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OCCUPATIONAL SAFETY
AND HEALTH REVIEW BOARD

January 6, 2025

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

**Re: Commissioner v. MN AIR DUCT CLEANING CORP
Inspection No. 318206729
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 Minnesota Department of Labor and Industry in the above-referenced matter. I write in response to the Petition to Vacate filed by Petitioner MN AIR DUCT CLEANING CORP ("Petitioner").

On November 19, 2024, MNOSHA served the Commissioner's Final Order Determining Late Filing in this matter ("Commissioner's Final Order").¹ On December 17, 2024, MNOSHA received the Petition to Vacate, which generally suggests (1) that Petitioner did not receive the Citation and Notification of Penalty ("Citation") or the Notification of Failure to Abate Alleged Violations ("FTA Notification") before October 16, 2024; and (2) that during an October 16, 2024 phone call, MNOSHA staff indicated that Petitioner still had time to file a notice of contest. MNOSHA takes no position as to whether Petitioner has established good cause to vacate the Commissioner's Final Order. MNOSHA nevertheless provides the following information for the Board's consideration.

MNOSHA initially sent the Citation and FTA Notification to Petitioner by certified mail on July 30, 2024. MNOSHA later re-issued the Citation and FTA Notification on August 22, 2024 for delivery to Petitioner via personal service. An Affidavit of Service indicates that the Citation and FTA Notification were served upon someone at Petitioner's listed address on September 24, 2024. *See* Ex. 1 at p. 16. The deadline for filing a notice of contest to the Citation and FTA Notification was 4:30 p.m. on October 14, 2024. *See* Minnesota Rules, part 5210.0536, subpart 2. Petitioner did not file its Notices of Contest until October 17, 2024.

MNOSHA acknowledges that during an October 16, 2024 phone call, MNOSHA staff indicated to Petitioner that it still had time to file a notice of contest to the Citation and FTA Notification. MNOSHA staff was mistaken, because the time to contest had already expired before the October 16, 2024 phone call.

¹ A copy of the Commissioner's Final Order is attached as Exhibit 1.

Equal Opportunity Employer

OSH Review Board
RE: MN AIR DUCT CLEANING CORP
Inspection No. 318206729

As stated above, MNOSHA takes no position on the Petition to Vacate in this matter. MNOSHA requests that the Board use its independent judgment to determine whether Petitioner has demonstrated good cause to vacate the Commissioner's Final Order, which is required by Minnesota Statutes, section 182.664, subdivision 5.

Petitioner is served with a copy of this letter as stated in the enclosed Certificate of Service.

Respectfully submitted,

/s/ ALI P. AFSHARJAVAN

ALI P. AFSHARJAVAN
Attorney Reg. No. 0397357
Office of General Counsel
Minnesota Department of Labor and Industry
(651) 284-5019 (main)
(651) 284-5725 (fax)

COUNSEL FOR RESPONDENT

Enclosures

cc: Vachagan Gasparyan
Jim Krueger, MNOSHA

November 19, 2024

Vachagan Gasparyn
MN AIR DUCT CLEANING CORP
19864 E. Long Pl
Centennial, CO 80016

VACHAGAN GASPARYN
MN AIR DUCT CLEANING CORP
5701 SHINGLE CREEK PKWY #340
BROOKLYN CENTER, MN 55430

Re: MN AIR DUCT CLEANING CORP
Inspection No. 318206729
FINAL ORDER DETERMINING LATE FILINGS

Dear Mr. Gasparyn:

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

While I cannot give you legal advice, I can tell you the following.

You have the right to file a Petition to Vacate this Final Order Determining Late Filings. The procedures for filing a Petition to Vacate are explained in Minnesota Statutes, section 182.664, subdivision 5, and Minnesota Rules, parts 5215.0700 and 5215.5350, which are available at www.revisor.mn.gov. As the statute and rules state, any Petition to Vacate must be filed within 30 days following service by mail of this Final Order Determining Late Filings. 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 by the Commissioner, mistake of law by the commissioner, or newly discovered evidence. At this time, the Board may only review the determination that the Notices of Contest were late.

