

State of California
Division of Occupational Safety and Health
Cal/OSHA Santa Ana District (0950631:4031)
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705
Phone: Fax: (714) 558-2035



Citation and Notification of Penalty

To:
FIVE STAR PLASTERING INC.

and its successors
23022 LA CADENA, STE 200
LAGUNA HILLS, CA 92653

Inspection Site:
25025 CHRISANTA DR
MISSION VIEJO, CA 92691

Inspection Number: 317388650
Inspection Date(s): 07/17/2014 - 01/14/2015

Issuance Date: 01/15/2015
CSHO ID: U2621
Optional Report #: 003-15
Reporting ID: 0950631

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. In addition, please send a copy of Page 1 of this Citation and Notification of Penalty, the cover sheet.

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/dos 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 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 is reduced by 50% on the presumption that the employer will correct the violations by the abatement date. **If the CAL/OSHA 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 160/161 to the District Office listed on the Citation and as shown below:

Division of Occupational Safety and Health
Cal/OSHA Santa Ana District
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705
Phone: (714) 558-4451 Fax: (714) 558-2035

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

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Inspection Dates: 07/17/2014 - 01/14/2015
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CSHO ID: U2621
Optional Inspection Nbr: 003-15



Citation and Notification of Penalty

Company Name: FIVE STAR PLASTERING INC.
Inspection Site: 25025 CHRISANTA DR, MISSION VIEJO, CA 92691

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

TITLE 8 CALIFORNIA CODE OF REGULATIONS SECTION 1637(q)

Overhead Protection. Workers on scaffolds who are exposed to overhead hazards shall be provided with overhead protection or other means that will effectively eliminate the hazard.

Before and during the course of the inspection, including but not limited to July 17, 2014, the Employer failed to ensure that workers who were exposed to the overhead hazard of high-voltage electrical lines were provided with overhead protection or other means to effectively eliminate the hazard. As a result, on or about July 17, 2014, one employee exposed to the overhead electrical lines (12KV) suffered fatal injuries and a second employee suffered serious injuries from the high voltage while on the scaffold.

Date By Which Violation Must be Abated: ABATED
Proposed Penalty: \$ 21600.00

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

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Citation and Notification of Penalty

Company Name: FIVE STAR PLASTERING INC.
Inspection Site: 25025 CHRISANTA DR, MISSION VIEJO, CA 92691

Citation 2 Item 1 Type of Violation: **Willful Serious Accident-Related**

TITLE 8 CALIFORNIA CODE OF REGULATIONS SECTION 2946(a)

General. No person, firm, or corporation, or agent of same, shall require or permit any employee to perform any function in proximity to energized high-voltage lines; to enter upon any land, building, or other premises and there engage in any excavation, demolition, construction, repair, or other operation; or to erect, install, operate, or store in or upon such premises any tools, machinery, equipment, materials, or structures (including scaffolding, house moving, well drilling, pile driving, or hoisting equipment) unless and until danger from accidental contact with said high-voltage lines has been effectively guarded against.

Before and during the course of inspection, including but not limited to July 17, 2014, the Employer or its agent(s) required or permitted employees to work in proximity to energized high voltage lines. They had been required or permitted to enter onto the premises and engage in the installation of a scaffold, even though Employer did not effectively guard against danger from accidental contact with said high-voltage lines (12KV). As a result, on about July 17, 2014, one employee suffered fatal injuries and a second employee suffered serious injuries.

Date By Which Violation Must be Abated: ABATED
Proposed Penalty: \$ 70000.00

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Citation and Notification of Penalty

Company Name: FIVE STAR PLASTERING INC.
Inspection Site: 25025 CHRISANTA DR, MISSION VIEJO, CA 92691

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

TITLE 8 CALIFORNIA CODE OF REGULATIONS SECTION 2946(b)(2)

The operation, erection, handling, or transportation of tools, machinery, materials, structures, scaffolds, or the moving of any house or other building, or any other activity where any parts of the above or any part of an employee's body will come closer than the minimum clearances from energized overhead lines as set forth in Table 1 shall be prohibited.

TABLE 1

General Clearances Required from Energized Overhead High-Voltage Conductors

Nominal voltage (Phase to Phase)	Minimum Required Clearance (Feet)
600..... 50,000	6
over 50,000..... 345,000	10
over 345,000.... 750,000	16
over 750,000.... 1,000,000	20

Before and during the course of the inspection, including but not limited to July 17, 2014, the Employer permitted employees to erect a scaffold, handle tools and materials, and perform other activities where energized overhead lines were closer than six feet from parts of employees' bodies, parts of the scaffold, and related materials or tools. The overhead lines had not been de-energized and visibly grounded. As a result, two employees came in contact with the energized overhead lines (12KV); one suffered fatal injury and the other suffered serious injury.

