



CITATION AND NOTIFICATION OF PENALTY

To:
Sunset Cultural Center, Inc.
and its successors
P.O. Box 1950
Carmel, CA 93921

Inspection #: 1380281
Inspection Date (s): 02/22/2019 - 06/06/2019
Issuance Date: 06/10/2019
CSHO ID: B4158
Optional Report #: 020-19
Reporting ID: 0950612

Inspection Site:
San Carlos Street & Ninth Avenue
Carmel, CA 93921

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 (hereinafter Citation) is being issued in accordance with California Labor Code Section 6317 for violations that were found during the inspection/investigation. **This Citation or a copy must be prominently posted upon receipt by the employer at or near the location of each violation until the violative condition is corrected or for three working days, whichever is longer.** Violations of Title 8 of the California Code of Regulations or of the California Labor Code may result in some instances in prosecution for a misdemeanor.

YOU HAVE A RIGHT to contest this Citation and Notification of Penalty by filing an appeal with the Occupational Safety and Health Appeals Board. To initiate your appeal, you **must** contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of this Citation. If you miss the 15 working day deadline to appeal, the Citation and Notification of Penalty becomes a final order of the Appeals Board, not subject to review by any court or agency.

Informal Conference - You may request an informal conference with the manager of the district office which issued the Citation within 10 working days after receipt of the Citation. However, if the citation is appealed, you may request an informal conference at any time prior to the day of the hearing. Employers are encouraged to schedule a conference at the earliest possible time to assure an expeditious resolution of any issues. At the informal conference, you may discuss the existence of the alleged violation, classification of the violation, abatement date or proposed penalty.

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 agreement which resolves this matter without litigation or contest.

APPEAL RIGHTS

The Occupational Safety and Health Appeals Board (Appeals Board) consists of three members appointed by the Governor. The Appeals Board is a separate entity from the Division of Occupational Safety and Health (Division) and employs experienced administrative law judges to hear appeals fairly and impartially. To initiate an appeal from a Citation and Notification of Penalty, you must contact the Appeals Board in writing, or by telephone, or online via the Board's OASIS system, within 15 working days from the date of receipt of a Citation.

After you have initiated your appeal, you must then file a completed appeal form with the Appeals Board, at the address listed below, or online via the Board's OASIS system, for each contested Citation. Failure to file a completed appeal form with the Appeals Board may result in dismissal of the appeal. Appeal forms are available to print online at: <https://www.dir.ca.gov/oshab/appealform.pdf>. You may also file the appeal through the Board's online OASIS system at: <https://www.dir.ca.gov/oshab/>. Hard copies can also be picked up from district offices of the Division, or from the Appeals Board:

Occupational Safety and Health Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
Telephone: (916) 274-5751 or (877) 252-1987
Fax: (916) 274-5785

If the Citation you are appealing alleges more than one item, you must specify on the appeal form which items you are appealing. You must also attach to the appeal form a legible copy of the Citation you are appealing. In addition, please send a copy of Page 1 of this Citation and Notification of Penalty, the cover sheet.

Among the specific grounds for an appeal are the following: the safety order was not violated, the classification of the alleged violation (e.g., serious, repeat, willful) is incorrect, the abatement requirements are unreasonable or the proposed penalty is unreasonable.

Important: You must notify the Appeals Board, not the Division, of your intent to appeal within 15 working days from the date of receipt of the Citation. Otherwise, the Citation and Notification of Penalty becomes a final order of the Appeals Board not subject to review by any court or agency. An informal conference with the Division does not constitute an appeal and does not stay the 15 working day appeal period. If you have any questions concerning your appeal rights, call the Appeals Board, at (916) 274-5751 or (877) 252-1987.

PENALTY PAYMENT OPTIONS

Penalties are due within 15 working days of receipt of this Citation and Notification of Penalty unless contested. If you are appealing any item of the citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form for payment.

If you are paying electronically, please have the Penalty Remittance Form on-hand when you are ready to make your payment. The company name, inspection number, and Citation number(s) will be required in order to ensure that the payment is accurately posted to your account. Please go to: www.dlr.ca.gov/dosh/CalOSHA_PaymentOption.html to access the secure payment processing site. **Additionally, you must also mail the Penalty Remittance Form to the address below.**

If you are paying by check, return one copy of the Citation, along with the Notice of Proposed Penalties Sheet and the Penalty Remittance Form and mail to:

Department of Industrial Relations
Cal/OSHA Penalties
P. O. Box 516547
Los Angeles, CA 90051-0595

CAL/OSHA does not agree to any restrictions, 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 violations which you do not contest, you should notify the Division of Occupational Safety and Health promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation and Notification of Penalty. Please inform the district office listed on the Citation by submitting the Cal/OSHA 160 form with the abatement steps you have taken and the date the violation was abated, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. The adjusted penalty for general violations has already been reduced by 50% on the presumption that the employer will correct the violations by the abatement date. The adjusted penalty for serious violations, if any, has already been reduced by 50% because abatement of those violations has been completed.

