

RECEIVED

DEC 17 2024

OCCUPATIONAL SAFETY
AND HEALTH REVIEW BOARD

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

Petition to Vacate Final Order
Inspection Number: 318206729

Dear Ms. Charpentier,

I am submitting this Petition to Vacate the final order issued by the Minnesota Department of Labor and Industry regarding an OSHA fine. I respectfully request reconsideration of the matter, as there were significant issues with the delivery of the initial package and subsequent misunderstandings that impeded my ability to contest the citation in a timely manner.

Here are the facts of the situation:

1. In August, I spoke with Autumn Gomez, the OSHA agent/inspector, who informed me that I would receive a package containing instructions on how to contest the fine. However, I did not receive this package.
2. After not receiving the package as expected, I contacted Ms. Gomez at the beginning of September. I was told that it had already been sent, but I still did not receive it.
3. On October 16th, after weeks of waiting, I followed up once again with Ms. Gomez. She put me on hold and, after consulting with her supervisor, informed me that the package had supposedly been delivered to my residence in September. I was also told that I had only one day remaining to file the contest forms, as the deadline was October 17th at 4:00 PM.
4. During this phone call, I clarified that I had never received the package. After consulting her supervisor again, Ms. Gomez confirmed the October 17th deadline and emailed me the necessary contest forms. I immediately completed, notarized, and submitted the forms on October 16th, as instructed. Ms. Gomez confirmed receipt of the emailed documents.
5. On November 19th, I received a notice from the Department of Labor and Industry stating that the fines were deemed final because I allegedly failed to file within the required timeframe.
6. Upon further inquiry, I was told that the original package had supposedly been delivered to my home on September 24th and handed to an individual described as "some Russian person." However, I was out of state (in New York and Connecticut) for the entire week of September 24th. Additionally, I am Armenian and do not match the description provided. I suspect the package may have been delivered to my house sitter or dog sitter, who failed to notify me.

It is important to emphasize that I acted diligently throughout this process. I proactively followed up multiple times with Ms. Gomez to inquire about the missing package and ultimately submitted the contest forms within the timeframe I was told (by both Ms. Gomez and her supervisor). Had I been properly informed earlier, I would have filed much sooner.

Given these circumstances, I respectfully request that the final order be vacated and that I be granted the opportunity to contest the citation properly. I have demonstrated good faith by repeatedly reaching out to OSHA to resolve this matter and by submitting the required documents as soon as I received them.

Thank you for your time and consideration. I trust that the board will find it fair and reasonable to vacate the final order under these exceptional circumstances. Please let me know if you require any additional documentation or information.

Sincerely,

Vach

720-809-6290

Vach80@gmail.com

President

MN Air Duct Cleaning Corp

RECEIVED

DEC 17 2024

**Minnesota
Department of Labor and Industry**

OCCUPATIONAL SAFETY
AND HEALTH REVIEW BOARD

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

EXHIBIT E

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

EXHIBIT D

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.

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 _____ 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.

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 10/17/2024 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 Colorado County of Arapahoe

Vachagan Gasparyan CEO 917-930-6555
Name of Employer Representative, Title Phone

[Signature]
Signature

10.16.24
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

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 Gasparian CEO 917-970-6478
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