The Petition to Vacate must be filed with the Board by mail or personal delivery to: Peggy Charpentier, 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.

Sincerely,

/s/ Ali Afsharjavan
ALI AFSHARJAVAN
General Counsel for the
Occupational Safety and Health Division
Minnesota Department of Labor and Industry
(651) 284-5019

APA/msg

Enclosures

STATE OF MINNESOTA

DEPARTMENT OF LABOR
AND INDUSTRY

Nicole Blissenbach, Commissioner,
Minnesota Department of Labor and Industry,

Complainant,

FINAL ORDER DETERMINING
LATE FILINGS

v.

MN AIR DUCT CLEANING CORP,

Inspection No. 318206729

Respondent.

To: MN AIR DUCT CLEANING CORP

On August 22, 2024, the Occupational Safety and Health Division, on behalf of Nicole Blissenbach, Commissioner, Minnesota Department of Labor and Industry ("MNOSHA"), issued a Citation and Notification of Penalty ("Citation") in this inspection. Exhibit A. MNOSHA also issued a Notification of Failure to Abate Alleged Violations ("FTA Notification") on August 22, 2024. Exhibit B. An Affidavit of Service indicates that MN AIR DUCT CLEANING CORP ("Respondent") received these documents on September 24, 2024. Exhibit C.

On October 17, 2024, MNOSHA received a copy of a Notice of Contest and Service to Affected Employees ("Notice of Contest") form¹ stating Respondent was contesting the Citation. Exhibit D. Also on October 17, 2024, MNOSHA received a copy of a Notice of Contest form² stating Respondent was contesting the FTA Notification. Exhibit E.

Minnesota Statutes, section 182.661, subdivisions 1, 2, and 3b, and Minnesota Rules, part 5210.0007, require that a notice of contest and certification of service be filed on a form provided by the commissioner and postmarked, faxed, emailed, or hand-delivered within twenty (20) calendar days from the date the citation or notification was received. This requirement is clearly stated on both the Citation and FTA Notification. Respondent did not properly file a completed Notice of Contest in response to the Citation or the FTA Notification within the 20-day time period, so the Notices of Contest submitted by Respondent were late. As a result, the Citation and FTA Notification are final.

Dated: November 19, 2024

/s/ Ali P. Afsharjavan
ALI P. AFSHARJAVAN
Attorney Reg. No. 0397357
Department of Labor and Industry
Office of General Counsel
443 Lafayette Road N.
St. Paul, Minnesota 55155

¹ The Notice of Contest was emailed to the Department on October 16, 2024, after 4:30 p.m.

² The Notice of Contest was emailed to the Department on October 16, 2024, after 4:30 p.m.

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:

MN Air Duct Cleaning Corp

19864 E Long Pl

Centennial, CO 80016

Inspection Number: 318206729

CSHO ID: C4102

Optional Report No.: 00724

Inspection Date(s): 5/30/2024 - 6/6/2024

Issuance Date: 8/22/2024

Inspection Site:

7260 Washington Ave S

Eden Prairie, MN 55344

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, \$15,625; Serious, \$15,625; Willful, \$156,259; Repeat, \$156,259; and Failure to Abate, \$15,625 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
6/6/2024
Occupational Safety and Health Division

Inspection Number: 318206729
Inspection Date(s): 5/30/2024 -
Issuance Date: 8/22/2024
OSHI ID: C4102
Optional Report No.: 00724

Citation and Notification of Penalty

Company Name: MN Air Duct Cleaning Corp
Inspection Site: 7260 Washington Ave S, Eden Prairie, MN 55344

Citation 01 Item 001

Type of Violation: **Serious**

Minn. Rules 5210.0532 Subp. 2: The employer did not certify to the commissioner that each cited violation not immediately corrected had been abated and such abatement certification was not submitted within 30 days after receipt of the citation or by the abatement due date, whichever was earlier:

The employer failed to submit a progress report for unabated citations.

