BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of:	Inspection No. **1580564**
VARDAN GEOVSHANYAN **19067 CELTIC STREET** **NORTHRIDGE, CA 91326** **Appellant**	**DECISION**

Statement of the Case

Vardan Geovshanyan (Appellant), remodels single family homes. Beginning February 5, 2022, the Division of Occupational Safety and Health (the Division) through Associate Safety Engineer Bahman Nahoray (Nahoray), conducted an accident investigation at Appellant's worksite located at 9031 El Dorado Avenue, in Sun Valley, California (the site). Appellant was remodeling a single-family home located at the site when a trench at the site collapsed, trapping two workers under cement blocks (the accident).

On July 25, 2022, the Division issued five citations to Appellant, alleging nine violations of the California Code of Regulations, title 8.[1] Citation 1, classified as Regulatory, alleges that Appellant failed to obtain a project permit prior to beginning trenching activity at the site. Citation 1, Item 2, classified as General, alleges that Appellant failed to establish and implement an Injury and Illness Prevention Program. Citation 1, Item 3, classified as General, alleges that Appellant failed to adopt a written Code of Safe Practices. Citation 1, Item 4, classified as General, alleges that Appellant failed to establish and implement a written Heat Illness Prevention Plan. Citation 2, classified as Serious, alleges that Appellant failed to provide a safe means of egress for a trench more than four feet in depth. Citation 3, classified as Serious Accident-Related, alleges that Appellant failed to install an approved support system when excavating a trench below the concrete base of the foundation of a structure. Citation 4, classified as Serious, alleges that Appellant failed to ensure that a competent person inspected a trench at the site to ensure against hazardous conditions including the risk of a cave-in.[2]

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

[2] Citation 5 is identical to Citation 4 as issued. The Division withdrew Citation 5 during the hearing. That withdrawal is incorporated into this Decision by reference.

Appellant filed a timely appeal of each alleged violation asserting multiple grounds and later amended its appeal to include the affirmative defense that no employer-employee relationship existed between Appellant and the workers working at the site. Prior to the hearing, Appellant and the Division agreed to litigate the lack of employer-employee relationship defense and Appellant waived all other grounds and affirmative defenses.[3]

This matter was heard by Howard Isaac Chernin, Administrative Law Judge (ALJ), for the California Occupational Safety and Health Appeals Board (Appeals Board) in Los Angeles, California, on September 4, 2024. ALJ Chernin conducted the hearing with all participants appearing remotely via the Zoom video platform. William Cregar, Staff Counsel, represented the Division. Mike Geosano of O.S.T.S., Inc., represented Appellant.

This matter was submitted on January 18, 2025.

Issues

1. Did an employer-employee relationship exist between Appellant and the workers present at the site on the date of the accident?

Findings of Fact

1. Appellant was engaged in construction activity at the site on the date of the accident. Part of the work involved digging a trench to run new water pipes to the multiple individual housing units that were being constructed.

2. Appellant held an ownership interest in the site on the date of the accident.

3. Prior to the accident, Appellant hired multiple workers at a local Home Depot to perform work at the site, including trenching.[4]

4. Appellant controlled and directed the work at the site, including making decisions regarding what equipment would be used and paying for said equipment.

[3] Unless otherwise discussed in this Decision, Employer did not present evidence in support of its affirmative defenses, and said defenses are therefore deemed waived. (*RNR Construction, Inc.,* Cal/OSHA App. 1092600, Denial of Petition for Reconsideration (May 26, 2017).)

[4] The exact number of workers at the site was not established during the hearing. Evidence admitted into the record indicates that, in addition to the three workers interviewed by the Division and discussed herein, there may have been at least two more workers at the site who were not directly involved in the accident.

5. Appellant paid the workers a daily rate in cash for the work they performed at the site.

6. The aggregate value of the work exceeded $500.

7. Neither Appellant nor the workers performing the work at the site held valid contractor's licenses.

8. The Division issued an Order Prohibiting Use to Appellant, a copy of which was sent to and received by Appellant. Appellant did not respond to the Order Prohibiting Use.

Analysis

1. Did an employer-employee relationship exist between Appellant and the workers present at the site on the date of the accident?

