

## U.S. Department of Labor

Occupational Safety and Health Administration  
Fountainhead Tower  
8200 W. Interstate 10, Suite 605  
San Antonio, TX 78230  
Phone: 210-472-5040 Fax: 210-472-5045



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# Citation and Notification of Penalty

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**To:**

One Eighty Construction, Inc.  
and its successors  
707 Rio Grande St., Suite 100  
Austin, TX 78701

**Inspection Number:** 1094140**Inspection Date(s):** 09/24/2015 - 09/24/2015**Issuance Date:** 03/21/2016**Inspection Site:**

111 E. Park  
San Antonio, TX 78212

*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. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will process the payments as if these restrictions or conditions 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](http://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 03/21/2016. The conference will be held by telephone or at the OSHA office located at Fountainhead Tower, 8200 W. Interstate 10, Suite 605, San Antonio, TX 78230 on

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

**CERTIFICATION OF CORRECTIVE ACTION WORKSHEET**

**Inspection Number: 1094140**

Company Name: One Eighty Construction, Inc.  
Inspection Site: 111 E. Park, San Antonio, TX 78212  
Issuance Date: 03/21/2016

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, Fountainhead Tower, 8200 W. Interstate 10, Suite 605, San Antonio, TX 78230**

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



### Citation and Notification of Penalty

**Company Name:** One Eighty Construction, Inc.  
**Inspection Site:** 111 E. Park, San Antonio, TX 78212

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

29 CFR 1926.1101(d)(5): All general contractors on a construction project which includes work covered by this standard shall be deemed to exercise general supervisory authority over the work covered by this standard, even though the general contractor is not qualified to serve as the asbestos "competent person" as defined by paragraph (b) of this section. As supervisor of the entire project, the general contractor shall ascertain whether the asbestos contractor is in compliance with this standard, and shall require such contractor to come into compliance with this standard when necessary. The general contractor did not ascertain whether the contractor was in compliance with this standard and/or require the contractor to come into compliance with this standard when necessary:

One Eleven Park Avenue: On or about, October 13, 2015, and at times prior to, One Eighty Construction functioning as the general contractor during the renovation at the One Eleven Park Avenue apartments, did not ascertain whether the asbestos contractor was in compliance with this standard, and did not require sub-contractors to comply with the asbestos standard during the removal of asbestos containing flooring material. One Eighty Construction failed to ensure that:

1. resilient flooring material including associated mastic and backing was assumed to be asbestos-containing;
2. all Class II and III asbestos work was conducted within regulated areas;
3. all asbestos work performed within regulated areas was supervised by a competent person, as defined in paragraph (b) of this section;
4. sub-contractors who had a workplace or work operation covered by this ensured that a "competent person" conducted an exposure assessment immediately before or at the initiation of the operation to ascertain expected exposures during that operation or workplace. The assessment must be completed in time to comply with requirements which are triggered by exposure data or the lack of a "negative exposure assessment," and to provide information necessary to assure that all control systems planned are appropriate for that operation and will work properly;
5. sub-contractor used the following engineering controls and work practices in all operations covered by this section, regardless of the levels of exposure: vacuum cleaners equipped with HEPA filters to collect all debris and dust containing ACM and PACM; wet methods, or wetting agents to control employee exposures during asbestos handling, mixing, removal, cutting, application, and cleanup; and prompt clean-up and disposal of wastes and debris contaminated with asbestos in leak-tight containers;

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

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6. for all indoor Class II jobs, where contractors did not remove the ACM in a substantially intact state, critical barriers and impermeable dropcloths were not used to ensure that airborne asbestos does not migrate from the regulated area;
7. sub-contractor employees complied with the following work practices and that that employees were trained in these practices pursuant to paragraph (k)(9): dry sweeping is prohibited during the removal of vinyl and asphalt flooring materials which contain ACM or for which in buildings constructed no later than 1980, the employers had not verified the absence of ACM.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	04/03/2016
Proposed Penalty:	\$6930.00

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:** One Eighty Construction, Inc.  
**Inspection Site:** 111 E. Park, San Antonio, TX 78212

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

29 CFR 1926.1101(k)(4): Employer who discovered asbestos containing material and/or presumed asbestos containing material on a worksite did not convey information concerning the presence, location and quantity of such newly discovered asbestos containing material and/or presumed asbestos containing material to the owner and to other employer of employees working at the worksite within 24 hours of discovery:

One Eleven Park Avenue: On or about October 13, 2015, during the removal of floor tile and mastic, the employer did not notify other employers of the presence, quantity, and location of asbestos containing material at the One Eleven Park Avenue Apartments.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:  
Proposed Penalty:

04/03/2016  
\$69300.00

A handwritten signature in blue ink that reads "Alejandro Porter".

**Alejandro Porter**  
Area Director

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
Fountainhead Tower  
8200 W. Interstate 10, Suite 605  
San Antonio, TX 78230  
Phone: 210-472-5040 Fax: 210-472-5045



## INVOICE / DEBT COLLECTION NOTICE

**Company Name:** One Eighty Construction, Inc.  
**Inspection Site:** 111 E. Park, San Antonio, TX 78212  
**Issuance Date:** 03/21/2016

<b>Summary of Penalties for Inspection Number</b>	<b>1094140</b>
<b>Citation 1, Serious</b>	<b>\$6930.00</b>
<b>Citation 2, Willful</b>	<b>\$69300.00</b>
<b>TOTAL PROPOSED PENALTIES</b>	<b>\$76230.00</b>

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will cash the check or money order as if these restrictions or conditions do not exist.

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

**Interest:** Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

**Delinquent Charges:** A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

**Administrative Costs:** Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.

Alejandro Porter

**Alejandro Porter**  
Area Director

3/21/16

Date