Date By Which Violation Must Be Abated: 9/16/2024
Penalty: \$1,350.00

Nicole Blissenbach, Commissioner
MN Department of Labor and Industry

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

Notification of Failure to Abate Alleged Violations

To:
MN Air Duct Cleaning Corp
19864 E Long Pl
Centennial, CO 80016

Inspection Site:
7260 Washington Ave S
Eden Prairie, MN 55344

Original Inspection Number: 318196367
Original Insp. Date(s): 8/1/2023 - 11/7/2023
Re-Inspection Number: 318206729
Re-Inspection Date(s): 05/30/2024 - 06/06/2024
Issuance Date: 8/22/2024

The violation(s) described in this Notification of Failure to Abate is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

After the original inspection, a Citation and Notification of Penalty was issued to you in accordance with the provisions of the Minnesota Occupational Safety and Health Act of 1973 (the Act), notifying you of certain violations of the Act and the dates by which they were to be abated. A reinspection has resulted in this Notification of Failure to Abate, (this Notification) beginning on page 2, which describes alleged violations of the Minnesota Occupational Safety and Health Act of 1973. Additional penalties must be paid within 20 calendar days from the receipt of this Notification unless you file a Notice of Contest with the Commissioner of the Department of Labor and Industry.

The Act requires that a copy of this Notification be prominently posted with the original Citation and Notification of Penalty at or near each place a violation referred to in the original citation occurred. It must be posted immediately upon receipt and remain posted until all violations cited therein are corrected, or for 15 days, whichever period is longer.

You have the right to contest this Notification and the proposed additional penalty. If you wish to contest, you must complete and file the attached Notice of Contest and Service to Affected Employees form within 20 calendar days of receiving this Notification. If contested, this Notification must remain posted with the original citation until the contestation is resolved.

You are to use the attached Progress Report form to notify the office at the address above of the date and nature of the corrective action taken.

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Notification of Failure to Abate Alleged Violation

Original Inspection:	318196367	Inspection Number:	318206729
Original Inspection Date(s):	8/1/2023 - 11/7/2023	Inspection Date(s):	05/30/2024 - 06/06/2024
		Issuance Date:	8/22/2024
		OSHI ID:	C4102
		Optional Report No.:	00724

Company Name: MN Air Duct Cleaning Corp
Inspection Site: 7260 Washington Ave S, Eden Prairie, MN 55344

Citation 01 Item 002

29 CFR 1910.1200(g)(8): The employer did not maintain in the workplace copies of the required safety data sheets for each hazardous chemical, and did not ensure that they were readily accessible during each work shift to employees when they were in their work area(s):

The facility did not maintain or have available to employees the Safety Data Sheets (SDSs) for the hazardous chemicals in use including, Oxine Sanitizer, Power Coil Clean, and EnviroCON.

Abatement Guidelines: Safety Data Sheets (SDS) or comparable written materials which contain the information required under 1910.1200(g)(2) for hazardous chemicals must be readily available in the workplace.

Additional Penalty:

\$40,500.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Notification of Failure to Abate Alleged Violation

Original Inspection:	318196367	Inspection Number:	318206729
Original Inspection Date(s):	8/1/2023 - 11/7/2023	Inspection Date(s):	05/30/2024 - 06/06/2024
		Issuance Date:	8/22/2024
		OSHI ID:	C4102
		Optional Report No.:	00724

Company Name: MN Air Duct Cleaning Corp
Inspection Site: 7260 Washington Ave S, Eden Prairie, MN 55344

Citation 01 Item 003

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 did not train employees on workplace hazardous chemicals, including Power Coil Clean, Oxine Sanitizer, and EnviroCon.

