

**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

**ONESTOP INTERNET INC.
2332 EAST PACIFICA PLACE
Rancho Dominguez, CA 90220**

**DOCKETS 11-R4D2-2636
and 2637**

**DECISION AFTER
REMAND**

STATEMENT OF THE CASE

Beginning on March 24, 2011, the Division of Occupational Safety and Health (the Division) conducted an accident inspection at a place of employment in Rancho Dominguez, California maintained by Onestop Internet, Inc. (Employer). On September 22, 2011, the Division issued two citations to Employer alleging a violation of workplace safety and health standards codified in California Code of Regulations, Title 8, and proposing civil penalties.¹

Citation 1 alleged a violation of section 2320.3 (failure to treat electrical component as energized until proven de-energized). Citation 2 alleged a violation of section 2320.4, subdivision (a) (failure to notify personnel of electrical work and ensure authorized persons performed the disconnection).

Employer filed timely appeals of the citations, contesting the existence of a violation of the safety order, abatement requirements, classification, and the reasonableness of the penalty for Citations 1 and 2. Employer pleaded affirmative defenses as indicated in Employer's Appeal filed with the Occupational Safety and Health Appeals Board (Exhibit 1).

Administrative proceedings were held, including a contested evidentiary hearing before Clara Hill-Williams, Administrative Law Judge (ALJ) assigned by the Board at West Covina, California on October 15, 2013, March 13, 2014 and on July 15, 2014. Employer was represented by Corporate Counsel Jared Gordon. Staff Counsel Kathryn Woods represented the Division. The parties presented oral and documentary evidence. After taking testimony and considering the evidence and arguments of counsel, the ALJ issued a Decision on May 31, 2013, which granted Employer's appeal of both citations.

¹ Unless otherwise specified, all section references are to Sections of California Code of Regulations, title 8.

On May 31, 2013, the Appeals Board ordered reconsideration on its own motion. The Division filed an answer to the Order of Reconsideration. The Board considered whether the ALJ properly applied Labor Code section 2750.5, which establishes the presumption that an unlicensed person performing work for which a contractor's license is required is an employee. (*Richard Lompa*, Cal/OSHA App. 12-1796, Denial of Petition for Reconsideration (Sep. 12, 2013).) The Board found that Carlos Avila (Avila) who was hired by Michael Gora (Gora, also known as "Cheetah"), was a previously licensed contractor contracted to work at Employer's place of business. On March 24, 2011, the date of the fatal accident, Avila's license was expired. The Board found that Avila is properly classified as an employee under section 2750.5 and remanded the matter to "hearing operations to consider Employer's appeal of Citation 1 and Citation 2"

ISSUES

1. Did Employer fail to treat all electrical equipment and systems as energized until tested or otherwise proven to be de-energized as required by section 2320.3?
2. Did the Division correctly classify the violation of section 2320.3 as a serious violation?
3. Did the Division establish a nexus between the violation of section 2320.3 in failing to treat all electrical equipment and systems as energized until tested or otherwise proven to be de-energized and Jose Cruz's (Cruz) fatal injury?
4. Was the proposed penalty for the serious accident related violation reasonable?
5. Did Employer fail to have an authorized person responsible for working on de-energized electrical equipment, notify all involved personnel, lock and tagout the disconnecting means and block the operation of energy devices to prevent a hazard?
6. Did the Division correctly classify the violation of section 2320.4, subdivision (a) as a serious violation?
7. Was the proposed penalty for the serious violation of section 2320.4, subdivision (a) reasonable?

FINDINGS OF FACT

1. On March 24, 2011, Carlos Avila (Avila) and Avila's assistant, Jose Cruz (Cruz), were attempting to relocate a transformer² from one room to

² Fernandez testified that a transformer is an electrical system that adjusts the voltage by stepping it down.

another room when Cruz grabbed an energized wire and was fatally electrocuted.