The California Occupational Safety and Health Act of 1973 (the Act) was established "for the purpose of assuring safe and healthful working conditions for all California working men and women by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions…." (Lab. Code §6300.) "The terms of the Cal/OSHA Act 'are to be given a liberal interpretation for the purpose of achieving a safe working environment.'" (*Walmart Associates, Inc., dba Walmart Fulfillment Center # 8103*, Cal/OSHA App. 1461476, Decision After Reconsideration (July 22, 2022), quoting *Dept. of Industrial Relations v. Occupational Safety and Health Appeals Board* (2018) 26 Cal.App.5th 93, citing *Carmona v. Division of Industrial Safety* (1975) 13 Cal.3d 303.)

For the Division to have jurisdiction to issue a citation, there must be an employee-employer relationship. (*Treasure Island Media, Inc.*, Cal/OSHA App. 10-1093, Decision After Reconsideration (Aug. 13, 2015).) The Division carries the burden of establishing the employer-employee relationship by a preponderance of the evidence. (*Coast Waste Management, Inc.*, Cal/OSHA App. 11-2385, Decision After Reconsideration (Oct. 7, 2016).) "Preponderance of the evidence" is usually defined in terms of probability of truth, or of evidence that when weighed 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. (*United Parcel Service*, Cal/OSHA App. 1158285, Decision After Reconsideration (Nov. 15, 2018); *Leslie G. v. Perry & Associates* (1996) 43 Cal.App.4th 472, 483.)

The Division may rely on hearsay evidence to meet its burden of proof at hearing, and such hearsay evidence is admissible to supplement or explain other admissible non-hearsay

evidence; however, "over timely objection [hearsay evidence] shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions." (§376.2.)

There are several tests applicable to determining the existence of an employer-employee relationship. Initially, the Division carries the burden of establishing that Appellant had employees under a statutory "definitions" test. (See Labor Code §6304.) Once the Division meets its initial burden, the burden shifts to Appellant to establish that it is not an employer under any of the applicable tests. The tests are discussed in turn below.

a. Statutory "Definitions" Test

Labor Code section 6303, subdivision (b), defines "employment" in relevant part as "the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work…."

Labor Code section 6304 specifies that "employer" is to have the same meaning as it has pursuant to Labor Code 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 defines an "employee" as "every person who is required or directed by any employer to engage in any employment or to go to work or be at any time in any place of employment."

Here, the Division met its burden of establishing an employer-employee relationship under these definitions. Nahoray, who was acting District Manager for the Division's Van Nuys office at the time of the accident, credibly testified that he received a complaint of a trench collapse from the fire department on February 5, 2022. He traveled to the site, where he was met by fire department employees who informed Nahoray that a trench had collapsed, trapping and injuring multiple people. Appellant arrived at the site after Nahoray. After Appellant arrived, Associate Safety Engineer Shamim Babaei (Babaei) also arrived at the site. Nahoray and Babaei introduced themselves to Appellant. Babaei held an opening conference with Appellant in the presence of Nahoray, and asked Appellant whether he was the owner and the builder in charge of the work at the site. Appellant answered that he was and positively identified himself by showing his driver's license to Nahoray. (Exh. 12[5].) The statement by Appellant, that he was the owner of the site and the builder in charge of the work being performed there, is an admission against interest under Evidence Code section 1220 because it tends to show that Appellant was the person who placed the workers at the site into service and who directed their work, both of which facts tend to establish that the workers were Appellant's employees under the definitions given above. The statement would therefore be admitted into evidence over objection in a civil court.

[5] Exhibit 12 contains confidential personally identifying information pertaining to Appellant and is hereby placed under seal by the undersigned pursuant to section 376.6.

Appellant explained that the project at the site was to subdivide the property. Appellant also informed Nahoray and Babaei that he (Appellant) personally hired worker Juan Martinez (Martinez), to perform work at the site. This statement is also an admission against interest pursuant to Evidence Code section 1220, because it tends to show that Appellant employed Martinez, the injured worker, at the site. The statement would therefore also be admitted into evidence over objection in a civil court.

