

**UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

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SECRETARY OF LABOR,

Complainant,

v.

INDUSTRIAL INSULATION &  
COATINGS, LLC,  
and its successors,

Respondent.  
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OSHRC No. 20-1679

Inspection No. 1476984

Judge Keith Bell

**SETTLEMENT AGREEMENT**

Complainant Secretary of Labor and Respondent Industrial Insulation & Coatings, LLC, by their undersigned representatives, have reached a full and complete settlement of the above-captioned case pursuant to 29 C.F.R. § 2200.100. Accordingly, the parties state as follows:

1. The Commission has jurisdiction over this matter pursuant to section 10(c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.* (hereinafter the "Act").
2. The Citation and Notification of Penalty issued on November 25, 2020, is amended as follows:
  - a. Citation 1, Item 1 of the Citation and Notification of Penalty is amended to a penalty of \$3,238.80.
  - b. Citation 2, Item 1 of the Citation and Notification of Penalty is amended to a penalty of \$80,962.20
3. The total penalty for the affirmed Citation will be \$84,201.00.
4. Respondent agrees that the following abatement measures will be taken within the time limits provided below:



a. Within 30 days of the date on which the Citation, as amended by this Settlement Agreement, becomes a final Commission order, Respondent will ensure that all of its management and supervisor employees receive and complete the 30-hour OSHA course, and all non-management and non-supervisor employees receive and complete the 10-hour OSHA course.

b. Within 10 days of completing such training for all employees, Respondent shall submit documentation to OSHA verifying that all employees have received and completed this training. The documentation shall be sent to the OSHA Pittsburgh Area Office, William Moorhead Federal Building, Room 905 1000 Liberty Avenue, Pittsburgh, PA 15222, and shall indicate that the documentation is related to Inspection No. 1476984.

c. For the duration of a one-year period that begins 30 days after the date on which the Citation, as amended by this Settlement Agreement, becomes a final Commission order, Respondent shall ensure that: all newly-hired management and supervisor employees receive and complete the OSHA 30-hour course before they are permitted to perform any work in the field; and all newly-hired non-management and non-supervisor employees receive and complete the OSHA 10-hour course before they are permitted to perform any work in the field. Within 10 days after the end of this one-year period, Respondent shall submit documentation to OSHA verifying that all such newly-hired employees received and completed this training. The documentation shall be sent to the OSHA Pittsburgh Area Office, William Moorhead Federal Building, Room 905 1000 Liberty Avenue, Pittsburgh, PA 15222, and shall indicate that the documentation is related to Inspection No. 1476984.

5. Respondent withdraws its notice of contest to the Citation and states that:

a. Respondent will pay the amended penalty of \$84,201.00 in the following manner: beginning on June 1, 2022, Respondent will pay \$3,500.00 each month for 23 months and a final, 24<sup>th</sup> payment of \$3,701.00. Payments will be due the 1st day of every



month, with a 15-day cure period. All payments will be made by check payable to "OSHA Labor" and mailed to the OSHA Pittsburgh Area Office, William Moorhead Federal Building, Room 905 1000 Liberty Avenue, Pittsburgh, PA 15222, and shall indicate that the documentation is related to Inspection No. 1476984. If Respondent fails to make any installment payment by the 1st day of the month in which it is due, Respondent shall have a 15-day cure period in which to make the payment. Respondent agrees that if it fails to make any payment under this provision by the expiration of the cure period, the Secretary may, by written notice to Respondent, declare Respondent to be in default, and upon receipt of such notice Respondent will pay the entire penalty of \$84,201.00, minus payments already made, within 30 days of the date the notice was received. The Secretary shall have sole discretion to declare Respondent to be in default under this provision for any month in which Respondent fails to make payment by the expiration of the cure period. The Secretary's failure to declare Respondent to be in default for any month in which Respondent fails to make payment by the expiration of the cure period shall in no way estop the Secretary from declaring Respondent to be in default in future months where Respondent fails to make payment by the expiration of the cure period for that month.

b. Respondent will post a copy of this Settlement Agreement in accordance with the requirements of 29 C.F.R. § 2200.100(c) and 29 C.F.R. § 2200.7 at 389 Franz Dr. on 4/14, 2022 so as to provide notice to all affected employees. New Castle PA 16101

c. Respondent agrees to continue to comply with the applicable provisions of the Act, and the applicable health and safety standards promulgated pursuant to the Act.

6. Nothing in this Settlement Agreement shall be construed as an admission by Respondent of any of the allegations contained in the Citation. The amendments and stipulations set forth in this Settlement Agreement are made solely for the purpose of resolving this matter



set forth in this Settlement Agreement are made solely for the purpose of resolving this matter without further litigation and shall not be used for any purpose except for proceedings and matters arising under the Act.

7. The parties agree that the Citation is amended to include the provisions of this Settlement Agreement. The Citation, as amended by this Settlement Agreement, shall become a final order of the Commission on the same date that the Order Terminating Proceeding becomes a final order, as set forth in the Notice of Docketing to be issued by the Executive Secretary of the Commission.

8. The parties agree to bear their own attorney fees, costs, and other expenses incurred in connection with any stage of the above-referenced proceeding including, but not limited to, attorney fees and costs which may be available under the Equal Access to Justice Act, as amended.

Industrial Insulation & Coatings, LLC

By:

Eric S. Frye  
Eric Thomas Frye  
Attorney for Respondent

Dated: April 21, 2022

By:

Edward Zajac  
EDWARD ZAJAC (name)  
SAFETY DIRECTOR (title)

Dated: April 14, 2022

U.S. Department of Labor

Seema Nanda  
Solicitor of Labor

Oscar L. Hampton III  
Regional Solicitor

By:

Judson H. Dean  
Judson H. Dean  
Senior Trial Attorney

Dated: April 29, 2022