Re-inspection Update: The employer had conducted a training to include how to mix BBJ Power Coil Clean and Oxine Sanitizer according to the label on the bottle. The employer had instructed employees to wear uniforms, gloves, and masks. The employer had employees keep their distance for 5 to 10 minutes while Oxine Sanitizer had settled.

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

Certification of Abatement: An employers 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.

Additional Penalty:

\$17,010.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Notification of Failure to Abate Alleged Violation

Original Inspection:	318196367	Inspection Number:	318206729
Original Inspection Date(s):	8/1/2023 - 11/7/2023	Inspection Date(s):	05/30/2024 - 06/06/2024
		Issuance Date:	8/22/2024
		OSHI ID:	C4102
		Optional Report No.:	00724

Company Name: MN Air Duct Cleaning Corp
Inspection Site: 7260 Washington Ave S, Eden Prairie, MN 55344

Citation 02 Item 001

29 CFR 1910.134(c)(2)(ii): The employer did not establish and implement those elements of a written respiratory protection program necessary to ensure that any employee using a respirator voluntarily was medically able to use that respirator and that the respirator was cleaned, stored, and maintained so that its use did not present a health hazard to the user:

The employer did not establish and maintain a written respiratory protection program for employees that voluntarily wear tight-fitting half facepiece respirators. The deficiencies included: not providing employees with the information contained in Appendix D of 29 CFR 1910.134, not ensuring employees were medically able to use the respirators, and not ensuring respirators are properly maintained.

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

Certification of Abatement: An employers 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:

1. Ensure that the respirator use would not in itself create a safety or health hazard.
2. Provide employees with the information in Appendix D "Information for Employees Using Respirators When Not Required Under the Standard".
3. Ensure that all employees using a respirator voluntarily are medically able to use the respirator. (Does not apply to filtering facepiece respirators.)
4. Ensure the respirator is cleaned, stored and maintained so that its use does not present a health hazard to the user.
5. Establish and implement a written respiratory protection program that addresses, at a minimum, medical determinations, and cleaning, storage and maintenance. Additional elements such as selection, cartridge change schedules, and training, may be necessary to ensure that the respirator use would not create a hazard. (Written program is not required for use of filtering facepiece respirators only.)

Additional Penalty:

\$13,500.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Notification of Failure to Abate Alleged Violation

Original Inspection:	318196367	Inspection Number:	318206729
Original Inspection Date(s):	8/1/2023 - 11/7/2023	Inspection Date(s):	05/30/2024 - 06/06/2024
		Issuance Date:	8/22/2024
		OSHI ID:	C4102
		Optional Report No.:	00724

Company Name: MN Air Duct Cleaning Corp
Inspection Site: 7260 Washington Ave S, Eden Prairie, MN 55344

Citation 02 Item 002

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 did not develop, implement, and maintain a written hazard communication program for employees routinely exposed to workplace hazardous chemicals, including Oxine Sanitizer, Power Coil Clean, and EnviroCON.

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.

Additional Penalty:

\$13,500.00

Nicole Blissenbach, Commissioner
MN Department of Labor and Industry

AFFIDAVIT OF SERVICE

State of Minnesota

County of _____

Case Number: _____

To:

**MN Air Duct Cleaning Corp
19864 E Long Pl
Centennial, CO 80016**

For:

Minnesota Department of Labor and Industry
443 Lafayette Rd N.
St. Paul, MN 55155

Received by Front Range Legal Process Service to be served on **MN Air Duct Cleaning Corp., 19864 E. Long Pl, Centennial, CO 80016.**

I, Tara Minto, being duly sworn, depose and say that on the **24th day of September, 2024 at 7:24 pm, I:**

affirm that I served the Notification of Failure to Abate Alleged Violations with Supporting Documents upon MN Air Duct Cleaning Corp. by leaving the papers with Vachagan Gasparyan(Owner) who is an agent authorized and/or designated to receive service for MN Air Duct Cleaning Corp. . Service was made at 19864 E. Long Pl, Centennial, CO 80016 .