Nahoray testified that Division Associate Safety Engineer Babaei arrived at the site and held an opening conference with Appellant in Nahoray's presence. Babaei then proceeded to conduct an investigation of the accident. During the investigation, Babaei testified that she spoke with Appellant, took photographs of the site, and issued an Order Prohibiting Use (OPU) (Exh. 3), which she affixed to the home at the site and sent a copy to Appellant via email, because Appellant had already left the site by that time. Appellant did not respond to Babaei's email, and nothing in the record suggests that Appellant did not receive it. Appellant made the decision to not testify during the hearing, and in fact resisted the Division's attempt to subpoena him, filing a motion to quash shortly before the hearing. Appellant's decision nonetheless to not testify to rebut the Division's evidence supports an inference that Appellant received the OPU. (Evid. Code §413.) Furthermore, Appellant's failure to respond to the email supports an inference that he was the owner of the site and was the person controlling the work there. This is because a reasonable person unconnected to the property or the work being performed there would more likely than not contact a government agency upon receiving such an order to explain that they believed it to be sent to them in error. (*Id*, also Evid. Code §1221.)

Babaei then went on leave, and the investigation was transferred to Associate Safety Engineer Jorge Lopez (Lopez). Lopez credibly testified that he spoke to Appellant and asked him who hired and paid the workers who were working at the site when the accident occurred. Appellant told Lopez that he (Appellant) hired them and paid the workers in cash. This is an admission against interest under Evidence Code section 1220 in that it tends to show that the workers at the site were Appellant's employees and were working under Appellant's direction at the site and would, therefore, be admitted over objection in a civil court.

Appellant provided Martinez's phone number to Lopez so that he could interview Martinez. Martinez told Lopez that he met Appellant at Home Depot, that it was his first time working for him, and that he was paid $160 per day for working at the site. Lopez also interviewed worker Marvin Punay (Punay), who told him that the work at the site involved excavation of a trench, and that he had been working at the site for approximately one month before the accident. A third worker, Alvaro Funes (Funes), described himself as a handyman who had been looking for work, and told Lopez that the homeowner paid to rent an excavator at Funes' suggestion. Statements from Martinez, Punay, and Funes are consistent that Appellant

picked up the workers from Home Depot and paid all three in cash for the work they performed. Although the testimony from Martinez, Punay, and Funes is hearsay not falling within a recognized exception, their statements nonetheless are admissible under section 376.2, as they supplement and help explain other admissible evidence discussed herein, specifically Appellant's admissions to the Division.

Appellant argued that he was not an employer, and the workers were not his employees. Appellant attempted during the hearing to demonstrate that the credited statements discussed above are unsupported by other evidence, but the other evidence Appellant relied upon is insufficient to support the contention and does not controvert the finding that Appellant paid the workers at the site in cash. Appellant cross-examined Lopez by showing him a purported check made out to Martinez for $8,000 for work at the site. (Exhibit A.) The payor is identified on the check as Maria Gevorkian (Gevorkian). Appellant offered no evidence to authenticate the check; therefore, its relevance and reliability are both drawn into question. (Evid. Code §§ 412, 413.) Regardless, even assuming for sake of argument that the check had been properly authenticated, it was not probative of any facts relevant to the present inquiry. Simply stated, the fact that someone else may have drawn a check for payment is not fundamentally relevant to the determination of an employment relationship.

Appellant also presented a purported title report, which appears to identify Gevorkian as the owner of the site. Appellant failed to authenticate the record, however, and the record by itself does not support an inference that Appellant was neither the site owner nor the person in charge of the work being performed there. Appellant offered no further evidence to establish that he lacked any ownership interest in the site or was not the person in charge of the work being performed there. Regardless of whether Appellant owned the site, ample evidence established that Appellant placed at least three natural persons in service at the site in connection with demolition and construction activities being performed there. Furthermore, credible admissible evidence establishes that Appellant directed their work at the site. Accordingly, the Division established that the workers at the site were employees by a preponderance of the evidence.

b. Labor Code Section 2750.5

Labor Code section 2750.5 states in full:

