORMATION PROVIDED ON THIS FORM AND ATTACHED TO THIS FORM IS ACCURATE AND TRUTHFUL TO THE BEST OF MY KNOWLEDGE.

State of Minnesota County of Wright

Daryl Gerner - CFO 651-295-2050
Name of Employer Representative, Title Phone

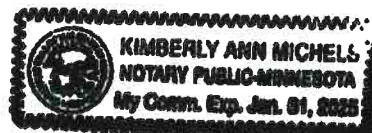
[Signature] 7/17/20
Signature Date

Subscribed and sworn to before me

this 17 day of July 2020

Notary Public [Signature]

My Commission expires 1/31/2025



07202020 001311 003

Jones, Tonya (DLI)

From: joanne fay <1811woodland@gmail.com>
Sent: Friday, July 17, 2020 2:19 PM
To: MN_DLI_Contestation
Cc: paula@bellproarch.com; jsloan@bellproarch.com
Subject: Inspection: 318150943 Report:Q0151
Attachments: Report 00720 BellPro Notes to Contest & Mandatory Progress Report 7-2020.pdf

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

Patty Rutz
Patty Rutz

Benjamin S. Lassell