Description of Person Served: Age: 45+, Sex: M, Race/Skin Color: Russian, Height: 6'0, Weight: 180, Hair: Dark/Greu, Glasses: N

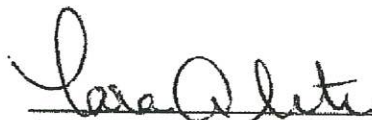
I certify that I am over the age of 18, have no interest in the above action. Service was made pursuant to the rules and regulations of the State of Colorado.

Subscribed and Sworn to before me on the 24th day of September, 2024 by the affiant who is personally known to me.

NOTARY PUBLIC

My commission expires _____

HEATHER HEATH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20184032275
MY COMMISSION EXPIRES SEPTEMBER 13, 2026



Tara Minto
Process Server

**Front Range Legal Process Service
145 W. Swallow Road
Fort Collins, CO 80525
(970) 267-9109**

Our Job Serial Number: FRS-2024008069
Service Fee: _____

**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 (1-800-342-5354)
(651) 284-5050
FAX: (651) 284-5741
www.dli.mn.gov

Inspection Number 318206729	OSHI ID C4102	Optional Report No.: 00724
Employer's Name and Mailing Address: MN Air Duct Cleaning Corp 19864 E Long Pl, Centennial, CO 80016		
OCT 17 2024		

**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 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 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.

Revised 11/14

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	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty

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

Contest all parts of all citations

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

<p>A. Union: Complete part A if you have affected Employees Represented by Authorized Employee Representatives</p> <p>I hereby certify that I posted fully completed copies of this form on _____ 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 _____ upon the authorized employee representatives of affected employees.</p>
<p>B. Non-Union: Complete part B if you have affected Employees Not Represented by Authorized Employee Representatives</p> <p>I hereby certify that I posted fully completed copies of this form on <u>10/17/2024</u> 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.</p>

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 Colorado County of Arapahoe

Nachason Gasparian CEO 417-930-6999
 Name of Employer Representative, Title Phone
[Signature] 10.16.24
 Signature Date

Subscribed and sworn to before me
 This 16th day of October
 Notary Public Ian Ragan
 My Commission expires 05/09/2027

IAN RAGAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20234017398
MY COMMISSION EXPIRES 05/09/2027

Jones, Tonya (DLI)

From: Vachagan Gasparyan <vach80@gmail.com>
Sent: Wednesday, October 16, 2024 5:44 PM
To: MN_DLI_Contestation
Subject: Inspection#: 318206729
Attachments: IMG_0001.pdf

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**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 (1-800-342-5354)
(651) 284-5050
FAX: (651) 284-5741
www.dli.mn.gov

OCT 17 2024

Re-inspection Number 318206729	Inspection Number 318196367
OSHI ID C4102	Optional Report No.: 00724
Employer's Name and Mailing Address: MN Air Duct Cleaning Corp 19864 E long Pl, Centennial CO 80016	

MINNESOTA OSH DIVISION

NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES

PURPOSE OF THIS FORM

If you have received a Notification of Failure to Abate from the Minnesota Occupational Safety and Health Division (MNOSHA) and you wish to contest the Notification or additional 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 Notification.**

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 Notification of Failure to Abate 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 Notification of Failure to Abate.
- 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 Notification of Failure to Abate. 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 you fail to file the fully completed Notice of Contest form on time, the Notification of Failure to Abate 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 Notification of Failure to Abate 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 page 1 of this form using the Re-Inspection Number, the Original Inspection Number, OSHI ID, Optional Report Number and Employer's Mailing Address from the Notification of Failure to Abate being contested.

2. HOW TO CONTEST THE NOTIFICATION OF FAILURE TO ABATE.

Indicate in the boxes on the next page which parts of the Notification of Failure to Abate 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 are being contested. Finally, state the reasons for contesting in the space provided below the boxes.

- Check the box NOTIFICATION OF FAILURE TO ABATE if you wish to contest that you failed to abate the original citation.
- Check the box ADDITIONAL PENALTY if you wish to contest the amount of the additional penalty for failure to abate.