> There is a rebuttable presumption affecting the burden of proof that a worker performing services for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, or who is performing such services for a person who is required to obtain

such a license is an employee rather than an independent contractor. Proof of independent contractor status includes satisfactory proof of these factors:

> (a) That the individual has the right to control and discretion as to the manner of performance of the contract for services in that the result of the work and not the means by which it is accomplished is the primary factor bargained for.
> (b) That the individual is customarily engaged in an independently established business.
> (c) That the individual's independent contractor status is bona fide and not a subterfuge to avoid employee status. A bona fide independent contractor status is further evidenced by the presence of cumulative factors such as substantial investment other than personal services in the business, holding out to be in business for oneself, bargaining for a contract to complete a specific project for compensation by project rather than by time, control over the time and place the work is performed, supplying the tools or instrumentalities used in the work other than tools and instrumentalities normally and customarily provided by employees, hiring employees, performing work that is not ordinarily in the course of the principal's work, performing work that requires a particular skill, holding a license pursuant to the Business and Professions Code, the intent by the parties that the work relationship is of an independent contractor status, or that the relationship is not severable or terminable at will by the principal but gives rise to an action for breach of contract.

In addition to the factors contained in subdivisions (a), (b), and (c), any person performing any function or activity for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code shall hold a valid contractors' license as a condition of having independent contractor status.
For purposes of workers' compensation law, this presumption is a supplement to the existing statutory definitions of employee and independent contractor, and is not intended to lessen the coverage of employees under Division 4 and Division 5.

Labor Code section 2750.5 thus expressly sets forth a rebuttable presumption that a worker performing services for which a contractor's license is required, or "who is performing such services for a person who is required to obtain such a license is an employee rather than an independent contractor." Exceptions exist for owner-builders and certain nonprofit corporations

under Business and Professions Code section 7044, subdivision (a)[6], and for certain work where the aggregate cost did not exceed $500[7] inclusive of labor and materials. (Cal. Bus. & Prof. Code §7048.) Appellant did not present evidence to satisfy any of the exceptions. (*Dish Network California Service Corporation*, Cal/OSHA App. 12-0455, Decision After Reconsideration (Aug. 28, 2014).) In particular, Appellant informed Babaei that the cost of the work was approximately $4,000 to $5,000, and Appellant presented a check during the hearing purporting to show that Martinez was paid at least $8,000 for the work done at the site.

(1) The work being performed at the site required a valid contractor's license

The Business and Professions Code specifies certain work as requiring a contractor's license to perform. Business and Professions Code section 7028 requires that contractors must be

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[6] Business and Professions Code section 7044, subdivision (a), states:

(a) This chapter does not apply to any of the following:

(1) An owner who builds or improves a structure on his or her property, provided that both of the following conditions are met:

(A) None of the improvements are intended or offered for sale.

(B) The property owner personally performs all of the work or any work not performed by the owner is performed by the owner's employees with wages as their sole compensation.

(2) An owner who builds or improves a structure on his or her property, provided that both of the following conditions are met:

(A) The owner directly contracts with licensees who are duly licensed to contract for the work of the respective trades involved in completing the project.

(B) For projects involving single-family residential structures, no more than four of these structures are intended or offered for sale in a calendar year. This subparagraph shall not apply if the owner contracts with a general contractor for the construction.

(3) A homeowner improving his or her principal place of residence or appurtenances thereto, provided that all of the following conditions exist:

(A) The work is performed prior to sale.

(B) The homeowner has actually resided in the residence for the 12 months prior to completion of the work.

(C) The homeowner has not availed himself or herself of the exemption in this paragraph on more than two structures more than once during any three-year period.

(4) A nonprofit corporation providing assistance to an owner-builder, as defined in subdivision (a) of Section 50692 of the Health and Safety Code, who is participating in a mutual self-help housing program, as defined in Section 50078 of the Health and Safety Code.

[7] The amount has since been amended to $1,000, but was $500 at the time of the inspection.

licensed unless specifically exempted from the licensure requirements. Business and Professions Code section 7048 at the time of the inspection provided a licensure exemption to "any work or operation on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items, is less than five hundred ($500), that work or operations being considered of casual, minor, or inconsequential nature." However, Business and Professions Code section 7048 continues to explain that the exemption "does not apply in any case wherein the work of construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in a division of the operation is made in contracts of amounts less five hundred dollars ($500) for the purpose of evasion of this chapter or otherwise."

