



Citation and Notification of Penalty

To:
Winlup Painting, Inc.
and its successors
5560 Centinela Ave., Ste.C
Los Angeles, CA 90045

Inspection Number: 317542306
Inspection Date(s): 07/15/2014 01/08/2015
Issuance Date: 01/14/2015
CSHO ID: P5944
Optional Report #: 001-15
Reporting ID: 0950641

Inspection Site:
6145 W. 86th Pl.
Los Angeles, CA 90045

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 (hereinafter Citation) is being issued in accordance with California Labor Code Section 6317 for violations that were found during the inspection/investigation. **This Citation or a copy must be prominently posted upon receipt by the employer at or near the location of each violation until the violative condition is corrected or for three working days, whichever is longer.** Violations of Title 8 of the California Code of Regulations or of the California Labor Code may result in some instances in prosecution for a misdemeanor.

YOU HAVE A RIGHT to contest this Citation and Notification of Penalty by filing an appeal with the Occupational Safety and Health Appeals Board. To initiate your appeal, you **must** contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of this Citation. If you miss the 15 working day deadline to appeal, the Citation and Notification of Penalty becomes a final order of the Appeals Board, not subject to review by any court or agency.

Informal Conference - You may request an informal conference with the Manager of the District Office which issued the Citation within 10 working days after receipt of the Citation. However, if the citation is appealed, you may request an informal conference at any time prior to the day of the hearing. Employers are encouraged to schedule a conference at the earliest possible time to assure an expeditious resolution of any issues. At the informal conference, you may discuss the existence of the alleged violation, classification of the violation, abatement date or proposed penalty.

Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an agreement which resolves this matter without litigation or contest.

APPEAL RIGHTS

The Occupational Safety and Health Appeals Board (Appeals Board) consists of three members appointed by the Governor. The Appeals Board is a separate entity from the Division of Occupational Safety and Health (Division) and employs experienced attorneys as administrative law judges to hear appeals fairly and impartially. To initiate an appeal from a Citation and Notification of Penalty, you must contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of a Citation. After you have initiated your appeal, you must then file a completed appeal form with the Appeals Board, at the address listed below, for each contested citation. Failure to file a completed appeal form with the Appeals Board may result in dismissal of the appeal. Appeal forms are available from district offices of the Division, or from the Appeals Board:

Occupational Safety and Health Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
Telephone: (916) 274-5751 or (877) 252-1987
Fax: (916) 274-5785

If the Citation you are appealing alleges more than one item, you must specify on the appeal form which items you are appealing. You must also attach to the appeal form a legible copy of the Citation you are appealing.

Among the specific grounds for an appeal are the following: the safety order was not violated, the classification of the alleged violation (e.g., serious, repeat, willful) is incorrect, the abatement requirements are unreasonable or the proposed penalty is unreasonable.

Important: You must notify the Appeals Board, not the Division, of your intent to appeal within 15 working days from the date of receipt of the Citation. Otherwise, the Citation and Notification of Penalty becomes a final order of the Appeals Board not subject to review by any court or agency. An informal conference with the Division does not constitute an appeal and does not stay the 15 working day appeal period. If you have any questions concerning your appeal rights, call the Appeals Board, (916) 274-5751 or (877) 252-1987.

PENALTY PAYMENT OPTIONS

Penalties are due within 15 working days of receipt of this Citation and Notification of Penalty unless contested. If you are appealing any item of the citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form for payment.

If you are paying electronically, please have the Penalty Remittance Form on-hand when you are ready to make your payment. The company name, index code, reporting ID, and Citation number(s) will be required in order to ensure that the payment is accurately posted to your account. Please go to www.dir.ca.gov/dosh to access the secure payment processing site.

If you are paying by check, return one copy of the Citation, along with the Notice of Proposed Penalties Sheet and the Penalty Remittance Form and mail to:

Department of Industrial Relations
Cashier, Accounting Office
P. O. Box 420603
San Francisco, CA 94142-0603

CAL/OSHA does not agree to any restrictions, conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

NOTIFICATION OF CORRECTIVE ACTION

For violations which you do not contest, you should notify the Division of Occupational Safety and Health promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation and Notification of Penalty. Please inform the District Office listed on the Citation by submitting the CAL/OSHA Form 160 and/or 161 with the abatement steps you have taken and the date the violation was abated, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. The adjusted penalty for serious and general violations **has already been** reduced by 50% on the presumption that the employer will correct the violations by the abatement date." **If the CAL/OSHA Form 161 is not received in the District Office within 10 days following the abatement date, the abatement credit is revoked, causing the penalty to double.**

Note: Return the CAL/OSHA Form 160/161 to the District Office listed on the Citation and as shown below:

Division of Occupational Safety and Health
320 West 4th Street, Suite 850
Los Angeles, CA 90013
Telephone: (213) 576-7451

EMPLOYEE RIGHTS

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under Labor Code Section 6310 or 6311. An employee who believes that he/she has been discriminated against may file a complaint no later than six (6) months after the discrimination occurred with the Division of Labor Standards Enforcement.

