

U.S. Department of Labor
Occupational Safety and Health Administration
Suite 375
1033 La Posada Dr.
Austin, TX 78752
Phone: (512)374-0271 FAX: (512)374-0086

COPY



Citation and Notification of Penalty

To:
MARTIN'S CONCRETE CONSTRUCTION
and its successors
2312 CANTERBURY STREET
AUSTIN, TX 78702

Inspection Number: 315625616
Inspection Date(s): 06/24/2011-06/24/2011
Issuance Date: 12/20/2011

Inspection Site:
5001 CONVICT HILL RD.
AUSTIN, TX 78749

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.

Please read the following paragraphs which outline your rights and responsibilities.

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 enter into an Informal Settlement Agreement or you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. 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. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

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, call our office between 8:00 a.m. and 4:30 p.m. for an appointment, please **complete, remove and post the page 4 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 attached Invoice/Debt Collection Notice for details of 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 are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the OSHA office issuing the citation and identified above. The certification must be sent by you within 10 calendar days of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citations states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. Attached are two fill-in-the blank form letters for your use to assist you in meeting this requirement.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

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.

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.

Abatement Methods - The employer is not limited to abatement methods suggested by OSHA; i.e., methods explained are general and may not be effective in all cases. Other methods of abatement may be equally or more appropriate. Ultimate responsibility for determining the most appropriate abatement method rests with the employer, given its superior knowledge of the specific conditions at its worksite.

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 your inspection will be available 30 calendar days after the Citation Issuance Date. 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 12/20/2011. The conference will be held at the OSHA office located at Suite 375, 1033 La Posada Dr., Austin, TX, 78752 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

ABATEMENT CERTIFICATION

REFERENCE: MARTIN'S CONCRETE CONSTRUCTION 315625616
2312 CANTERBURY STREET
AUSTIN, TX 78702

PLEASE FILL IN ABATEMENT/CORRECTION METHOD INCLUDING DATE COMPLETED FOR EACH ITEM CITED AND RETURN TO THE AREA DIRECTOR. Supporting documentation shall be included; e.g., drawings/photographs, purchase/work orders, air sampling results, or any other related information to show corrections. Abatement verification must be posted and certified as being true and correct. Responses are due **within 10 calendar days** from each abatement date and must be postmarked within the 10 calendar day period.

Citation 1, Item 1: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

Citation 1, Item 2: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

Citation 1, Item 3: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

Citation 1, Item 4: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

Citation 1, Item 5: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

Citation 1, Item 6: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

Citation 1, Item 7: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

Citation 1, Item 8: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

MARTIN'S CONCRETE CONSTRUCTION 315625616
2312 CANTERBURY STREET
AUSTIN, TX 78702

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

Certification of Abatement Response by: _____

Title: _____

Date: _____



Citation and Notification of Penalty

Company Name: MARTIN'S CONCRETE CONSTRUCTION
Inspection Site: 5001 CONVICT HILL RD., AUSTIN, TX 78749

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

29 CFR 1926.20(b)(1): The employer did not initiate and maintain safety and health programs as may be necessary to comply with this part:

On or about June 24, 2011, and in times prior thereto, at the inspection site, the employer exposed employee(s) of Martin's Concrete Construction to conditions which are unsanitary, hazardous, or dangerous to their health or safety. Employees on the site are exposed to the hazards of being struck-by and/or falling from collapsed balconies that are not properly shored.

NOTE: The elements of an effective safety and health program may include, but are not limited to, the following:

- a) Management commitment and leadership
- b) Assignment of Responsibility
- c) Identification and control of hazards
- d) Training and education
- e) Recordkeeping and hazard analysis
- f) First aid, medical training and assistance
- g) Frequent and regular inspections

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that a safety and health program is initiated and maintained.

Date By Which Violation Must be Abated: 01/04/2012
Proposed Penalty: \$ 3000.00



Citation and Notification of Penalty

Company Name: MARTIN'S CONCRETE CONSTRUCTION
Inspection Site: 5001 CONVICT HILL RD., AUSTIN, TX 78749

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

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment to control or eliminate any hazards or other exposure to illness or injury.

On or about June 24, 2011, and in times prior thereto, seven employees of Martin's Concrete Construction were pouring and spreading concrete on the second and third floor balconies of the apartment complex being remodeled without the employer providing training on the hazards associated with their work such as, but not limited to, being struck-by and/or falling from collapsed balconies not properly shored.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that each employee is properly trained on the hazards associated with, but not limited to, concrete shoring and working from heights.

Date By Which Violation Must be Abated:	01/04/2012
Proposed Penalty:	\$ 3000.00



Citation and Notification of Penalty

Company Name: MARTIN'S CONCRETE CONSTRUCTION
Inspection Site: 5001 CONVICT HILL RD., AUSTIN, TX 78749

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

29 CFR 1926.501(b)(13): Employee(s) engaged in residential construction 6 feet (1.8 m) or more above lower levels were not protected from falling by the use of guardrail systems, safety net systems or personal fall arrest systems nor was an alternative fall protection plan which meets the requirements of 1926.502(k) developed and implemented:

On or about June 24, 2011, seven employees of Martin's Concrete Construction were pouring and spreading concrete on the second and third floor balconies of the apartment complex being remodeled up to approximately 16 feet high without fall protection, exposing the employees to a fall hazard.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that each employee working in an elevated position over 6 feet high is provided fall protection.