Earthwork activities, including the act of digging, moving and placing material in connection with creation of an excavation or trench, require a valid contractor's license. (Cal. Code Regs., tit. 16, §832.12.)

As discussed above, the accident occurred when a trench created at the direction of Appellant collapsed onto three workers at the site who were working inside the trench. Appellant told Babaei that the scope of work involved trenching to lay new pipes in connection with Appellant's redevelopment of the site from one single-family home to three separate units. Appellant also told Babaei that the cost of the job was approximately $4,000 to $5,000. At the time of the inspection, work ordinarily requiring a contractor's license (such as excavating) that exceeds $500 in aggregate costs, must be performed by a licensed contractor. (Cal. Bus. & Prof. Code §§7026.2 and 7048.) Appellant's admission to Babaei is an admission against his own interest, as it tends to show that Appellant contracted for work that required Appellant to either hold a contractor's license or hire a licensed contractor to perform the work. Appellant's admission is therefore admissible under Evidence Code section 1220. Appellant's admission, combined with the lack of evidence that anyone involved with the work held a contractor's license, strongly supports a finding that the work that was being performed required a contractor's license.

(2) Nobody involved with the work being performed at the site held a contractor license

Babaei credibly testified that Appellant told her he hired a contractor to complete the work at the site but could not identify the name or license number of the contractor. When Babaei inquired further, Appellant identified "Juan [Martinez] and his coworkers" as the contractors. The Division conducted a search of the Contractors State Licensing Board website and found no evidence that Appellant or any of the workers, including Martinez, held contractor's licenses at the time of the accident. Nothing in the record, therefore, suggests that Appellant or any of the workers at the site held contractor's licenses at the time of the accident.

Appellant offered no evidence or explanation concerning this lack of evidence, and it is therefore inferred that none of the individuals involved in the work being performed at the site, including Appellant, held a contractor's license.

The above evidence strongly supports a presumption that Martinez and the two other workers at the site were employees, rather than independent contractors. (Lab. Code §2750.5.) The Appeals Board has previously held that "'regardless of the factors contained in subdivisions (a), (b), and (c), a valid contractor's license is a necessary condition of independent contractor status.'" (*Buzek Construction, Inc.,* Cal/OSHA App. 1203246, Decision After Reconsideration (Mar. 24, 2019), quoting *Nick Hagopian Drywall v. Workers' Comp. Appeals Board* (Sept. 16, 1988) 204 Cal.App. 3d 767, 771.) Because, as discussed above, it is found that none of the individuals at the site held a contractor's license, it is unnecessary to discuss the factors found under Labor Code section 2750.5, subdivisions (a), (b) and (c). The three workers at the site were presumptive employees, not independent contractors.

The presumption found in Labor Code section 2750.5 is helpful to determining employee status but does not affect the burden of proof with regard to establishing whether an individual is an employer for purposes of the Occupational Safety and Health Act. (*Buzek Construction, Inc*., supra, Cal/OSHA App. 1203246, citing and quoting *Onestop Internet, Inc*., Cal/OSHA App. 11-2636, Decision After Reconsideration and Order of Remand (Jul. 23, 2014). As discussed previously, however, a preponderance of the evidence establishes that Appellant employed the three workers involved in the accident by hiring them directly and putting them into service at the site. Credible evidence establishes that Appellant hired the workers at Home Depot, paid them in cash for working at the site, and determined the scope of the work at the site. Appellant also demonstrably controlled the means by which the work was performed. This is established by Appellant's own admission that he was in charge, as well as by the statements of Martinez and Funes regarding Appellant's active role in controlling the work. In particular, Funes told Babaei that he asked to rent an excavator to complete the work, and that the excavator was paid for by the homeowner. This hearsay statement, although not admissible on its own to establish a finding that Appellant was an employer, nonetheless supplements and explains Appellant's admission to the Division that he was the owner of the site and the person in charge of the work, because Funes's statement tends to show that decisions regarding the manner in which the work was to be performed were vested in Appellant rather than Martinez or Punay.