2. Avila did not test the wires before Cruz grabbed the wires.
3. Avila did not treat the transformer and the electrical system (conduits and wires) as energized until tested.
4. Avila's failure to treat the equipment and electrical system as energized resulted in Cruz's fatal accident.
5. Cruz suffered death resulting from the Employer's violation of the safety order of not treating the transformer and the electrical system as energized.
6. The penalty is reasonable because Employer's violation of the safety order resulted in Cruz's death.
7. Avila was not an "authorized person" working on the electrical system because his required contractor's license expired on December 27, 2010, before the March 24, 2011 fatal accident.
8. Avila did not notify all personnel of the electrical work that was to be performed on March 24, 2011.
9. Avila moved the transformer without disconnecting the transformer by lockout/tagout procedures³.
10. When the March 24, 2011 fatal accident occurred, Cruz was working on connecting the wires inside the conduit that had not been attached to the transformer.⁴
11. Avila did not tagout the breaker with a sign sufficient to warn someone of turning the breaker on. Avila's sign "Transformer's New Service Room" was not a warning to prevent someone from turning the breaker to the "on" position.

ANALYSIS

1. Did Employer fail to treat all electrical equipment and systems as energized until tested or otherwise proven to be de-energized as required by section 2320.3?

Section 2320.3 Tests provides:

All electrical equipment and systems shall be treated as energized as required by section 2320.2 until tested or otherwise proven to be de-energized.

The Division alleged:

At the time of the accident on March 24, 2011, at 2332 East Pacifica Place in Rancho Dominguez, Calif., the

³ Liarakos testified that lockout/tagout is performed by going to the main power source that feeds the transformer, which is usually a main switch gear that has a breaker or a pull out fuse. If the breaker cannot be locked out, the power is turned off to the service. The breaker is tagged out by putting red electrical tape on the breaker and writing "DO NOT TOUCH".

⁴ Liarakos attributed the source of the electrocution to a feeder wire, which had bare wire extending out from the conduits.

employer, Carlos Avila, did not treat the electrical system as energized until proven to be de-energized as required by this subsection.

The Division has the burden of proving a violation, including the applicability of the safety order, by a preponderance of the evidence. (*Howard J. White, Inc.*, Cal/OSHA App. 78-741, Decision After Reconsideration (June 16, 1983).) "Preponderance of the evidence" is usually defined in terms of probability of truth, or of evidence that when weighted with that opposed to it, has more convincing force and greater probability of truth with consideration of both direct and circumstantial evidence and all reasonable inferences to be drawn from both kinds of evidence. (*Lone Pine Nurseries*, Cal/OSHA App. 00-2817, Decision After Reconsideration (Oct. 30, 2001), citing *Leslie G. v. Perry & Associates* (1996) 43 Cal App. 4th 472, 483, review denied.)

To establish a violation of section 2320.3, pertaining to conducting tests of electrical equipment and systems, the Division must establish that Employer failed to (1) treat all electrical equipment and systems as energized (2) until tested or (3) otherwise proven to be de-energized.

In considering the first requirement of treating all electrical equipment and systems as energized, Associate Safety Engineer Maurice Fernandez (Fernandez) testified that Employer failed to treat all electrical equipment and systems as energized based upon his interview with George Liarakos (Liarakos), who also testified at the hearing. Liarakos testified that he was called by Employer to meet with Fernandez after the fatal accident occurred on March 24, 2011. Liarakos, who is licensed to perform electrical work in California, stated that he was informed that Avila and Avila's assistant, Cruz, were attempting to relocate a transformer⁵ from one room to another room when Cruz grabbed a live wire coming out of a feeder and was electrocuted.⁶

Under the second requirement, "until tested" Liarakos testified that the safety order requires that the transformer is tested to ensure there is not any electricity flowing through the transformer. Here, Avila testified that he assumed the breaker, a device that feeds the transformer with electricity had been turned off because he checked the breaker the morning before the accident occurred, which would satisfy the testing requirement. Avila acknowledged that he did not test the wires before Cruz grabbed the wires.

