

BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal
of:

VRAM GEVORKYAN
DBA GOODFELLAS AUTO REPAIR
7515 Laurel Canyon Blvd.
North Hollywood, CA 91605

Appellant

DOCKETS 15-R6D5-3116
and 3117

DECISION

Statement of the Case

Vram Gevorkyan dba Goodfellas Auto Repair (Appellant) operated an automobile repair facility. Beginning June 17, 2015, the Division of Occupational Safety and Health (the Division) through Associate Safety Engineer Delphina Lopez (Lopez) conducted an inspection as part of a multi-agency Labor Enforcement Task Force inspection at a place of employment maintained by Employer at 7515 Laurel Canyon Blvd, North Hollywood, California (the site). On July 13, 2015, the Division issued two Citations to Appellant¹. Citation 1 alleged nine general violations. Citation 2 alleged a serious violation for failure to have a hood or safety guard on a grinder wheel.

Appellant filed timely appeals. Appellant alleged that he was not an employer. Assuming that he was found to be an employer, he appealed the classification of all alleged violations and the reasonableness of all proposed penalties. Appellant conceded failure to have a hood or safety guard on a grinder wheel as alleged in Citation 2, but contested the existence of employee exposure.

This matter came on regularly for hearing before Dale A. Raymond, Administrative Law Judge (ALJ) for the California Occupational Safety and Health Appeals Board, at Van Nuys, California on April 6, 2016. Vram

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

Gevorkyan, Owner, represented Appellant. Melissa Peters, Staff Counsel, represented the Division. The matter was submitted on May 2, 2016.

Issues

1. Did the Division have jurisdiction to cite Appellant as an employer?
2. Were Items 1 through 9 of Citation 1 properly classified as general?
3. Was there employee exposure to the grinder at the site?
4. Did the Division establish a rebuttable presumption that Citation 2 was properly classified as serious?
5. Were the proposed penalties reasonable?

Findings of Fact

1. Appellant operated an automobile repair service doing business as Goodfellas Auto Repair (Goodfellas). Vram Gevorkyan (Gevorkyan) purchased the business in June 2014.
2. Auto mechanic Martin Curiel (Curiel) performed automotive repair work for Appellant.
3. Appellant controlled the site at all times. Appellant had an oral agreement with Curiel that permitted Curiel to work at the shop and split the labor costs. Appellant had the right at all times to end its relationship with Curiel.
4. Curiel had his own hand tools which he kept at the site. There was other equipment in the shop which he did not own but which he used to perform work.
5. Gevorkyan did the advertising, customer relations, estimates, invoices, and collection for Appellant. Gevorkyan set the hours the shop was open. He did not perform any mechanical work.
6. When a customer came to Appellant's site, Gevorkyan spoke to the customer. At Gevorkyan's direction, Curiel performed diagnostic work. Gevorkyan then talked to the customer, the customer determined what work, if any, would be done; and then Gevorkyan then told Curiel what to do. Curiel could not do any work unless Gevorkyan authorized the work.
7. The customers were billed under the name of Goodfellas. The cost of labor was split 50-50 between Curiel and Gevorkyan. Gevorkyan paid Curiel weekly with a check drawn on Goodfellas business bank account. Gevorkyan issued IRS Form 1099 to Curiel for the moneys paid to him.
8. At all relevant times, Gevorkyan intended for Curiel to be an independent contractor. Curiel thought he was an employee.
9. At all relevant times, Goodfellas had a current and valid license and was registered as an automobile repair dealer with the California Bureau of Automotive Repair. The license identified Gevorkyan as the owner.
10. At all relevant times, Appellant had current City of Los Angeles Tax Registration Certificates.

