

U.S. Department of Labor

Occupational Safety and Health Administration
53 Pleasant Street Room 3901, J.C. Cleveland Federal Bldg.
Concord, NH 03301
Phone: 603-225-1629 Fax: 603-225-1580



Citation and Notification of Penalty

To:
The MacMillin Company Inc
and its successors
17 Elm Street
Keene, NH 03431

Inspection Number: 106864
Inspection Date(s): 09/22/2011 - 09/23/2011
Issuance Date: 03/16/2012

Inspection Site:
Keene Middle School
Maple Ave
Keene, NH 03431

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 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. **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, 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 are required by 29 CFR 1903.19 to submit an *abatement certification* to the Area Director of the OSHA office issuing the citation as 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 citation 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.

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.

Also, the law requires a copy of all abatement verification documents which are required by 29 CFR 1903.19 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.

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, but not sooner than 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.

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



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 03/16/2012. The conference will be held at the OSHA office located at 53 Pleasant Street, Concord, NH 03301 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 106864

Company Name: The MacMillin Company Inc
Inspection Site: Keene Middle School, Maple Ave, Keene, NH 03431
Issuance Date: 03/16/2012

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, 53 Pleasant Street, Room 3901, J.C. Cleveland Federal Bldg. Concord, NH 03301**

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: The MacMillin Company Inc
Inspection Site: Keene Middle School, Maple Ave, Keene, NH 03431

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

29 CFR 1926.451(a)(1): Scaffold(s) and scaffold(s) component(s) were not capable of supporting, without failure, its own weight and at least four times the maximum intended load applied or transmitted to it:

- (a) Auditorium - The scaffolding platform failed to support the weight of the employee.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date by which Violation must be Abated: 03/19/2012
Proposed Penalty: \$4410.00

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

29 CFR 1926.451(b)(9): Wood platforms were covered with an opaque finish so as to obscure the top or bottom surface:

- (a) Auditorium - Scaffolding planks were covered with paint.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date by which Violation must be Abated: 03/19/2012
Proposed Penalty: \$4410.00



Citation and Notification of Penalty

Company Name: The MacMillin Company Inc
Inspection Site: Keene Middle School, Maple Ave, Keene, NH 03431

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

29 CFR 1926.451(c)(2): Supported scaffold poles, legs, posts, frames, or uprights did not bear on base plates, mud sills or other adequate firm foundation:

- (a) Auditorium - The scaffolding legs did not bear on the base plates exposing employees to potential shifting or collapse of the scaffolding.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date by which Violation must be Abated: 03/19/2012
Proposed Penalty: \$3150.00

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

29 CFR 1926.451(f)(7): Scaffolds were not erected, moved, dismantled, or altered, by trained and experienced employees under the supervision and direction of a competent person qualified in scaffold erection, moving, dismantling or alteration.; Such activities were not performed only by experienced and trained employees selected for such work by the competent person:

- (a) Auditorium - The tubular welded scaffolding was erected without the adequate supervision of a competent person.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date by which Violation must be Abated: 03/19/2012
Proposed Penalty: \$4410.00



Citation and Notification of Penalty

Company Name: The MacMillin Company Inc
Inspection Site: Keene Middle School, Maple Ave, Keene, NH 03431

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

29 CFR 1926.451(f)(3): Scaffolds and scaffold components were not inspected for visible defects by a competent person before each work shift, and after any occurrence which could affect a scaffold's structural integrity:

- (a) Auditorium - The tubular welded scaffolding was not inspected by a competent person before each work shift and during the erection process.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date by which Violation must be Abated: 03/19/2012
Proposed Penalty: \$50400.00

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

29 CFR 1926.451(g)(2): The employer did not provide fall protection for employees erecting or dismantling supported scaffolds:

- (a) Auditorium - On or about 09/22/11, the employer did not have a competent person conduct a feasibility assessment for fall protection during the scaffolding erection.
- (b) Auditorium - On or about 09/22/11, employees were exposed to fall hazard of up to 27 feet 7 inches, while erecting scaffolding without fall protection.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date by which Violation must be Abated: 03/19/2012
Proposed Penalty: \$50400.00



Citation and Notification of Penalty

Company Name: The MacMillin Company Inc
Inspection Site: Keene Middle School, Maple Ave, Keene, NH 03431

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

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

(a) Auditorium -The employer did not have a competent person train the employees engaged in erecting scaffolding in the auditorium in the following: the nature of scaffold hazards; the correct procedures for inspecting and erecting the tubular welded scaffold (including its components); the scaffold's design criteria, maximum intended load-carrying capacity and intended use; and the installation and use of fall protection during the scaffold erection.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date by which Violation must be Abated: 03/19/2012
Proposed Penalty: \$50400.00

A handwritten signature in cursive script, reading "Rosemarie Ohar". The signature is written in black ink and is positioned above a horizontal line.

Rosemarie Ohar
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
53 Pleasant Street Room 3901, J.C. Cleveland Federal Bldg.
Concord, NH 03301
Phone: 603-225-1629 Fax: 603-225-1580



INVOICE / DEBT COLLECTION NOTICE

Company Name: The MacMillin Company Inc
Inspection Site: Keene Middle School, Maple Ave, Keene, NH 03431
Issuance Date: 03/16/2012

Summary of Penalties for Inspection Number	106864
Citation 1, Serious	\$16380.00
Citation 2, Willful - Serious	\$151200.00
TOTAL PROPOSED PENALTIES	\$167580.00

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 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 or conditions do not exist.

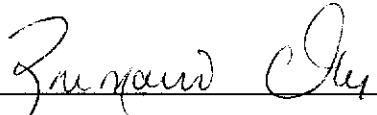
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 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.

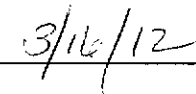
Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per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



Rosemarie Ohar

Area Director



Date