In addressing the third element, "otherwise proven to be de-energized", the Division established that Avila failed to follow through to make certain that the

⁵ Fernandez testified that a transformer is an electrical system that adjusts the voltage by stepping it down.

⁶ Liarakos determined that Avila failed to lockout the main switch or gear on the transformer. Liarakos' inspection revealed that Avila removed the conduit leaving approximately 2-3 feet of exposed wire leading from the disconnected conduit. When the accident occurred, Cruz was working on connecting the wires inside the conduit that had not been attached to the transformer. Liarakos concluded the source of the electrocution was the feeder wire, which had bare wire extending out from the conduits.

electrical equipment and systems were de-energized. Avila believed someone had turned the breaker on despite his putting a name tag with a black ink marker to prevent someone from turning on the breaker. Furthermore, Fernandez testified that during his investigation, Avila also acknowledged that Cruz was not wearing insulated rubber gloves to protect him from accidentally making contact if the electrical wires were energized.

Thus, the Division established that Employer failed to treat the transformer and the electrical system (conduits and wires) as energized until tested. Avila assumed the electrical equipment and systems were de-energized based upon checking the breaker the morning prior to the accident and placing a name tag on the breaker. However, Avila did not take further steps to determine that the electrical equipment and systems were de-energized, in violation of the safety order.

2. Did the Division correctly classify the violation of section 2320.3 as a serious violation?

Labor Code section 6432, subdivision (a) states:

- (a) There shall be a rebuttable presumption that a serious violation exists in a place of employment if the division demonstrates that there is a realistic possibility that death or serious physical harm could result from the actual hazard created by the violation. The demonstration of a violation by the division is not sufficient by itself to establish that the violation is serious. The actual hazard may consist of, among other things:
 - (2) The existence in the place of employment of one or more unsafe or unhealthful practices, means, methods, operations, or processes that have been adopted or are in use.

Here, the “practice” or “method of operation . . . adopted or in use” in determining whether the Division presented sufficient evidence to prove the “serious” classification of the violation is expressed in Labor Code section 6432, subdivision (a) which states:

The elements of a serious violation are: (1) a violation exists in a place of employment; (2) a demonstration of realistic possibility of death or serious physical harm; (3) employee exposure to actual hazard; and (4) if elements 1, 2, and 3 are established; there exists a rebuttable presumption that the violation is serious.

The first element, of a serious violation is determined by whether “a violation exists in a place of employment”. Here, this element is established by showing Avila failed to adequately test and ensure that the transformer and

electrical system were de-energized before moving the transformer at the work place.

The second element, a demonstration of “realistic possibility” of death or serious injury is not defined in the Labor Code or safety orders, but has previously been addressed by the Appeals Board. In *Janco Corporation*, Cal/OSHA App. 99-565, Decision After Reconsideration (Sep. 27, 2001), the Appeals Board determined that it was unnecessary for the Division to prove actual splashing of caustic chemicals but only a realistic possibility that splashing of chemicals occurred. The Appeals Board explained: “[c]onjecture as to what would happen if an accident occurred is sufficient to sustain (a violation)... if such a prediction is clearly within the bounds of human reason, not pure speculation.” Fernandez testified that there is a realistic possibility from contact with an energized wire of death or serious electrical burn.

The third element of a serious violation is whether there is exposure to an actual hazard. Here, the actual hazard was the employees’ exposure to an energized system. Fernandez testified that the hazard posed in not treating the electrical equipment (transformer) and systems as energized was the risk of making contact with a live wire, which exposed employees to hazards section 2320.3 was designed to address. Thus, Employer’s actions created a hazard of serious physical harm.

The first element of a violation existing in a place of employment is established by work performed on exposed or energized parts or equipment. The second element is established because Fernandez demonstrated that a realistic possibility of death or serious physical harm if the employees made contact with an energized wire. In this instance, death actually occurred as a result of Cruz making contact with the energized wire. The third element showing employees were exposed to an actual hazard is based upon the energized wire that could have been avoided if Avila treated the equipment and electrical system as energized. Because the first, second and third elements are established, there is a rebuttable presumption that the violation is serious. Here, Employer did not present any evidence to rebut the presumption that failing to treat the equipment and electrical system as energized was a serious violation.