11. Curiel did not have a license to do automobile repair. Curiel did not have his own business. Curiel did not speak with customers. Curiel did attempt to attract customers. About five times he worked on family cars and split the charge for labor with Gevorkyan. Curiel did not have any other source of income.
12. An uninspected air tank created the hazard of explosion or a dangerous air stream. Lack of an air tank permit has a relationship to employee safety and health.
13. Exposed live electricity creates the hazard of electrical shock or electrocution if an employee touches it. An electrical panel box with openings not effectively closed and missing faceplates on an electrical outlet junction box expose employees to live electricity. Both have a relationship to employee safety and health.
14. A mistake regarding voltage creates the hazard of electrical shock or electrocution because an employee would not be sure of the protective measures required based on the voltage. Insufficient markings on an electrical panel to indicate voltage has a relationship to employee safety and health.
15. By definition, a written Injury and Illness Prevention Program (IIPP) and a hazard communication program relate to employee safety and health. Failure to effectively establish, implement, or maintain either has a relationship to employee safety and health.
16. Lack of adequate first-aid materials creates the hazard of lack of immediate treatment of a medical condition, such as a cut or burn. Lack of adequate first-aid materials has a relationship to employee safety and health.
17. An employee may not be able to find a fire extinguisher in a fire emergency if the fire extinguisher is not properly identified. Failure to properly identify a fire extinguisher has a relationship to employee safety and health.
18. A fire extinguisher that is not inspected and maintained annually may not be ready to use when needed. Failure to perform annual maintenance on a fire extinguisher has a relationship to employee safety and health.
19. A grinder was located at the site which did not have a protective hood or safety guard. Curiel used it a few weeks before the inspection to sharpen a screwdriver.
20. The proposed penalties were calculated in accordance with the Division's policies and procedures.

Analysis

1. Did the Division have jurisdiction to cite Appellant as an employer?

The Division has the burden of proving by a preponderance of the evidence that, as a threshold matter, the person or entity cited is an employer.

(*Moran Constructors, Inc.*, Cal/OSHA App. 74-381, Decision After Reconsideration (Jan. 28, 1975).)

“Preponderance of the evidence” means that the thing to be proved is more likely than not to be true. (*Gaehwiler Construction Company*, Cal/OSHA App. 78-651, Decision After Reconsideration (Jan. 7, 1985); see Evidence Code section 115.)

Labor Code section 6300 establishes the California Occupational Safety and Health Act of 1973 (the Act) “for the purpose of assuring safe and healthful working conditions for all California working men and women...”

Labor Code section 6304 specifies that “employer” has the same meaning as it has pursuant to section 3300, subdivision (c), which states an employer is “every person including any public service corporation, which has any natural person in service.”

Labor Code section 6304.1, subdivision (a) defines “employee” as “every person who is required and directed by any employer to engage in any employment to go to work or be at any time in any place of employment.”

Labor Code section 6303, subdivision (a), defines “place of employment” as “any place and the premises appurtenant thereto, where employment is carried on except a place where the health and safety jurisdiction is vested by law in, and actively exercised by, any state or federal agency other than the division.”

Labor Code section 6303, subdivision (b), defines “employment” as including “the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire, except household domestic service.”

To test whether a relationship is that of an employer-employee or an independent contractor, the Appeals Board has followed the multiple factor test articulated in *S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d. 341 (Borello). (*Treasure Island Media, Inc.*, Cal/OSHA App. 10-1093, Decision After Reconsideration (Aug. 13, 2015).) “The principal test of an employment relationship is whether the person to whom service is rendered has the right to control the manner and means of accomplishing the result desired.” (*Id.* citing *Borello*) “A mechanical application of the control test is ‘often of little use in evaluating the infinite variety of service arrangements.’” (*Id.* at 20, citing *Borello* p. 350)

Although control is the most important consideration, *Borello* listed a number of factors to consider, including the following:

- (a) the right to discharge at will (which *Borello* deemed “strong evidence in support of an employment relationship”);
- (b) whether the one performing services is engaged in a distinct occupation or business;
- (c) the kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of the principal or by a specialist without supervision;
- (d) the skill required in the particular occupation;
- (e) whether the principal or the worker supplies the instrumentalities, tools, and the place of work for the person doing the work;
- (f) the length of time for which the services are to be performed;
- (g) the method of payment, whether by the time or by the job;
- (h) whether the work is part of the regular business of the principal; and
- (i) whether the parties believe they are creating the relationship of employer-employee.

