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FEB 02 2012

OSH Appeals Board

APPEAL FORM

314757618

Inspection Number on Citation

2012-R 6 D 2 -0391

National Distribution Centers, LP

Employer Name on Citation

1. You only have 15 working days from receipt of a citation to appeal.

Employer Legal Name or DBA (Optional)

15835 San Antonio Avenue
Chino, CA 91708

Address

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result

**FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE
THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION**

1. This is an Appeal from:

1 Serious Accident

CITATION NO(s): 1 Item No(s): Related

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION

CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: _____

Item No(s): _____

2. Specific ground(s) for this appeal are: **(Check all that apply)**

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

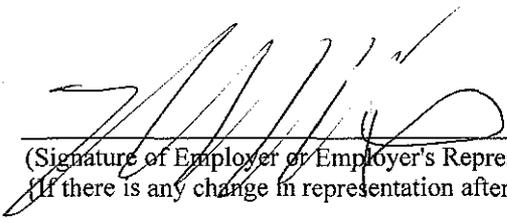
The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

Independent employee act defense; logical time defense; absence of employer knowledge;

DOSH without jurisdiction.

4.


(Signature of Employer or Employer's Representative)

{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Ronald A. Peters

(Type or print name)

Attorney

(Title)

Littler Mendelson, 50 West San Fernando Street, 15th floor

(Address) {Address where all communications from the Appeals Board will be sent}

San Jose

CA

95113

(City)

(State)

(Zip Code)

408.998.4150

rpeters@littler.com

1-31-12

(Telephone)

(E-Mail Address)

(Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail address after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

IMPORTANT INFORMATION

- A. Use this form to appeal a Citation, Notification of Failure to Abate Alleged Violation, or Special Order/Special Action.
- B. You must complete *a separate appeal form for each citation or notification* you wish to appeal and *attach a copy of the complete citation or notification that you are appealing.*
- C. If the citation or notification being appealed includes more than one item **do not use separate appeals forms for each item.** Instead, specify the items you are appealing in the space provided in No. 1 on the front of this form. (for example, "Citation No. 1, ItemNos. 2, 5, and 8)
- D. **Be sure to sign your appeal form and provide all the information requested in No. 4 above.**
- E. Your appeal form shall be deemed not completed unless you attach a copy of each citation or notification that you are appealing, and failure to file a completed appeal form may result in dismissal of the appeal.
- F. If you or your representative change address, telephone number, and/or e-mail address, it is your responsibility to notify the Appeals Board in writing of the change(s). Otherwise the Appeals Board will continue to use the address it has on file and you risk not receiving notices or other communications from the Appeals Board. Appeals Board regulations make it the employer's obligation to notify the Appeals Board of any changes to the employer's and/or representative's contact information.
- G. Mail each completed Appeal form and citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833.
- H. Late appeals will not be accepted unless good cause is shown.

OSHAB 5/08

State of California

Division of Occupational Safety and Health
 Cal/OSHA High Hazard Unit (9090662;4502)
 2000 East McPadden Street, Suite 111
 Santa Ana, CA 92705

Inspection Number: 314757618

Inspection Dates: 09/01/2011 -

Issuance Date: 01/13/2012

CSEO ID: A8982

Optional Inspection Nbr: 016-012

**Citation and Notification of Penalty****RECEIVED**

Company Name: NATIONAL DISTRIBUTION CENTERS, LP
 Inspection Site: 15835 SAN ANTONIO AVE, CHINO, CA 91708

FEB 02 2012

OSH Appeals Board**Citation 1 Item 1 Type of Violation: Serious Accident Related**

§3203. 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:

(4) Include procedures for identifying and evaluating workplace 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.

(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,

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 High Hazard Unit (0950662;4502)
2000 East McFadden Street, Suite 111
Santa Ana, CA 92705

Inspection Number: 314757618
Inspection Dates: 09/01/2011 -
Issuance Date: 01/13/2012
COSH ID: A8982
Optional Inspection Nbr: 016-012



Citation and Notification of Penalty

Company Name: NATIONAL DISTRIBUTION CENTERS, LP
Inspection Site: 15835 SAN ANTONIO AVE, CHINO, CA 91708

(F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

On or about August 30, 2011 an employee of Tri State Staffing Inc working for National Distribution Centers, LP suffered a serious heat illness because National Distribution Centers, LP failed to implement and/or failed to ensure implementation of the required elements of an Injury and Illness Prevention Program including but not limited to:

1. National Distribution Centers, LP failed to identify and evaluate the hazard of occupational heat exposure and heat illness for employees exposed to the risk of heat illness. Reference §3203(a)(4).
2. National Distribution Centers, LP failed to establish and implement procedures for correcting the hazard of occupational heat exposure and heat illness including but not limited to failure to respond to symptoms of possible heat illness, failure to contact emergency medical services when necessary, and failure to have a designated person available to ensure that emergency procedures are invoked when appropriate. Reference §3203(a)(6) and §5193(d).
3. National Distribution Centers, LP failed to provide training on the hazard of occupational heat exposure and heat illness before employees were exposed to the risk of heat illness. Reference §3203(a)(7) and §5193(f).

Date By Which Violation Must be Abated:
Proposed Penalty:

01/20/2012
\$ 18000.00



Peter A. Riley
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.

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PROOF OF SERVICE BY OVERNIGHT DELIVERY

I am employed in Santa Clara County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 50 W. San Fernando, 15th Floor, San Jose, California 95113.2303. On February 1, 2012, I deposited with Federal Express, a true and correct copy of the within documents:

INSPECTION #314757618

APPEAL FORM, CITATION NO. 1 - ITEM NO. 1 SERIOUS ACCIDENT RELATED

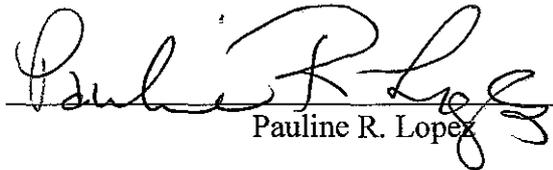
in a sealed envelope, addressed as follows:

State of California	Occupational Safety and Health
Division of Occupational Safety and Health	Appeals Board
Cal. OSHA High Hazard Compliance Unit	2520 Venture Oaks Way, Suite 300
2000 East McFadden Avenue, Suite 111	Sacramento, CA 95833
Santa Ana, CA 92705	

Following ordinary business practices, the envelope was sealed and placed for collection by Federal Express on this date, and would, in the ordinary course of business, be retrieved by Federal Express for overnight delivery on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 1, 2012, at San Jose, California.


Pauline R. Lopez

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