3. Did the Division establish a nexus between the violation of the safety order in Employer failing to treat all electrical equipment and systems as energized until proven de-energized and Jose Cruz’s (Cruz) fatal injury?

"To establish the characterization of the violation as accident-related, the Division must show by a preponderance of the evidence a causal nexus between the violation and the serious injury." (*Pierce Enterprises*, Cal/OSHA App. 00-1951, Decision After Reconsideration (Mar. 20, 2002) citing to *Obayashi Corporation*, Cal/OSHA App. 98-3674, Decision After Reconsideration (June 5, 2001).) In order for the penalty reduction limitations of Labor Code section 6319, subdivision (d) to apply to the civil penalty as proposed, the Division must prove

that a serious violation caused a serious injury. (*Southwest Engineering, Inc.*, Cal/OSHA App. 91-1366, Decision After Reconsideration (July 6, 1993).)

The Board requires a showing of a “causal nexus between the violation and the serious injury” to sustain the classification of accident-related. (*Sherwood Mechanical, Inc.*, Cal/OSHA App. 08-4692, Decision After Reconsideration (Jun. 28, 2012) citing *Obayashi Corp.*, Cal/OSHA App. 98-3674, Decision After Reconsideration (Jun. 5, 2001).) In other words, where, as here, the evidence establishes that a serious violation caused a serious physical harm; the violation is properly characterized as “accident-related.” (*Duke Pacific, Inc.*, Cal/OSHA App. 06-5175, Decision After Reconsideration (Mar. 14, 2012), citing *K.V. Mart Company dba Valu Plus Food Warehouse*, Cal/OSHA App. 01-638, Decision After Reconsideration (Nov. 1, 2002).)

According to the testimonies of Fernandez and Liarakos, if Avila would have properly performed lockout/tagout procedures and tested the electrical system to determine that it was energized the fatal accident would not have occurred. Further, as testified by Avila, Cruz was not wearing any personal protective equipment (PPE) when he was exposed to the energized system. Because Cruz suffered death resulting from the hazard created by the violative condition of not ensuring the transformer and the electrical system were de-energized, the presumption of a serious violation, pursuant to section 6432, subdivision (a), applies and supports the accident-related characterization.

3. Was the proposed penalty for the serious accident related violation reasonable?

The Division must calculate proposed penalties in accordance with its regulations and present proof sufficient to support its calculations on likelihood, etc. (*Gal Concrete Construction Co.*, Cal/OSHA App. 89-317/318, DAR (Sept. 27, 1990).) The Division must properly rate the employer's safety program and its experience to justify a penalty. (*Monterey Abalone*, Cal/OSHA App. 75-786, DAR (March 15, 1977).) Fernandez's penalty calculations (See C-10 Worksheet - Exhibit #8) were correctly determined in accordance with the Division's policies and the California Code of Regulations.

Since the serious violation caused serious physical harm, the penalty may not be reduced by any of the adjustment factors except for size. Based upon the Division's “C-10 Penalty Worksheet” calculations, Employer is a large employer with over 100 employees. Thus, an adjustment for size was not given.

Fernandez testified that according to the Division's policies and procedures a serious violation begins at \$18,000. Fernandez found the severity to be high due to Cruz's contact with energized wires, which caused his death, which is justified, thereby increasing the penalty by \$4,500 for a total penalty of \$22,500. The Division's policies do not allow any further reduction credit for extent and likelihood for a serious violation, which causes a serious physical harm. Nor can the penalty be reduced by any of the adjustment factors except for size⁷.

⁷ Section 336, subdivision (c)(3).

Employer did not receive credit for size because Employer had over 100 employees that resulted in a penalty of \$22,500, (Exhibit 8, “C-10 Penalty Worksheet”) which is deemed reasonable and is assessed.