“The factors cannot be applied mechanically as separate tests, they are intertwined and their weight depends on particular combinations.” (*Id* p. 21, citing *Borello*, pp. 350-351)

First factor: Appellant owned and controlled the site. Gevorkyan determined the hours that Curiel was permitted to be at the site. Gevorkyan had the right at all times to ask Curiel to never return. That is the equivalent to the right to discharge at will. Thus, this factor weighs in favor of finding an employer-employee relationship.

Second factor: Appellant was in the business of providing automotive repair services. Performing mechanical work was not a distinct occupation or business from Appellant’s business. Curiel did not need a license of his own. Appellant owned the license. Appellant existed for the purpose of providing the work Curiel performed. Thus, this factor weighs in favor of finding an employer-employee relationship.

Third factor: Curiel worked unsupervised and could come and go as he pleased during the hours that Appellant was open. There was no evidence about whether the type of work Curiel did was usually done under the direction of a principal or by a specialist without supervision. Nonetheless, Gevorkyan told Curiel what work to perform for the customers and Curiel could not do any work unless Gevorkyan authorized it first. Gevorkyan alleged that Curiel had his own customers, but did not produce evidence of

them except for some cars owned by Curiel's relatives for whom Curiel performed work.

Essentially, Curiel acted under Gevorkyan's direction at all times and Gevorkyan exercised pervasive control over Curiel's work, even though Gevorkyan was not physically present to observe him. (See *Yellow Cab Cooperative v. Workers' Compensation Appeals Board* (1991) 226 Cal.App. 3d 1288 [employee-employee relationship found even when there is an absence of control over work details, where the principal retains "pervasive control" over the operation as a whole, the worker's duties are an integral part of the business, and the nature of the work makes detailed control unnecessary].) Thus, this factor weighs in favor of finding an employer-employee relationship.

Fourth factor: Special skills are required to diagnose and repair malfunctions of motor vehicles. Appellant was a licensed² automotive repair dealer³. Automotive repair dealers must be registered, but an employee of an automotive repair dealer is exempted from registration if the employee repairs motor vehicles only as an employee⁴. Curiel was not licensed or registered and could legally perform work only if he were an employee. Thus, this factor weighs in favor of finding an employer-employee relationship.

Fifth factor: Curiel supplied his own hand tools. Appellant supplied the place of work and all other instrumentalities for doing the work. Curiel could not work anywhere else unless he took his tools with him, which he never did or attempted to do. Thus, this factor weighs slightly in favor of finding an independent contractor relationship.

Sixth factor: Curiel was to perform services for Appellant indefinitely. Thus, this factor weighs in favor of finding an employer-employee relationship.

Seventh factor: Gevorkyan determined the amount that would be charged for each job. Curiel was paid by the job, not by time. He was paid by check and issued an IRS Form 1099 for the monies he received. Thus, this factor weighs in favor of finding an independent contractor relationship.

² Exhibits 6-2, 6-4

³ Business and Professions Code section 9880.1, subdivision (a), defines "automotive repair dealer" as "a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles."

⁴ Business and Professions Code section 9884.6, subdivision (a) provides that "It is unlawful for any person to be an automotive repair dealer unless that person has registered in accordance with this chapter [Chapter 20.3] and unless that registration is currently valid." Business and Professions Code section 9880.2, subdivision (a) exempts from registration as an automotive repair dealer "an employee of an automotive repair dealer if the employee repairs motor vehicles only as an employee."

Eighth factor: Appellant is in the business of automotive repair. The work Appellant does is identical to the work Appellant asked Curiel to perform. Curiel's work was integral to Appellant's business. Thus, this factor weighs in favor of finding an employer-employee relationship.

Ninth factor: There was no written document between Appellant and Curiel identifying their relationship. Gevorkyan credibly testified at hearing that he intended to form an independent contractor relationship. "The parties' use of a label to describe their relationship does not control and will be ignored where the evidence of their actual conduct establishes a different relationship exists." (*Futrell v. Payday California, Inc.* (2010) 190 Cal.App.4th 1419, 1434, citing *Borello* at 349.)

