

U.S. Department of Labor
Occupational Safety and Health Administration
201 Varick Street
Room 908
New York, NY 10014
Phone: 212-620-3200 Fax: 212-620-4121



Citation and Notification of Penalty

To:
Flintlock Construction Services LLC
585 North Barry Avenue
Mamaroneck, NY 10543

Inspection Number: 897069
Inspection Date(s): 03/21/2013 - 03/21/2013
Issuance Date: 09/17/2013

Inspection Site:
325 West 33rd Street
New York, NY 10001

Attn: Howard Trueger

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 (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or** you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. 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 informal settlement agreement which amicably resolves this matter without litigation or contest.

Right to Contest – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

Penalty Payment – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions or 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 each violation which you do not contest, you must provide *abatement certification* to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that *abatement documentation* is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

Employer Discrimination Unlawful – The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 09/17/2013. The conference will be held by telephone or at the OSHA office located at 201

Varick Street, Room 908, New York, NY 10014 on _____ at

_____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 897069

Company Name: Flintlock Construction Services LLC
Inspection Site: 325 West 33rd Street, New York, NY 10001
Issuance Date: 09/17/2013

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 201 Varick Street, Room 908, New York, NY 10014**

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature

Date

Typed or Printed Name

Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 897069
Inspection Date(s): 03/21/2013 - 03/21/2013
Issuance Date: 09/17/2013



Citation and Notification of Penalty

Company Name: Flintlock Construction Services LLC
Inspection Site: 325 West 33rd Street, New York, NY 10001

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

29 CFR 1926.451(b)(2): Scaffold platforms and walkways were not at least 18 inches wide.

Location: 325 W 33 Street New York NY./ Front Entrance

On or about: March, 21 2013

a) An employee used a single scaffold plank as a walkway while exposed to a fall to the ground below.

NOTE: BECAUSE ABATEMENT OF THIS VIOLATION IS ALREADY DOCUMENTED IN THE CASEFILE, THE EMPLOYER NEED NOT SUBMIT CERTIFICATION NOR DOCUMENTATION OF ABATEMENT OF THIS VIOLATION AS NORMALLY REQUIRED BY 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$6160.00

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



Citation and Notification of Penalty

Company Name: Flintlock Construction Services LLC
Inspection Site: 325 West 33rd Street, New York, NY 10001

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

Citation 1 Item 2 a Type of Violation: **Serious**

29 CFR 1926.451(g)(2): Effective September 2, 1997, the employer shall have a competent person determine the feasibility and safety of providing fall protection for employees erecting or dismantling supported scaffolds. Employers are required to provide fall protection for employees erecting or dismantling supported scaffolds where the installation and use of such protection is feasible and does not create a greater hazard.

Location: 325 West 33rd Street, NY. / North side of the Building - Rear court yard

On or about March 18-21, 2013

a) While erecting a tubular welded frame scaffolds employees used a vertical safety line attached to a 2 x 4 piece of wood. The 2 x 4 was installed across a window frame opening.

NOTE: BECAUSE ABATEMENT OF THIS VIOLATION IS ALREADY DOCUMENTED IN THE CASEFILE, THE EMPLOYER NEED NOT SUBMIT CERTIFICATION NOR DOCUMENTATION OF ABATEMENT OF THIS VIOLATION AS NORMALLY REQUIRED BY 29 CFR 1903.19.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$6160.00



Citation and Notification of Penalty

Company Name: Flintlock Construction Services LLC
Inspection Site: 325 West 33rd Street, New York, NY 10001

Citation 1 Item 2 b Type of Violation: **Serious**

29 CFR 1926.502(d)(15): Anchorage used for attachment for personal fall arrest equipment was not capable of supporting at least 5,000 pounds (22.2 kN) per employee attached nor was it designed, installed and used as follows: As part of a complete personal fall arrest system which maintains a safety factor of at least two; and under the supervision of a qualified person.

Location: 325 West 33rd Street, NY. / North side of the Building - Rear court yard

On or about March 18-21, 2013

a) While erecting a tubular welded frame scaffolds employees used a vertical safety line attached to a 2 x 4 piece of wood. The 2 x 4 was installed across a window frame opening.

NOTE: BECAUSE ABATEMENT OF THIS VIOLATION IS ALREADY DOCUMENTED IN THE CASEFILE, THE EMPLOYER NEED NOT SUBMIT CERTIFICATION NOR DOCUMENTATION OF ABATEMENT OF THIS VIOLATION AS NORMALLY REQUIRED BY 29 CFR 1903.19.

Date By Which Violation Must be Abated:

Corrected During Inspection



Citation and Notification of Penalty

Company Name: Flintlock Construction Services LLC
Inspection Site: 325 West 33rd Street, New York, NY 10001

Citation 1 Item 3 Type of Violation: **Serious**

29 CFR 1926.454(b)(1): The employer did not have each employee who is involved in erecting, disassembling, moving, operating, maintaining, or inspecting a scaffold trained by a competent person to recognize the hazards associated with the work in question.

Location: 325 West 33rd Street New York, NY. / South East side of the building

on or about March 18-21, 2013.

a) Employees were not trained to recognize hazards associated with the type of scaffold being erected.