5. Did Employer fail to have an authorized person responsible for working on de-energized electrical equipment, notify all involved personnel, lock and tagout the disconnecting means and block the operation of energy devices to prevent a hazard?

Section 2320.4, subdivision (a) De-Energized Equipment or Systems, provides:

- (a) An authorized person shall be responsible for the following before working on de-energized electrical equipment or systems unless the equipment is physically removed from the wiring system:
 - (1) Notifying all involved personnel.
 - (2) Locking the disconnecting means in the “open” position with the use of lockable devices, such as padlocks, combination locks or disconnecting of the conductor(s) or other positive methods or procedures which will effectively prevent unexpected or inadvertent energizing of a designated circuit, equipment or appliance.⁸
 - (3) Tagging the disconnecting means with suitable accident prevention tags conforming to the provisions of GISO Section 3314, subdivision (e).
 - (4) Effectively blocking the operation or dissipating the energy of all stored energy devices which present a hazard, such as capacitor or pneumatic, spring-loaded and like mechanisms.

The Division alleged as follows:

Instance 1

At the time of the accident on March 24, 2011, at 2332 East Pacifica Place in Ranch Dominguez, Calif., the employer, Carlos Avila, did not ensure that an authorized person notify all involved personnel that electrical work was going to be performed as required by this subsection.

⁸ Note: See also Section 3314 of the General Industry Safety Orders (GISO) for lock-out requirements pertaining to the cleaning, repairing, servicing and adjusting of prime movers, machinery and equipment.

Instance 2

At the time of the accident on March 24, 2011, at 2332 East Pacifica Place in Rancho Dominguez, Calif., the employer, Carlos Avila, did not ensure that an authorized person lock the disconnecting means in the “open” position with the use of lockable devices, such as padlocks, combination locks or disconnecting of the conductor(s) or other positive methods or procedures which will effectively prevent unexpected or inadvertent energizing of a designated circuit, equipment or appliance as required by this subsection.

Instance 3

At the time of the accident on March 24, 2011, at East Pacifica Place in Rancho Dominguez, Calif., the employer, Carlos Avila, did not ensure that an authorized person tag the disconnecting means with suitable accident prevention tags conforming to the provisions of Section 2320.6 and GISO Section 3314(e).

Instance 4

At the time of the accident on March 24, 2011, at East Pacifica Place in Rancho Dominguez, Calif., the employer, Carlos Avila, did not ensure that an authorized person effectively block the operation or dissipate the energy of all stored energy devices which present a hazard as required by this subsection.

To establish a violation of section 2320.4, subdivision (a), the Division is required to show that Employer failed to have an authorized person responsible for working on de-energized electrical equipment or systems unless the equipment is physically removed from the wiring system. Fernandez testified that Avila as the “authorized person” working on the electrical system was required to have a contractor’s license, which demonstrates that he has passed an examination and is licensed to perform electrical duties in California. Avila testified that he had a contractor’s license that expired on December 27, 2010, prior to the March 24, 2011 fatal accident at Employer’s work site. Thus, Avila cannot be considered an authorized person responsible for working on de-energized electrical equipment or systems unless the equipment is physically removed from the wiring system. Here, the evidence shows Avila was actually in the process of removing the transformer to another location and failed to properly disconnect the wires, as such, the equipment was not physically removed from the wiring system when Avila began the work assignment.

The first element of the safety order required the “authorized person”, who was required to notify all involved personnel. Avila testified that on the morning of March 24, 2011, prior to the accident, he told “Gonzalo” (last name unknown),

who opened the warehouse doors and was an assistant to “Gurupa” (last name unknown), one of Employer’s warehouse supervisors that they (Avila and Cruz) would be working in the warehouse. Avila testified that he might have seen eight to ten people in the area at the time the accident occurred. He also acknowledged that the breaker was next to the lunchroom area and restrooms. Fernandez testified that he interviewed Gonzalo, who did not know the full scope of the work that was to be performed by Avila at the work site. This evidence establishes that Avila in not being an “authorized person” with a valid contractor’s license, inadequately notified personnel of the work that was to be performed on March 24, 2011.