When Curiel was interviewed on the day of the inspection, he said he was an employee. At hearing, Curiel would only say that he worked at the shop and that he was not a partner. Curiel's demeanor and testimony at hearing was consistent with his earlier statements that he was an employee. As Gevorkyan was the principal and he was making payments to Curiel, this factor weighs in favor of finding an independent contractor relationship.

Although there is some evidence of an independent contractor relationship, the weight of the evidence strongly supports a conclusion that there was an employer-employee relationship, and, therefore, the Division exercised lawful jurisdiction to investigate and cite Appellant for violations of title 8 of the California Code of Regulations.

2. Were Items 1 through 9 of Citation 1 properly classified as general?

Appellant did not appeal the existence of the violations alleged in Citation 1, Items 1 through 9⁵, but contested their classification.

A general violation is defined as "a violation which is specifically determined not to be of a serious nature, but has a relationship to occupational safety and health of employees." (Section 334, subdivision (b).)

In order to show a general violation, the Division need only show that the safety order was violated and that the violation has a relationship to

⁵ The existence of Citation 1, Items 1 through 9 are established by operation of law because Appellant did not appeal their existence. An issue not properly raised on appeal is deemed waived. See Section 361.3, "Issues on Appeal;" *Delta Excavating, Inc.*, Cal/OSHA App. 94-2389, Decision After Reconsideration (Aug. 10, 1999); *California Erectors, Bay Area, Inc.*, Cal/OSHA App. 93-503, Decision After Reconsideration (Dec. 31, 1998); and *Western Paper Box Co.*, Cal/OSHA App. 86-812, Denial of Petition for Reconsideration (Dec. 24, 1986).

occupational safety and health of employees. (*California Dairies, Inc.*, Cal/OSHA App. 07-2080, Denial of Decision After Reconsideration (June 25, 2009), citing *A. Teichert & Sons, Inc.* Cal/OSHA App. 97-2733 (Dec. 11, 1998).)

Item 1 affects the safety of an air tank. An uninspected air tank presents a danger of too much pressure, which presents a hazard of explosion or a hazardous air stream. Items 2, 3, and 4 relate to hazards that could cause injuries from electricity, such as electrical shock or electrocution. It is axiomatic that Item 5, (IIPP) and Item 7 (hazard communication program) bear a relationship to employee safety and health. Item 6, presence of appropriate first-aid materials directly affects employee health through the ability to treat injuries. Items 8 and 9 affect readiness to fight fires, which is a matter of employee safety.

Therefore, the Division met its burden to establish that Citation 1, items 1 through 9, have a relationship to employee safety or health. They were correctly classified as general.

3. Was there employee exposure to the grinder at the site?

The Division cited Appellant for a violation of section 3577, subdivision (b), which provides as follows:

Abrasive wheels shall be provided with protection hoods or safety guards which shall be of such design and construction as to effectively protect the employee from flying fragments of a bursting wheel insofar as operation will permit.

The alleged violation description reads as follows:

Prior to and during the course of the inspection, including, but not limited to, on June 17, 2015, the employer did not ensure that the Central Machinery 6" bench grinder's (Item #39797) abrasive wheel had a protective hood or safety guard.

Appellant did not contest that the grinder at the site did not have a hood or safety device. The grinder had an abrasive wheel made of stone that could crack or shatter while spinning at a fast rate. Lack of a hood or safety device created the hazard of pieces from the wheel imbedding themselves like shrapnel into anyone nearby, causing injuries. Appellant acknowledged that lack of a hood or safety device and the associated hazard, but denied that there was any employee exposure.

