

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

1400 Old Country Road, Suite 208  
Westbury, NY 11590  
Phone: (516)334-3344 FAX: (516)334-3326



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## Notification of Failure to Abate Alleged Violations

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**To:**

Frank Lally, President  
Simtek Inc.  
and its successors  
21 Deforest Street  
Amityville, NY 11701-2805

**Inspection Site:**

21 Deforest Street  
Amityville, NY 11701-2805

**Original Inspection Number:** 315204974

**Original Inspection Date:** 01/24/2011-01/24/2011

**Inspection Number:** 315996355

**Inspection Date(s):** 01/06/2012-01/06/2012

**Issuance Date:** 06/28/2012

*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.*

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After the original inspection, a Citation(s) was issued to you in accordance with the provisions of the Occupational Safety and Health Act of 1970 (the Act), notifying you of certain violations of the Act and the dates by which they were to be abated. Based upon reinspection, it is alleged that you have failed to abate the violation(s) listed below within the time prescribed, and the following additional penalties are proposed. The additional penalty is computed by multiplying a daily penalty times the number of days the violation(s) remained unabated. You are to notify the Area Director in writing of the date and nature of the corrective action taken. If you do not abate the violation(s), further penalties may be proposed and other enforcement action to compel abatement may be taken under section 11(b) of the Act.

You are further notified that you must pay the ADDITIONAL PENALTY unless you inform the Area Director in writing that you intend to contest the Notification or the Additional Penalty within 15 working days (excluding weekends and Federal holidays) from your receipt of this notification. If you do not contest within 15 working days after receipt, the Notification and the additional penalties will become the final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court of agency. Issuance of this Notification 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, if contested, unless the Notification is affirmed by the Review Commission.

Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance.

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](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 Notification of Failure to Abate Alleged Violations issued on 06/28/2012 . The conference will be held at the OSHA office located at , 1400 Old Country Road, Suite 208, Westbury, NY, 11590 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

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



**Notification of Failure to Abate Alleged Violation**

**Original Inspection:** 315204974  
**Original Inspection Dates:** 01/24/2011 - 01/24/2011

**Inspection:** 315996355  
**Inspection Dates:** 01/06/2012 - 01/06/2012  
**Issuance Date:** 06/28/2012

**Company Name:** Simtek Inc.  
**Inspection Site:** 21 Deforest Street, Amityville, NY 11701-8805

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**Citation 1 Item 3**

29 CFR 1910.147(c)(4)(i): Procedures were not developed documented and utilized for the control of potentially hazardous energy when employees were engaged in activities covered by this section:

a) Workplace, Back Room; The employer does not protect each employee by developing, documenting and utilizing procedures for the control of potentially hazardous energy. This violation was most recently observed on 1/6/12 and prior to that on 1/24/11. Employees performing maintenance functions on power press brakes and other machinery such as but not limited to the Amada Brake, Model RG 100, and Amada Brake #3, FCXB-200D were not provided with documented procedures to control hazardous energy. To abate this violation the employer must develop, document and utilize procedures for the control of potentially hazardous energy when employees are engaged in activities covered by Lockout/Tagout.

Note: In addition to abatement certification the employer is required to submit abatement documentation for this item in accordance with 29 CFR 1903.19.

**Additional Penalty:** \$ 23100.00





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**Notification of Failure to Abate Alleged Violation**

**Original Inspection:** 315204974                      **Inspection:** 315996355  
**Original Inspection Dates:** 01/24/2011 - 01/24/2011    **Inspection Dates:** 01/06/2012 - 01/06/2012  
**Issuance Date:** 06/28/2012

**Company Name:** Simtek Inc.  
**Inspection Site:** 21 Deforest Street, Amityville, NY 11701-8805

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**Citation 1 Item 13**

29 CFR 1910.303(b)(2): Listed or labeled electrical equipment was not used or installed in accordance with instructions included in the listing or labeling:

b) Workplace, Back Room Welding Area; The employer does not protect each employee by ensuring that employees use or install listed or labeled equipment in accordance with instructions included in the Underwriters Laboratories listing or labeling. This was most recently observed on 1/6/12 and prior to that on 1/24/11. A welding machine was plugged into a metal quad outlet box that was not mounted to a wall, beam, etc... The quad box was not used in accordance with instructions. To abate this violation the employer must ensure that employees use and install listed or labeled equipment in accordance with instructions included in the listing and labeling.

Note: The employer is required to submit abatement certification for this item in accordance with 29 CFR 1903.19.

Additional Penalty: \$ 4125.00









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OSHA Website Address: <http://www.osha.gov>



**INVOICE/  
DEBT COLLECTION NOTICE**

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**Company Name:** Simtek Inc.  
**Inspection Site:** 21 Deforest Street, Amityville, NY 11701-2805  
**Issuance Date:** 06/28/2012  
**Opt. Insp. Nr:** 746

**Summary of Penalties for Inspection Number** 315204974  
**Followup Inspection Number** 315996355

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**TOTAL ADDITIONAL PROPOSED PENALTIES = \$109725.00**

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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.

OSHA does not agree to any restrictions or conditions 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 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 two (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 3%. 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.

  
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Anthony Ciuffo, CSP  
Area Director

6/28/12  
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Date