Note: Return the Cal/OSHA 160 form to the district office listed on the Citation and as shown below:

Division of Occupational Safety and Health
Fremont District Office
39141 Civic Center Drive, Suite 310
Fremont, CA 94538
Telephone: (510) 794-2521
Fax: (510) 794-3889

EMPLOYEE RIGHTS

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under Labor Code Section 6310 or 6311. An employee who believes that he/she has been discriminated against may file a complaint no later than six (6) months after the discrimination occurred with the Division of Labor Standards Enforcement.

Employee Appeals - An employee or authorized employee's representative may, within 15 working days of the issuance of a citation, special order, or order to take special action, appeal to the Occupational Safety and Health Appeals Board the reasonableness of the period of time fixed by the Division of Occupational Safety and Health (Division) for abatement. An employee appeal may be filed with the Appeals Board or with the Division. No particular format is necessary to initiate the appeal, but the notice of appeal must be in writing.

If an Employee Appeal is filed with the Division, the Division shall note on the face of the document the date of receipt, include any envelope or other proof of the date of mailing, and promptly transmit the document to the Appeals Board. The Division shall, no later than 10 working days from receipt of the Employee Appeal, file with the Appeals Board and serve on each party a clear and concise statement of the reasons why the abatement period prescribed by it is reasonable.

Employee Appeal Forms are available from the Appeals Board, or from a district office of the Division.

Employees Participation in Informal Conference - Affected employees or their representatives may notify the District Manager that they wish to attend the informal conference. If the employer objects, a separate informal conference will be held.

DISABILITY ACCOMMODATION

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district office or the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The Statewide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY - Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing or conference.

State of California
Department of Industrial Relations
Division of Occupational Safety and Health
Fremont District Office
39141 Civic Center Drive, Suite 310
Fremont, CA 94538
Phone: (510) 794-2521 Fax: (510) 794-3889

Inspection #: 1380281
Inspection Dates: 02/22/2019 - 06/06/2019
Issuance Date: 06/10/2019
CSHO ID: B4158
Optional Report #: 020-19



Citation and Notification of Penalty

Company Name: Sunset Cultural Center, Inc.
Establishment DBA:
and its successors
Inspection Site: San Carlos Street & Ninth Avenue
Carmel, CA 93921

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

Title 8 CCR Section 342(a)

(a) Every employer shall report immediately by telephone or telegraph to the nearest District Office of the Division of Occupational Safety and Health any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment.

Immediately means as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

Serious injury or illness is defined in section 330(h), Title 8, California Administrative Code.

Employer failed to timely report to the Division the serious injury suffered by an employee who fell onto sheet metal on February 16, 2019. The employer reported the serious injury on February 20, 2019.

Date By Which Violation Must be Abated:

Corrected During Inspection

Proposed Penalty:

\$5000.00

State of California
Department of Industrial Relations
Division of Occupational Safety and Health
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39141 Civic Center Drive, Suite 310
Fremont, CA 94538
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Citation and Notification of Penalty

Company Name: Sunset Cultural Center, Inc.
Establishment DBA: and its successors
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Carmel, CA 93921

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

Title 8 CCR Section 3203(a)

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards:

(A) When the Program is first established;

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.

(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and,

(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

(7) Provide training and instruction:

(A) When the Program is first established;

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.

(D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;

(E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,
(F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

Prior to and during the course of the investigation, including but not limited to February 16, 2019, the employer failed to establish, implement, and maintain an effective Injury and Illness Prevention Program in the following instances:

Instance #1

The employer failed to provide training and instructions to all employees on the following:

Injury and Illness Prevention Program
Personal Protective Equipment
General Safety and Health
Elevated Work Platform
Fall Protection

The employer did not provide training and instruction documentation upon request.
(Reference Title 8 CCR 3203(a)(7))

Instance #2

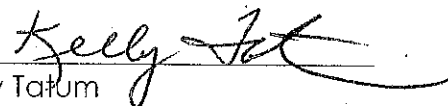
The employer failed to ensure hazards identify and evaluate during periodic inspections conducted were corrected when observed or discovered. (Reference Title 8 CCR 3203(a)(4) and (6))

Date By Which Violation Must be Abated:

July 03, 2019

Proposed Penalty:

\$16200.00



Kelly Tatum

Compliance Officer / District Manager

State of California
Department of Industrial Relations
Division of Occupational Safety and Health
Fremont District Office
39141 Civic Center Drive, Suite 310
Fremont, CA 94538
Phone: (510) 794-2521 Fax: (510) 794-3889