To prove the violation, the Division must establish employee exposure. The Division has the burden of proof. (See, *e.g.*, *Moran Constructors, Inc.*,

Cal/OSHA App. 74-381, Decision After Reconsideration (Jan 28, 1975).) To find exposure, there must be reliable proof that employees are endangered by an *existing* hazardous condition or circumstance. (*Huber, Hunt & Nichols, Inc.*, Cal/OSHA App. 75-1182, Decision After Reconsideration (July 26, 1977) (italics in original).) Actual exposure is not required. Exposure is established where it is reasonably predictable that employees have been, or will be, in the zone of danger. (*Benicia Foundry & Iron Works, Inc.*, Cal/OSHA App. 00-2976, Decision After Reconsideration (Apr. 24, 2003).) Exposure may be established by showing that the area of the hazard was accessible to employees. (*Id.*) Access may be established whenever employees in the course of their work are in a zone of danger. (*Id.*)

Lopez saw a bench grinder in the shop and photographed it⁶. Curiel testified that he occasionally used the grinder at the site to sharpen things. A few weeks before the inspection, he used it to sharpen a screwdriver. Curiel further testified that he told Lopez about his use of the grinder when she performed her inspection at the site. Curiel's testimony is more persuasive than Gevorkyan's allegation that no one used the grinder. Gevorkyan never used any tools. Gevorkyan was not aware of what Curiel did and would not be aware if Curiel used the grinder. Curiel had no reason to lie about using the grinder.

Therefore, the Division established employee exposure. As such, the Division met its burden of proof, and the violation of section 3577, subdivision (b), is sustained.

4. Did the Division establish a rebuttable presumption that Citation 2 was properly classified as serious?

Labor Code § 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 harm⁷ could result from the actual hazard

⁶ Exhibits 5, 16

⁷ Labor Code section 6432, subdivision (e), provides as follows:

"Serious physical harm" as used in this part, means any injury or illness, specific or cumulative, occurring in the place of employment or in connection with any employment that results in any of the following:

(1) Inpatient hospitalization for purposes other than medical observation.

(2) The loss of any member of the body.

(3) Any serious degree of permanent disfigurement.

(4) Impairment sufficient to cause a part of the body or the function of an organ to become permanently and significantly reduced in efficiency on or off the job, including, but not limited to, depending on the severity, second-degree or worse burns, crushing injuries

created by the violation. 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 that have been adopted or are in use.

“Realistic possibility” is not defined in the safety orders. However, the Appeals Board has defined “realistic possibility” to mean a prediction that is within the bounds of human reason, not pure speculation. (*Bellingham Marine Industries, Inc.*, Cal/OSHA App. 12-3144, Decision After Reconsideration (Oct. 16, 2014), citing *Janco Corporation*, Cal/OSHA App. 99-565, Decision After Reconsideration (September 27, 2001), citing *Oliver Wire & Plating Co., Inc.*, Cal/OSHA App. 77-693, Decision After Reconsideration (April 30, 1980).)

Opinions about possibility must be based on a valid evidentiary foundation, such as expertise on the subject, reasonably specific scientific evidence, experience-based rationale, or generally accepted empirical evidence. (*California Family Fitness*, Cal/OSHA App. 03-0096, Decision After Reconsideration (Mar. 20, 2009); *R. Wright & Associates, Inc. dba Wright Construction & Abatement*, Cal/OSHA App. 95-3649, Decision After Reconsideration (Nov. 29, 1999).)

Labor Code section 6432, subdivision (g), provides, “A division safety engineer or industrial hygienist who can demonstrate, at the time of the hearing, that his or her division-mandated training is current shall be deemed competent to offer testimony to establish each element of a serious violation, and may offer evidence on the custom and practice of injury and illness prevention in the workplace that is relevant to the issue of whether the violation is a serious violation.”

Lopez testified that she classified Citation 2 as serious because, in her opinion, serious physical harm was a realistic possibility in the event of an accident caused by the violation. The grinder wheel was made of stone and could potentially break or shatter, resulting in flying fragments. Without a hood or safety guard, flying fragments could hit and imbed in the operator and anyone else nearby. Flying fragments could cause serious injuries, as for example, a serious eye injury, severe lacerations, or a serious degree of permanent disfigurement.

Lopez was current in her Division-required training. She has conducted about 400 inspections, including machine guarding issues, and performed

including internal injuries even though skin surface may be intact, respiratory illnesses, or broken bones.

about 50 accident inspections. Lopez's opinion was based upon her education, training, and experience. Appellant did not offer any evidence in rebuttal. Lopez's opinion is credited.

Therefore, it is found that serious physical harm was a realistic possibility as a result of the actual hazard posed by lack of a hood or safety guard on the grinder wheel. The Division established a rebuttable presumption that Citation 2 was properly classified as serious.