Revised 11/14

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	002	<input checked="" type="checkbox"/> Notification of Failure to Abate	<input checked="" type="checkbox"/> Additional Penalty
01	003	<input checked="" type="checkbox"/> Notification of Failure to Abate	<input checked="" type="checkbox"/> Additional Penalty
02	001	<input checked="" type="checkbox"/> Notification of Failure to Abate	<input checked="" type="checkbox"/> Additional Penalty
02	002	<input checked="" type="checkbox"/> Notification of Failure to Abate	<input checked="" type="checkbox"/> Additional Penalty
		<input type="checkbox"/> Notification of Failure to Abate	<input type="checkbox"/> Additional Penalty
		<input type="checkbox"/> Notification of Failure to Abate	<input type="checkbox"/> Additional Penalty

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

Contest all parts of all citations

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

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

I hereby certify that I posted fully completed copies of this form on _____ at the locations where the Notification of Failure to Abate and a copy of the original Citation and Notification of Penalty is required to be posted; and I served fully completed copies of this form and any additional documents on _____ upon the authorized employee representatives of affected employees.

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

I hereby certify that I posted fully completed copies of this form on 10/17/2024 at the locations where the Notification of Failure to Abate and a copy of the original 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.

Vachagan Gasparjan CEO 917-920-6478
Name of Employer Representative, Title Phone
[Signature] 10.16.24
Signature Date

State of Colorado County of Arapahoe
Subscribed and sworn to before me
this 16th day of October
Notary Public [Signature]
My Commission expires 05/09/2027

IAN RAGAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20234017398
MY COMMISSION EXPIRES 05/09/2027

Jones, Tonya (DLI)

From: Vachagan Gasparyan <vach80@gmail.com>
Sent: Wednesday, October 16, 2024 5:47 PM
To: MN_DLI_Contestation
Subject: Inspection#: 318196367
Attachments: IMG_0002.pdf

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Certificate of Service

I, MICHAEL GRAY, hereby declare that in the City of St. Paul, County of Ramsey and State of Minnesota on the 19th day of November 2024, I served the attached FINAL ORDER DETERMINING LATE FILINGS by depositing in the United States mail with postage prepaid, a true and accurate copy of it, properly enveloped, and addressed to:

Vachagan Gasparyn
MN AIR DUCT CLEANING CORP
19864 E. Long Pl
Centennial, CO 80016

VACHAGAN GASPARYN
MN AIR DUCT CLEANING CORP
5701 SHINGLE CREEK PKWY #340
BROOKLYN CENTER, MN 55430

I am signing this document in Ramsey County, Minnesota on the 19th day of November 2024. Pursuant to Minn. Stat. § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Michael Gray
Michael S. Gray

Certificate of Service


1. I, JULIE KLEJEWSKI, hereby declare that in the City of St. Paul, County of Ramsey and State of Minnesota on the sixth day of January, 2025, I served the attached RESPONSE TO PETITION TO VACATE in the United States mail with postage prepaid, a true and accurate copy of it, properly enveloped, and addressed to:

Vachagan Gasparyn
MN AIR DUCT CLEANING CORP
19864 E. Long Pl
Centennial, CO 80016

VACHAGAN GASPARYN
MN AIR DUCT CLEANING CORP
5701 SHINGLE CREEK PKWY #340
BROOKLYN CENTER, MN 55430

2. I, JULIE KLEJEWSKI, hereby declare that at the City of St. Paul, Ramsey County, and State of Minnesota, on the sixth day of January, 2025, I served the attached RESPONSE TO PETITION TO VACATE upon Peggy Charpentier, Executive Secretary to the OSH Review Board, by personally handing and leaving with her a true and correct copy thereof.

I am signing this document in Ramsey County, Minnesota on the sixth day of January, 2025. Pursuant to Minn. Stat. § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.


Julie Klejewski