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

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Inspection Site: 25025 CHRISANTA DR, MISSION VIEJO, CA 92691

Date By Which Violation Must be Abated: ABATED
Proposed Penalty: \$ 21600.00

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Citation and Notification of Penalty

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Citation 4 Item 1 Type of Violation: **Serious Accident-Related**

TITLE 8 CALIFORNIA CODE OF REGULATIONS SECTION 2948

Notification to the Operators of High-Voltage Lines and Responsibility for Safeguards.

When any operations are to be performed, tools or materials handled, or equipment is to be moved or operated within the specified clearances of any energized high-voltage lines, the person or persons responsible for the work to be done shall promptly notify the operator of the high-voltage line of the work to be performed and shall be responsible for the completion of the safety measures as required by Section 2946 (b) before proceeding with any work which would impair the aforesaid clearance.

Before and during the course of the inspection, including but not limited to July 17, 2014, when employees erected a scaffold, handled tools and materials, and performed other work within the specified clearance of high-voltage lines, the person(s) responsible for the work did not notify the operator of the high-voltage lines of the work to be performed. The person(s) responsible for the scaffold erection and related activities did not ensure that safety measures required by section 2946(b) were completed before employees proceeded with work that would impair the specified clearance of the energized high-voltage lines. As a result of contact with the energized high-voltage lines (12KV), one employee suffered fatal injury and the second suffered serious injury.

Date By Which Violation Must be Abated: ABATED
Proposed Penalty: \$ 21600.00

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

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Citation and Notification of Penalty

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Inspection Site: 25025 CHRISANTA DR, MISSION VIEJO, CA 92691

Citation 5 Item 1 Type of Violation: **Serious**

TITLE 8 CALIFORNIA CODE OF REGULATIONS SECTION 3203(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.

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

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Company Name: FIVE STAR PLASTERING INC.
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- (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 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.

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

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Citation and Notification of Penalty

Company Name: FIVE STAR PLASTERING INC.
Inspection Site: 25025 CHRISANTA DR, MISSION VIEJO, CA 92691

On or about July 17, 2014, employer failed to implement or maintain an effective Injury and Illness Prevention Program (IIPP), by failing to implement all of the Program's methods, procedures, or systems, including but not limited to:

Instance 1

Employer failed to identify or evaluate workplace hazards to identify unsafe conditions and work practices in accordance with its IIPP, by failing to inspect the work site to identify the high voltage electrical hazards that were present.

Instance 2

Employer failed to provide training and instructions to employees at the work site regarding new hazards pertaining to the overhead high voltage electrical lines they were instructed to work near.

Date By Which Violation Must be Abated:	ABATED
Proposed Penalty:	\$ 7875.00

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

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Cal/OSHA Santa Ana District (0950631; 4031)
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Citation and Notification of Penalty

Company Name: FIVE STAR PLASTERING INC.
Inspection Site: 25025 CHRISANTA DR, MISSION VIEJO, CA 92691

Citation 6 Item 1 Type of Violation: **Serious Accident-Related**

TITLE 8 CALIFORNIA CODE OF REGULATIONS SECTION 3381(c)(2)(C)

When there is a risk of head injury from contact with conductors greater than 600 volts, protective helmets shall be ANSI-Z89.1 designated Class E.

Before and during the course of inspection, including but not limited to July 17, 2014, the Employer failed to ensure that employees at risk of a head injury from contact with conductors greater than 600v used appropriate protective helmets that met the requirements of ANSI-Z89.1 designated Class E. As a result, on July 17, 2014, an employee suffered a fatal electrical injury after high voltage (12kV) entered through the top of his head.

Date By Which Violation Must be Abated: ABATED
Proposed Penalty: \$ 21600.00



Brandon/Hart/I. R. Johns
Compliance Officer/Acting 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
Cal/OSHA Santa Ana District
2000 East McFadden Avenue, Suite 122
Santa Ana, CA 92705
Phone: (714) 558-4451 Fax: (714) 558-2035

NOTICE OF PROPOSED PENALTIES

Company Name: FIVE STAR PLASTERING INC.
Inspection Site: 25025 CHRISANTA DR, MISSION VIEJO, CA 92691
Mailing Address: 23022 LA CADENA, STE 200, LAGUNA HILLS, CA 92653
Issuance Date: 01/15/2015
Reporting ID: 0950631
Index Code: 4031

Summary of Penalties for Inspection Number 317388650

Citation 1, Serious	= \$	21600.00
Citation 2, Willful	= \$	70000.00
Citation 3, Serious	= \$	21600.00
Citation 4, Serious	= \$	21600.00
Citation 5, Serious	= \$	7875.00
Citation 6, Serious	= \$	21600.00
TOTAL PROPOSED PENALTIES	= \$	164275.00

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

If you are paying electronically: Please have this form on-hand when you are ready to make you 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.

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH - CAL/OSHA
CASHIER, ACCOUNTING OFFICE
P. O. BOX 420603
SAN FRANCISCO, CA 94142-0603
(415) 703-4291 or (415) 703-4295 or Fax (415) 703-3037

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.