5. Were the proposed penalties reasonable?

Penalties calculated in accordance with the penalty setting regulations⁸ are presumptively reasonable and will not be reduced absent evidence that the amount was miscalculated, the regulations were improperly applied, or that the totality of the circumstances warrant a reduction. (*Stockton Tri Industries, Inc.*, Cal/OSHA App. 02-4946, Decision After Reconsideration (Mar. 27, 2006).)

Referring to the proposed penalty worksheet⁹, Lopez testified that the penalties were calculated in accordance with the Division's policies and procedures, except for the penalty for Citation 1, Item 7. Lopez testified that extent should have been rated low, reducing the penalty to \$130.

For all the general violations, Lopez rated severity as medium because an accident caused as a result of those violations would most likely cause an injury that required more than first aid. For the serious violation, severity was rated at \$18,000 because that is the rating for all serious violations. Because only one employee was involved, extent was rated low for all violations, except for Citation 1, items 5¹⁰ and 6¹¹. Items 5 and 6 applied universally, so she rated extent as medium. Likelihood was rated low for all violations except Citation 1, items 5, 6, and 7¹². Due to the increased chance of an injury where there is no IIPP or hazard communication program, and the increased chance of increasing the severity of an injury with an inadequate first aid kit, she rated likelihood as medium for those items. For all violations, Lopez applied medium good faith based on Appellant's cooperation and knowledge of safety. Appellant was given the maximum reduction¹³ possible for size and the maximum reduction¹⁴ possible for history. A 50% abatement credit was applied for all violations.

⁸ sections 333-336

⁹ Exhibit 18

¹⁰ No IIPP

¹¹ Inadequate first-aid kit

¹² No hazard communication program

¹³ Technically, the maximum penalty adjustment factor was applied, which created the maximum reduction allowable.

Appellant contended that the penalties were incorrectly calculated because the proposed penalty worksheet stated that the number exposed was two, and the number exposed should have been one. Appellant objected to reduction of the penalty for Citation 1, Item 7, from \$260 to \$130 because the change showed that the Division was incorrect. Appellant also argued that the penalty for Citation 1, Item 2, was incorrect because the voltage was marked on the electrical panel.

None of Appellant's contentions affect the penalty calculations. Lopez testified that her calculations did not change when she reduced the number exposed to one; however, reducing the number exposed to one was incorrect for Citation 1, items 5 and 6 because two were exposed; that is why extent was higher for those items. It is irrelevant that the Division corrected a miscalculation on the day of the hearing. Finally, possible existence of voltage markings does not affect any of the factors affecting the penalty calculation for Citation 1, item 2.

Therefore, it is found that all the proposed penalties were calculated consistently with the regulations and are reasonable.

Conclusions

The Division established the existence of an employer-employee relationship between Appellant and Martin Curiel; therefore, the Division had jurisdiction to investigate and cite Appellant for violations of safety orders found under title 8 of the California Code of Regulations. Citation 1, Items 1 through 9, have a relationship to employee safety and health. They were properly classified as general. Curiel was exposed to the hazard of a grinding wheel that did not have a protective hood or safety device. There was a realistic possibility of serious injury in the event of an accident caused by the violation. Citation 2 was properly classified as serious. All penalties were calculated consistently with the Division's policies and procedures and are reasonable.

Order

Citation 1, items 1 through 9 are affirmed.

Citation 2, item 1, is affirmed.

¹⁴ Technically, the maximum penalty adjustment factor was applied, which created the maximum reduction allowable.

It is further ordered that the penalties indicated above and set forth in the attached Summary Table be assessed.