Date By Which Violation Must be Abated: 12/22/2011
Proposed Penalty: \$ 4200.00



Citation and Notification of Penalty

Company Name: MARTIN'S CONCRETE CONSTRUCTION
Inspection Site: 5001 CONVICT HILL RD., AUSTIN, TX 78749

Citation 1 Item 4 Type of Violation: **Serious**

29 CFR 1926.703(a)(1): Formwork was not designed, fabricated, erected, supported, braced and maintained so that it would be capable of supporting without failure all vertical and lateral loads that could reasonably be anticipated to be applied to the formwork:

On or about June 24, 2011, seven employees of Martin's Concrete Construction were pouring and spreading concrete on the second and third floor supported balconies of Building #2 up to approximately 16 feet high without adequate shoring to support the load being applied, exposing the employees to a fall hazard.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that all formwork is designed, fabricated, erected, supported, braced and maintained so that it will be capable of supporting without failure all vertical and lateral loads that could reasonably be anticipated to be applied to the formwork.

Date By Which Violation Must be Abated: 12/22/2011
Proposed Penalty: \$ 4200.00

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

29 CFR 1926.703(b)(3): Erected shoring equipment was not inspected immediately prior to, during, and immediately after concrete placement:

On or about June 24, 2011, employees of Martin's Concrete Construction were pouring and spreading concrete on a third floor balcony up to approximately 16 feet high while another worker was holding the hose on the ground without the shoring being inspected before and during the pour, exposing workers to the hazards of falls, and others below to the hazards of being struck by materials.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that erected shoring equipment is inspected before, during and after concrete pouring operations.

Date By Which Violation Must be Abated: 12/22/2011
Proposed Penalty: \$ 4200.00



Citation and Notification of Penalty

Company Name: MARTIN'S CONCRETE CONSTRUCTION
Inspection Site: 5001 CONVICT HILL RD., AUSTIN, TX 78749

Citation 1 Item 6 Type of Violation: **Serious**

29 CFR 1926.703(b)(8)(i): The design of the tiered (single post shores used on top of one another) post shore system was not prepared by a qualified designer and/or the erected shoring was not inspected by an engineer qualified in structural design:

On or about June 24, 2011, employees of Martin's Concrete Construction were pouring concrete on the second and third floor balconies on building #2 where the balconies were supported with single post shoring that was not designed or inspected by a qualified designer, exposing employees to the hazards of falls and exposing others below to the hazards of being struck by materials.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that tiered shoring systems are prepared by a qualified designer and/or the erected shoring is inspected by an engineer qualified in structural design.

Date By Which Violation Must be Abated: 12/22/2011
Proposed Penalty: \$ 4200.00



Citation and Notification of Penalty

Company Name: MARTIN'S CONCRETE CONSTRUCTION
Inspection Site: 5001 CONVICT HILL RD., AUSTIN, TX 78749

Citation 1 Item 7 Type of Violation: **Serious**

29 CFR 1926.1053(b)(1): Portable ladders were used for access to an upper landing surface and the ladder side rails did not extend at least 3 feet (.9 m) above the upper landing surface to which the ladder was used to gain access:

On or about June 24, 2011, seven employees of Martin's Concrete Construction were utilizing 20 foot aluminum extension ladders to access the second and third floor balconies up to approximately 16 feet high on Building #2 without the ladders extending at least 3 feet over the upper landing surface, exposing the employees to a fall hazard.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that each employee utilizing ladders to gain height, extend the ladders at least 3 feet above the upper landing surface.

Date By Which Violation Must be Abated: 12/22/2011
Proposed Penalty: \$ 3000.00



Citation and Notification of Penalty

Company Name: MARTIN'S CONCRETE CONSTRUCTION
Inspection Site: 5001 CONVICT HILL RD., AUSTIN, TX 78749

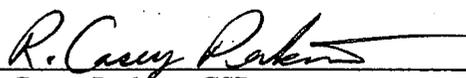
Citation 1 Item 8 Type of Violation: **Serious**

29 CFR 1926.1060(a): The employer did not provide a training program for each employee using ladders and stairways which would train each employee in the procedures to be followed to minimize hazards related to ladders and stairways:

On or about June 24, 2011, and in times prior thereto, seven employees of Martin's Concrete Construction were utilizing 20 foot aluminum extension ladders to access the second and third floor balconies up to approximately 16 feet high on Building #2 without receiving ladder training from the employer, exposing the employees to a fall hazard.

Pursuant to 29 C.F.R. 1903.19, within ten (10) calendar days of the date of this citation, the employer must submit documentation showing that it is in compliance with the standard, including describing the steps that it is taking to ensure that each employee utilizing or anticipated to be utilizing ladders is trained by the employer.

Date By Which Violation Must be Abated: 01/04/2012
Proposed Penalty: \$ 3000.00



R. Casey Perkins, CSP
Area Director