The Division asserted the second requirement of locking the disconnecting means in the “open” position with the use of lockable devices, such as padlocks, combination locks or disconnecting of the conductor(s) or other positive methods or procedures which will effectively prevent unexpected or inadvertent energizing of a designated circuit, equipment or appliance as required by this subsection was not performed. Liarakos testified that in moving a transformer, the transformer’s power must be disconnected by lockout/tagout by going to the main power source that feeds the transformer. In this case Liarakos explained that the breaker at the worksite could not be locked out due to age or other code restrictions, which meant the power was required to be turned off to the service. Liarakos explained that in moving a transformer, the transformer’s power must first be disconnected by lockout/tagout⁹. Liarakos’ inspection revealed that Avila had removed the conduit¹⁰, leaving approximately two to three feet of exposed wire leading from the disconnected conduit. When the March 24, 2011 fatal accident occurred, Cruz was working on connecting the wires inside the conduit that had not been attached to the transformer¹¹.

Fernandez also testified that during his investigation on March 24, 2011, he did not observe any lockable devices or safety devices that could have been placed on the breaker. Furthermore, Avila advised that he did not lockout any of the equipment. On review of Liarakos and Fernandez’s observations and Avila’s statements of his failure to lockout any of the equipment; the Division has established that the second requirement of locking out the equipment was not performed in violation of the safety order.

The third requirement of tagging the disconnecting means with suitable accident prevention tags was not met as demonstrated by the evidence submitted at the hearing. Liarakos testified that the breaker is tagged out by putting red electrical tape on the breaker and writing “DO NOT TOUCH”. He also stated that if the breaker is next to a light switch or an area that is commonly used, the feeder wires should be removed from the breaker switch. The transformer is then tested to ensure that electricity is not flowing through the transformer. Based

⁹ See fn4.

¹⁰ See fn5.

¹¹ Liarakos attributed the source of the electrocution was a feeder wire, which had bare wire extending out from the conduits.

upon Liarakos' inspection he determined that the breaker was not tagged out before the incident and someone most likely turned the breaker on.

Consistent with Liarakos' belief that someone turned the breaker to the "on" position, Avila testified he was certain someone had turned the breaker on, despite his putting a name tag with a black ink marker on the breaker indicating "Transformer's New Service Room". Avila admitted he did not put a sign on the breaker to prevent someone from turning on the breaker because he assumed the breaker was only used for the transformer. Here, in weighing the evidence, Avila did not tag out the breaker with a sign sufficient to warn someone of turning the breaker on. Avila's sign "Transformer's New Service Room" clearly was not a warning to prevent someone from turning the breaker to the "on" position; as such the third requirement of tagging the disconnecting means with suitable accident prevention tags was not met.

In determining whether the fourth element of effectively blocking the operation or dissipating the energy of all stored energy devices which present a hazard, the Division presented the following evidence: Liarakos testified that Avila failed to block out the operation or dissipating energy of the transformer, conduits and wires; Liarakos attributed the source of the electrocution after interviewing Avila regarding the tasks of Cruz, to the feeder wire in the conduit, which was bare wire extending out from the conduits; Liarakos also stated that electrocution could have been prevented in addition to locking out and tagging out and making sure the feeder wires did not become energized by taping both ends of the wire with electrical tape to provide insulation around the bare copper wires Avila left extending out from the conduits as described above. The fourth element of the safety order is met because Avila failed to block out the operation or dissipating stored energy. Thus, Employer failed to have an authorized person responsible for working on de-energized electrical equipment, notify personnel, lock and tagout the disconnecting means and block the operation of energy devices to prevent a hazard.

6. Did the Division correctly classify the violation of section 2320.4, subdivision (a) as a serious violation?

Here, the "practice" or "method of operation . . . adopted or in use" in determining whether the Division presented sufficient evidence to prove the "serious" classification of the violation, the legal standard is expressed in Labor Code section 6432, subdivision (a) as discussed above.