DALE A. RAYMOND
Administrative Law Judge

DAR: ao

Dated: May 26, 2016

APPENDIX A

**SUMMARY OF EVIDENTIARY RECORD
VRAM GEVORKYAN DBA GOODFELLAS AUTO REPAIR
Dockets 15-R6D5-3116 and 3117**

Date of Hearing: April 6, 2016

Division's Exhibits

Number	Description	Admitted
1	Jurisdictional Documents	Yes
2	Employee Questionnaire—Martin Curiel	Yes
3	Forms 1099 and W-2 for Martin Curiel	Yes
4	Peters letter to Gevorkyan Feb. 22, 2016	Yes
5	Photo of grinder	Yes
6-1	Business card for Goodfellas Auto Repair	Yes
6-2	Bureau of Automotive Repair License information	Yes
6-4	City of Los Angeles Tax Registration Certificates	Yes
6-4	Copy of Bureau of Automotive Repair License	Yes
7-1	Document Request Sheet	Yes
7-2	Worker's Compensation application	Yes
7-3	Martin Curiel—Copy of Driver License and Social Security Card	Yes
7-4	Martin Curiel address and birthday	Yes
7-5	Copy of Receipt 1118 for \$258.00, 2-27-15	Yes
7-6	Copy of Receipt 1134 for \$304.00, 5-2-15	Yes
7-7	Copy of Receipt 1148 for \$400, 5-23-15	Yes
7-8	Copy of Calculation 5-27-15	Yes

8	Photo of air compressor	Yes
9	Photo-electrical panel front view	Yes
10	Photo-electrical panel side view	Yes
11	Photo-electrical junction boxes	Yes
12	Document Request Sheet with notations	Yes
13	Photo-first aid materials	Yes
14	Photo-fire extinguisher	Yes
15	Photo-fire extinguisher tag	Yes
16	Photo-warning label on bench grinder	Yes
17	Form 1BY-Notice of Intention to Issue Serious Violation	Yes
18	Form C10-Proposed Penalty Worksheet	Yes

Appellant's Exhibits

Letter	Description	Admitted
	None	

Witnesses Testifying at Hearing

Albert Cueto
Martin Curiel
Delfina Lopez
Vram Gevorkyan

CERTIFICATION OF RECORDING

*I, **Dale A. Raymond**, the California Occupational Safety and Health Appeals Board Administrative Law Judge duly assigned to hear the above matter, hereby certify the proceedings therein were electronically recorded. The recording was monitored by the undersigned and constitutes the official record of said proceedings. To the best of my knowledge, the electronic recording equipment was functioning normally.*

DALE A. RAYMOND

Date

SUMMARY TABLE DECISION

In the Matter of the Appeal of:

VRAM GEVORKYAN DBA GOODFELLAS AUTO REPAIR Dockets 15-R6D5-3116 and 3117

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

IMIS No. 1072891

DOCKET	CITATION	ITEM	SECTION	TYPE	MODIFICATION OR WITHDRAWAL	AFFIRMED	VACATED	PENALTY PROPOSED BY DOSH IN CITATION	PENALTY PROPOSED BY DOSH AT HEARING	FINAL PENALTY ASSESSED BY BOARD	
15-R6D5-3116	1	1	461(a)	G	ALJ affirmed violation	X		\$130	\$130	\$130	
		2	2473.1(b)	G	ALJ affirmed violation	X		\$130	\$130	\$130	
		3	2473.2(a)	G	ALJ affirmed violation	X		\$130	\$130	\$130	
		4	2340.21(a)(2)	G	ALJ affirmed violation	X		\$130	\$130	\$130	
		5	3203(a)	G	ALJ affirmed violation	X		\$260	\$260	\$260	
		6	3400(c)	G	ALJ affirmed violation	X		\$260	\$260	\$260	
		7	5194(e)(1)	G	DOSH reduced extent	X		\$260	\$130	\$130	
		8	6151(c)(1)	G	ALJ affirmed violation	X		\$130	\$130	\$130	
		9	6151(e)(3)	G	ALJ affirmed violation	X		\$130	\$130	\$130	
15-R6D5-3117	2	1	3577(b)	S	ALJ affirmed violation	X		\$2,700	\$2,700	\$2,700	
Sub-Total									\$4,260	\$4,130	\$4,130

Total Amount Due*

\$4,130

(INCLUDES APPEALED CITATIONS ONLY)

NOTE: Please do not send payments to the Appeals Board.

All penalty payments should 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: DR/ao
POS: 05/26/2016