Based on the above-summarized evidence, it is determined that Appellant was an employer for purposes of Labor Code section 2750.5 and the Occupational Safety and Health Act, and the three individuals working at the site at the time of the accident were Appellant's employees.

c. ABC Test

A further statutory test exists, referred to as the ABC test, for determining the status of an employer-employee relationship. Labor Code section 2775, enacted September 4, 2020, provides in relevant part[8]:

> [. . .]
> (b)
>
> > (1) For purposes of this code . . . a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:
> >
> > > (A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
> > >
> > > (B) The person performs work that is outside the usual course of the hiring entity's business.
> > >
> > > (C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Although certain types of employment are statutorily exempt from the application of the ABC test pursuant to Labor Code section 2775, subdivision (b)(2), the type of employment described herein falls within the scope of the ABC test.

As noted previously, the Division established by a preponderance of the evidence at hearing that Appellant paid three workers to perform work at the site. The nature of the work was construction activity, specifically trenching in preparation for laying new water lines to property under development by Appellant. It was Appellant's burden to establish all three elements of the ABC test by a preponderance of the evidence. However, except as otherwise discussed above, Appellant offered no evidence on any of the factors. The evidence that Appellant did offer did not establish any of the factors. As discussed, Appellant controlled and directed the workers at the site, as shown by Appellant's admissions and the hearsay statement of Funes that Funes asked Appellant to rent an excavator. Further, nothing in the record suggests that the work that

[8] In *Walmart Associates, Inc., dba Walmart Fulfillment Center # 8103, supra,* Cal/OSHA App. 1461476, the Appeals Board acknowledged that the ABC test may apply to situations where a purported employer is disclaiming that a worker is an employee. However, the Appeals Board has not specified whether the ABC test would replace, supersede, or act in conjunction with the definition of employee in Labor Code section 6304.1 and California Code of Regulations, title 8, section 347, subdivision (o). Because this is an unsettled question of law, the undersigned exercises his discretion to apply the ABC test to the facts of this appeal.

was being performed was outside the usual course of Appellant's business activities. In fact, Appellant admitted to the Division that he was redeveloping the site into multiple individual housing units, and the work that was being performed was consistent with this activity. Finally, Appellant offered no evidence that the persons working at the site were customarily engaged in independently established trades, occupations or businesses of the same nature as the work that was being performed. Appellant offered no evidence that any of the workers were licensed contractors, and the fact that Appellant hired them at Home Depot supports an inference that the workers were day laborers and not independent businesses or contractors.

For the foregoing reasons, Appellant did not establish any of the three factors that constitute the ABC test. Thus, the workers at the site were Appellant's employees under this test.

d. "Borello" Test

Following the passage of section 2775, the multi-factor test enunciated by the California Supreme Court in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341 (hereinafter, "*Borello*") no longer applies to determining the existence of an employer-employee relationship under the facts of this appeal. (Lab. Code §2775, subd. (b)(3).)

To summarize, a preponderance of the evidence offered during the hearing establishes that an employer-employee relationship existed between Appellant and the workers at the site. Appellant admitted as much to the Division, and his admissions are further supported by hearsay statements from three workers who were interviewed by the Division as part of its investigation.

Conclusion

The evidence supports a conclusion that an employer-employee relationship existed between Appellant and the workers present at the site on the date of the accident.

Order

Citation 1, Items 1 through 4, Citation 2, Citation 3, and Citation 4 and their associated penalties are affirmed, and their penalties are assessed as set forth in the attached Summary Table. Citation 5 and its associated penalty are vacated consistent with the Division's withdrawal of said citation during the hearing.

/s/ Howard I. Chernin

Dated: 02/05/2025

Howard I Chernin
Administrative Law Judge

The attached decision was issued on the date indicated therein. If you are dissatisfied with the decision, you have thirty days from the date of service of the decision in which to petition for reconsideration. Your petition for reconsideration must fully comply with the requirements of Labor Code sections 6616, 6617, 6618 and 6619, and with California Code of Regulations, title 8, section 390.1. **For further information, call: (916) 274-5751.**