Employee Appeals - An employee or authorized employee's representative may, within 15 working days of the issuance of a citation, special order, or order to take special action, appeal to the Occupational Safety and Health Appeals Board the reasonableness of the period of time fixed by the Division of Occupational Safety and Health (Division) for abatement. An employee appeal may be filed with the Appeals Board or with the Division. No particular format is necessary to initiate the appeal, but the notice of appeal must be in writing.

If an Employee Appeal is filed with the Division, the Division shall note on the face of the document the date of receipt, include any envelope or other proof of the date of mailing, and promptly transmit the document to the Appeals Board. The Division shall, no later than 10 working days from receipt of the Employee Appeal, file with the Appeals Board and serve on each party a clear and concise statement of the reasons why the abatement period prescribed by it is reasonable.

Employee Appeal Forms are available from the Appeals Board, or from a District Office of the Division.

Employees Participation in Informal Conference. Affected employees or their representatives may notify the District Manager that they wish to attend the informal conference. If the employer objects, a separate informal conference will be held.

DISABILITY ACCOMMODATION

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district office or the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The Statewide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing or conference.

State of California

Division of Occupational Safety and Health
Los Angeles District Office (0950641; 4041)
320 West 4th Street, Suite 670
Los Angeles, CA 90013

Inspection Number: 317542306
Inspection Dates: 07/15/2014-01/08/2015
Issuance Date: 01/14/2015
CSHO ID: P5944
Optional Inspection Nbr: 001-15



Citation and Notification of Penalty

Company Name: Winlup Painting, Inc.
Inspection Site: 6145 W. 86th Pl., Los Angeles, CA 90045

Citation 1 Item 1 Type of Violation: **General**

T8CCR1509(e). Injury and Illness Prevention Program.

(e) Supervisory employees shall conduct "toolbox" or "tailgate" safety meetings, or equivalent, with their crews at least every 10 working days to emphasize safety.

Violation:

On and before July 15, 2014, the supervisory employee did not conduct tool box nor tailgate safety meetings to emphasize safety to its employees as required by this subsection.

Date By Which Violation Must be Abated:	02/02/2015
Proposed Penalty:	\$ 260.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California

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Citation and Notification of Penalty

Company Name: Winlup Painting, Inc.
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Citation 2 Item 1 Type of Violation: **Serious Accident Related**

T8CCR1509(a) Reference 3203(a). Injury and Illness Prevention Program.

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(1) Identify the person or persons with authority and responsibility for implementing the Program.

(2) Include a system for ensuring that employees comply with safe and healthy work practices.

Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthful work practices.

(3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.

Substantial compliance with this provision includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.

EXCEPTION: Employers having fewer than 10 employees shall be permitted to communicate to and instruct employees orally in general safe work practices with specific instructions with respect to hazards unique to the employees' job assignments as compliance with subsection (a)(3).

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards.

(A) When the Program is first established;

EXCEPTION: Those employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with previously existing section 3203.

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.

(5) Include a procedure to investigate occupational injury or occupational illness.

(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and,

(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to

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State of California

Division of Occupational Safety and Health
Los Angeles District Office (0950641; 4041)
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Inspection Dates: 07/15/2014 - 01/08/2015
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Company Name: Winlup Painting, Inc.
Inspection Site: 6145 W. 86th Pl., Los Angeles, CA 90045

correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

(7) Provide training and instruction:

(A) When the program is first established;

EXCEPTION: Employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with the previously existing Accident Prevention Program in Section 3203.

(B) To all new employees;

(C) To all employees given new job assignments for which training has not previously been received;

(D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;

(E) Whenever the employer is made aware of a new or previously unrecognized hazard; and, (F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

Violation:

Prior to and during the course of the investigation, the employer did not effectively implement and maintain the following elements of its written Injury and Illness Prevention Program as required.

Instance #1

Prior to and during the course of the investigation, including but not limited to, on July 15, 2014, the employer did not effectively evaluate and implement any corrective actions to safeguard its affected employees from the electrical hazards involved with operating an aerial device in close proximity to energized overhead power lines such as, but not limited to: identification of actual line voltages, determining location of energized lines relative to the work area(s), determining appropriate minimum line clearances, and determining a safe route to operate the boom which would maintain the required line clearance before allowing its employees to operate the aerial boom lift in close proximity to high voltage lines.