Here, the first element of "a violation existing in a place of employment is established by Employer as discussed above. The second element is established because the Division demonstrated a realistic possibility of death or serious physical harm because Employer failed to meet the safety order's requirements as discussed above. The third element showing that employees were exposed to an actual hazard is based upon the failure to notify all involved personnel, locking out the disconnecting means, tagging out the disconnecting means and effectively blocking the operation of dissipating or stored energy which presented a hazard of physical harm. Because the first, second and third elements are

established, there is a rebuttable presumption that the violation is serious. Thus, the employees were exposed to an actual hazard, establishing a rebuttable presumption of a serious violation. Here Employer also failed to present any evidence to rebut the presumption of a serious violation of section 2320.4, subdivision (a).

7. Was the proposed penalty for the serious violation of section 2320.4 subdivision (a) reasonable?

As discussed above, the Division must calculate proposed penalties in accordance with its regulations and present proof sufficient to support its calculations on likelihood, etc. see *Gal Concrete Construction Co., supra*. Fernandez calculated the extent as moderate and the likelihood as high because Employer did not have a lockout tagout system, which could result in and employee's contact with an energized system. Fernandez gave 15 percent good faith credit and 10 percent history credit for Employer not having any previous violation. No credit was given for size as discussed above, for Employer having over 100 employees. Thus the penalty of \$8,435 is deemed reasonable and is assessed.

Conclusion

The Employer failed to treat all electrical equipment and systems as energized until tested or otherwise proven to be de-energized as required by section 2320.3. The Division correctly classified the violation of section 2320.3 as serious accident-related and established a nexus between the violation and the cause of Jose Cruz's death. The proposed penalty for the serious accident related violation is reasonable and is assessed.

Employer violated section 2320.4, subdivision (a) by failing to have an authorized person responsible for working on de-energized electrical equipment or systems by (1) failing to notify all involved personnel; (2) failing to lock the disconnection means to prevent unexpected or inadvertent energizing of a designated circuit, equipment or appliance; (3) failing to tagout the disconnecting means with suitable accident prevention tags and (4) failing to effectively block the operation or dissipating energy of all stored energy devices which present a hazard. The Division correctly classified the violation of section 2320.4(a) as a serious violation. Finally the proposed penalty of \$8,435 for the serious violation of section 2320.4, subdivision (a) is reasonable and is assessed

ORDER

It is hereby ordered that Citation 1, and Citation 2 are affirmed. It is further ordered that the penalties indicated above and set forth in the attached Summary Table are assessed.

IT IS SO ORDERED.

Dated: December 4, 2015

CLARA HILL WILLIAMS
Administrative Law Judge

CHW:ao

SUMMARY TABLE DECISION AFTER REMAND

In the Matter of the Appeal of:

ONESTOP INTERNET, INC.
Docket 11-R4D2-2636/2637

Abbreviation Key: Reg=Regulatory	
G=General	W=Willful
S=Serious	R=Repeat
Er=Employer	DOSH=Division

IMIS No. 313384117

DOCKET	C	I	T	I	SECTION	T	Y	P	E	MODIFICATION OR WITHDRAWAL	A	V	PENALTY PROPOSED BY DOSH IN CITATION	PENALTY PROPOSED BY DOSH AT HEARING	FINAL PENALTY ASSESSED BY BOARD	
11-R4D2-2636	1	1			2320.3					Citation affirmed	X		\$22,500	\$22,500	\$22,500	
11-R4D2-2637	2	1			2320.4(a)					Citation affirmed	X		\$8,435	\$8,435	\$8,435	
Sub-Total													\$30,935	\$30,935	\$30,935	

Total Amount Due*

(INCLUDES APPEALED CITATIONS ONLY)

\$30,935

NOTE: Please do not mail payments to the Appeals Board. All penalty payments must be made to:

Accounting Office (OSH)
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94142

*You will owe more than this amount if you did not appeal one or more citations or items containing penalties. Please call (415) 703-4291 if you have any questions.

ALJ: CHW/ao
POS: 12/04/2015