NOTE: THE EMPLOYER IS REQUIRED TO SUBMIT ABATEMENT CERTIFICATION FOR THIS ITEM, FAILURE TO COMPLY WILL RESULT IN AN ADDITIONAL PENALTY OF \$1,000.00 AS PER 29 CFR 1903.19.

Date By Which Violation Must be Abated:

10/04/2013

Proposed Penalty:

\$4400.00

U.S. Department of Labor
Occupational Safety and Health Administration

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Issuance Date: 09/17/2013



Citation and Notification of Penalty

Company Name: Flintlock Construction Services LLC
Inspection Site: 325 West 33rd Street, New York, NY 10001

Citation 2 Item 1 Type of Violation: **Willful**

29 CFR 1926.451(b)(1)(i): Each platform unit (e.g., scaffold plank, fabricated plank, fabricated deck, or fabricated platform) was not installed so that the space between adjacent units and the space between the platform and the uprights were no more than 1 inch (2.5 cm) wide, except where the employer can demonstrate that a wider space is necessary.

Location: 325 West 33rd Street, NY. / Front entrance - South East side of the Building

On or about March 18-21, 2013

a) Employees were installing siding from tubular welded frame scaffold that was not fully planked. The employees were exposed to a potential fall hazard of up to 26 feet to the ground below.

NOTE: BECAUSE ABATEMENT OF THIS VIOLATION IS ALREADY DOCUMENTED IN THE CASEFILE, THE EMPLOYER NEED NOT SUBMIT CERTIFICATION NOR DOCUMENTATION OF ABATEMENT OF THIS VIOLATION AS NORMALLY REQUIRED BY 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$61600.00

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

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 897069
Inspection Date(s): 03/21/2013 - 03/21/2013
Issuance Date: 09/17/2013



Citation and Notification of Penalty

Company Name: Flintlock Construction Services LLC
Inspection Site: 325 West 33rd Street, New York, NY 10001

Citation 2 Item 2 Type of Violation: **Willful**

29 CFR 1926.451(c)(1): Supported scaffolds with a height to base width (including outrigger supports, if used) ratio of more than four to one (4:1) were not restrained from tipping by guying, tying, bracing, or equivalent means, as set forth in subparagraphs (i) - (iii) of this paragraph.

Location: 325 West 33rd Street New York, NY / Fron Entrance, South East Side of the Building

On or about March 18-21, 2013

a) Employees were installing siding from a 32 feet high tubular welded frame scaffold that was not restrained from tipping.

NOTE: BECAUSE ABATEMENT OF THIS VIOLATION IS ALREADY DOCUMENTED IN THE CASEFILE, THE EMPLOYER NEED NOT SUBMIT CERTIFICATION NOR DOCUMENTATION OF ABATEMENT OF THIS VIOLATION AS NORMALLY REQUIRED BY 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$61600.00

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



Citation and Notification of Penalty

Company Name: Flintlock Construction Services LLC
Inspection Site: 325 West 33rd Street, New York, NY 10001

Citation 2 Item 3 Type of Violation: **Willful**

29 CFR 1926.451(e)(1): When scaffold platforms were more than 2 feet (0.6 m) above or below a point of access, portable ladders, hook-on ladders, attachable ladders, stair towers (scaffold stairways/towers), stairway-type ladders (such as ladder stands), ramps, walkways, integral prefabricated scaffold access, or direct access from other scaffold, structure, personnel hoist, or similar surface was not used. Crossbraces were used as a means of access.

Location: 325 West 33rd Street New York, NY./ Front entrance, South East side of the building

On or about March 18-21, 2013.

a) Employees were working from a 32 feet high tubular welded frame scaffold that did not have means of access. Employees climbed frames and crossbraces to get to work platform.

NOTE: BECAUSE ABATEMENT OF THIS VIOLATION IS ALREADY DOCUMENTED IN THE CASEFILE, THE EMPLOYER NEED NOT SUBMIT CERTIFICATION NOR DOCUMENTATION OF ABATEMENT OF THIS VIOLATION AS NORMALLY REQUIRED BY 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$48400.00



Citation and Notification of Penalty

Company Name: Flintlock Construction Services LLC
Inspection Site: 325 West 33rd Street, New York, NY 10001

Citation 2 Item 4 Type of Violation: **Willful**

29 CFR 1926.451(g)(1)(vii): Each employee on a scaffold, not otherwise specified in paragraphs (g)(1)(i) through (g)(1)(vi) of this section, more than 10 feet (3.1 m) above lower level was not protected from falls by the use of personal fall arrest systems or guardrail systems meeting the requirements of paragraph (g)(4) of this section.

Location: 325 West 33rd Street New York, NY / Front Entrance South East side of the Building

On or About March 18-21, 2013

a) Employees were installing siding from a 32 feet high tubular welded frame scaffold that was not provided with a fall protection system. The employees were exposed to a potential fall hazard of up to 26 feet to the ground below.

NOTE: BECAUSE ABATEMENT OF THIS VIOLATION IS ALREADY DOCUMENTED IN THE CASEFILE, THE EMPLOYER NEED NOT SUBMIT CERTIFICATION NOR DOCUMENTATION OF ABATEMENT OF THIS VIOLATION AS NORMALLY REQUIRED BY 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$61600.00



Kay Gee
Area Director