NOTICE OF PROPOSED PENALTIES

Company Name: Sunset Cultural Center, Inc.
Establishment DBA: and its successors
Inspection Site: San Carlos Street & Ninth Avenue, Carmel, CA 93921
Mailing Address: P.O. Box 1950, Carmel, CA 93921
Issuance Date: 06/10/2019
Reporting ID: 0950612
CSHO ID: B4158

Summary of Penalties for Inspection Number 1380281

Citation 1 Item 1, Regulatory	\$5000.00
Citation 2 Item 1, Serious	\$16200.00
TOTAL PROPOSED PENALTIES:	\$21200.00

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If you are paying by check: Mail this Notice of Proposed Penalties, the Penalty Remittance Form, along with a copy of the Citation and Notification of Penalty to:

DEPARTMENT OF INDUSTRIAL RELATIONS
CAL/OSHA PENALTIES
P. O. BOX 516547
LOS ANGELES, CA 90051-0595

Cal/OSHA does not agree to any restrictions, 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.

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH – CAL/OSHA
Accounting Office - Cashiering Unit
Phone (415) 703-4310 or (415) 703-4308

PENALTY REMITTANCE FORM

CIVIL PENALTY INFO	INSPECTION NO.: 1380281	REPORTING ID: 0950612
COMPANY NAME:	Sunset Cultural Center, Inc.	FEIN/SEIN: 522404864
ESTABLISHMENT DBA:		
CONTACT PERSON:	Agha Bilal	
PHONE NO.:	(831) 620-2040	FAX NO.: UNKNOWN
SITE ADDRESS:	San Carlos Street & Ninth Avenue, Carmel, CA 93921	
MAILING ADDRESS:	P.O. Box 1950, Carmel, CA 93921	
CITATION INFORMATION: Penalties are due within 15 working days of receipt of this notification unless contested. If you are appealing any item of this Citation, remittance is still due on all items that are not appealed.		
PAYMENT INSTRUCTIONS: For check or money order: please make check or money order payable to Department of Industrial Relations. Write the inspection number and total amount enclosed on the payment coupon below and on the check or money order. For credit card or EFT payment, go to: www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html		

----- Detach here and return bottom portion with check or money order payment -----

PAYMENT COUPON



Inspection No.: 1380281

Amount Enclosed: \$ _____

Mail payment to:

For credit card or EFT payment, go to:
www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html

DEPARTMENT OF INDUSTRIAL RELATIONS
CAL/OSHA PENALTIES
P.O. BOX 516547
LOS ANGELES, CA 90051-0595

Investigation Summary

Reporting ID	Investigation Summary Number	UPA Number	Event Date	Event Time	Construction
0950612	113844	1428819	02/16/2019	12:20 PM	N

Establishment Name	Sunset Cultural Center	Doing Business As (DBA)	
Related Inspections			

Site Information

Street Address 1:	San Carlos Street & Ninth Avenue				
Street Address 2:					
County:	MONTEREY				
City	CARMEL	State	CA	Zip	93921

Event

Type of Event	Struck by equipment		
Number of Employees			
Fatalities	Hospitalized	Non-Hospitalized	Unaccounted
0	1	0	0

Abstract

What was employee doing just before incident occurred?	EE#1, a Production Manager for a community performing arts center, was working by himself near the back entrance of the stage room. There was to be a musical venue event later in the evening, and EE#1 was moving equipment and allocating space for musicians to put down their instruments and personal belongings.
What happened?	The accident occurred at approx. 12:20PM on 2/16/2019 in Carmel-by-the-Sea, CA. DOSH was notified by the HR Director on 2/20/2019 at 4:57PM, and CSHO inspector was present on location at 10:30AM on 2/22/2019. EE#1 had driven a Genie GS-2632 electric scissor lift from inside the Stage Room out of the building doors, and parked the vehicle adjacent to an outdoor Air Conditioning unit what was mounted on a 3-inch concrete square pad. EE#1 wanted to temporarily place the vehicle outside so other musicians can put their belongings near where the vehicle was parked. As it was windy and started to rain, EE#1 used a black poly tarp to cover the upper part of the scissor lift. As EE#1 was step down from the scissor lift, his feet slipped, and he fell on top of one of the four corners of air conditioning unit that had exposed L-shaped metal posts, resulting in a laceration to EE#1 upper left thigh. EE#1 went back in the Stage Room, where two stage technicians aided him and called for emergency medical services.
What was the injury or illness?	EE#1 sustained deep laceration to his upper left thigh which required 8 stitches. He was taken to Community Hospital of Monterey Peninsula at 1:00PM 2/16/2019 and was discharged at 5:00PM 2/17/2019.
What was the object or substance that directly harmed the employee?	The exposed L-shaped metal support posts around the corners of the air conditioning unit caused an impalement injury to EE#1.
Keywords	

Victim 1	
Injured/Deceased Name	Gary Brunclik
Gender	MALE