Instance #2

Prior to and during the course of the investigation, including but not limited to, on July 15, 2014, the employer did not ensure that its employees were properly trained in the safe operation of the boom lift by a qualified person prior to allowing them to operate the aerial boom lift.

Instance #3

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California

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Prior to and during the course of the investigation, including but not limited to, on July 15, 2014, the employees entered and exited the boom lift while elevated. The employer did not ensure that its employees complied with the manufacturer's operating instructions as listed under Fall Hazards section of the manual.

Date By Which Violation Must be Abated: 02/02/2015
Proposed Penalty: \$ 13500.00

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State of California

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Los Angeles District Office (0950641; 4041)
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Citation and Notification of Penalty

Company Name: Winlup Painting, Inc.
Inspection Site: 6145 W. 86th Pl., Los Angeles, CA 90045

Citation 3 Item 1 Type of Violation: **Serious** Accident Related

T8CCR2946(b)(3). Operating Instructions (Aerial Devices)

Clearances or Safeguards Required. Except where overhead electrical distribution and transmission lines have been de-energized and visibly grounded, the following provisions shall be met:

(3) Boom-type lifting or hoisting equipment. The erection, operation or dismantling of any boom-type lifting or hoisting equipment, or any part thereof, closer than the minimum clearances from energized overhead high-voltage lines set forth in Table 2 shall be prohibited.

TABLE 2

Boom-type lifting or hoisting equipment clearances required from energized overhead high-voltage lines.

Nominal voltage (Phase to Phase)	Minimum Required Clearance (Feet)
600..... 50,000	10
over 50,000..... 75,000	11
over 75,000..... 125,000	13
over 125,000.... 175,000	15
over 175,000.... 250,000	17
over 250,000.... 370,000	21
over 370,000.... 550,000	27
over 550,000.... 1,000,000	42

Violation:

Prior to, and during the course of the investigation, employee(s) operated the rental aerial boom lift closer than the minimum required clearance from the energized 66 kV transmission lines. As a result, on or about July 15, 2015, an employee was electrocuted while he operated the aerial boom lift within the prohibited clearance as set forth in Table 2.

Date By Which Violation Must be Abated: 02/02/2015
Proposed Penalty: \$ 13500.00

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Citation 4 Item 1 Type of Violation: **Serious**

T8CCR 3648(o). Operating Instructions (Aerial Devices).

(o) An employee, while in an elevated aerial device, shall be secured to the boom, basket or tub of the aerial device through the use of a safety belt, body belt or body harness equipped with safety strap or lanyard.

Violation:

Prior to and during the course of the investigation, including but not limited to, on or about July 15, 2014, an employee operated a rental aerial boom lift to access an elevated work location (fourth level balcony) without securing himself to the boom, basket, or tub of the aerial device with the appropriate fall protection equipment as required.

Date By Which Violation Must be Abated: 02/02/2015
Proposed Penalty: \$ 3150.00



Compliance Officer/District Manager

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California
Division of Occupational Safety and Health
320 West 4th St., Suite 670
Los Angeles, CA 90013
Phone: (213) 576-7451 Fax: (213) 576-7461

NOTICE OF PROPOSED PENALTIES

Company Name: Winlup Painting, Inc.
Inspection Site: 6145 W. 86th Pl., Los Angeles, CA 90045
Mailing Address: 5560 Centinela Ave., Ste.C, Los Angeles, CA 90045
Issuance Date: 01/14/2015
Reporting ID: 0950641
Index Code: 4041

Summary of Penalties for Inspection Number 317542306

Citation 1, General	= \$	260.00
Citation 2, Serious	= \$	13500.00
Citation 3, Serious	= \$	13500.00
Citation 4, Serious	= \$	3150.00
TOTAL PROPOSED PENALTIES	= \$	30410.00

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If you are paying electronically: Please have this form on-hand when you are ready to make your payment. The company name, index code, reporting ID, and Citation number(s) will be required to ensure that the payment is accurately posted to your account. Please go to www.dir.ca.gov/dosh to access the secure payment processing site.

If you are paying by check: Mail this Notice of Proposed Penalties, the Penalty Remittance Form, along with a copy of the Citation and Notification of Penalty to:

**DEPARTMENT OF INDUSTRIAL RELATIONS
CASHIER, ACCOUNTING OFFICE
P. O. BOX 420603
SAN FRANCISCO, CA 94142-0603**

CAL/OSHA does not agree to any restrictions, conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions or endorsements do not exist.