

U.S. Department of Labor

Occupational Safety and Health Administration
Suite 203
800 Dolorosa St.
San Antonio, TX 78207
Phone: (210)472-5040 FAX: (210)472-5045



Citation and Notification of Penalty

To:
James Boys Inc
and its successors
14730 Sailfish Dr
Coral Gables, FL 33158

Inspection Number: 315630913
Inspection Date(s): 03/09/2012-03/09/2012
Issuance Date: 09/06/2012

Inspection Site:
4032 E Southcross
San Antonio, TX 78222

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.

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 page 5 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. Please contact the U.S. Department of Labor - OSHA for an informal conference at 210-472-5040 ext. 237 for an appointment.

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 and 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 citations 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.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

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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. If you have any dispute with the accuracy of the information displayed, please contact this office.

ABATEMENT CERTIFICATION

Kelly C. Knighton, CSP
Area Director
U.S. Department of Labor - OSHA
Suite 203
800 Dolorosa St.
San Antonio, TX 78207
Phone: (210)472-5040 FAX: (210)472-5045

James Boys Inc
14730 Sailfish Dr
Coral Gables, FL 33158

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____
by _____.

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____
by _____.

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____
by _____.

The hazard referenced in Inspection Number _____ for the violation identified as
Citation _____ and Item _____ was corrected on _____
by _____.

I attest that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement activities described in this certification.

Signature

Typed or Printed Name



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 09/06/2012. The conference will be held at the OSHA office located at Suite 203, 800 Dolorosa St., San Antonio, TX 78207 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

Inspection Number: 315630913
Inspection Dates: 03/09/2012-03/09/2012
Issuance Date: 09/06/2012



Citation and Notification of Penalty

Company Name: James Boys Inc
Inspection Site: 4032 E Southcross, San Antonio, TX 78222

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

~~29 CFR 1926.1101(d)(5): As supervisor of the entire project, the general contractor did not ascertain whether the contractor(s) was in compliance with the asbestos standard, and did not require such contractor to come into compliance with this standard when necessary:~~

- a) The Reserves at Pecan Valley Apartments: On or about March 9, 2012, and at times thereto, James Boys, Inc., as supervisors of the entire project, James Boys, Inc. did not ascertain whether Alco Painting & Remodeling, Frank Gonzales, Luis Lozada or Clemente Covarrubias was in compliance with the standard. James Boys, Inc. did not hire a licensed asbestos contractor for the remodel resulting in numerous violations of the asbestos construction hazard such as but not limited to 1926.1101(d)(2), 1926 1101(k)(3)(ii)(B).

Date By Which Violation Must be Abated:
Proposed Penalty:

09/25/2012
\$ 6300.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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Citation and Notification of Penalty

Company Name: James Boys Inc
Inspection Site: 4032 E Southcross, San Antonio, TX 78222

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

29 CFR 1926.1101(k)(1): Installed-Asbestos-Containing Building Material. Employers and building owners did not identify TSI and sprayed or troweled on surfacing materials in buildings as asbestos-containing, unless they determine in compliance with paragraph (k)(5) of this section that the material is not asbestos-containing. Asphalt and vinyl flooring material installed no later than 1980 must also be considered as asbestos containing unless the employer, pursuant to paragraph (g)(8)(I) of this section determines that it is not asbestos-containing. If the employer/building owner has actual knowledge, or should have known through the exercise of due diligence, that other materials are asbestos-containing, they too must be treated as such. When communicating information to employees pursuant to this standard, owners and employers shall identify "PACM" as "ACM".

The Reserve at Pecan Valley Apartments: On or about March 09, 2012, and times prior to, James Boys Inc., general contractor did not treat building materials for the buildings at the Reserve at Pecan valley which was built in 1975 as presumed asbestos containing or as asbestos containing material.

Date By Which Violation Must be Abated: 09/19/2012
Proposed Penalty: \$ 6300.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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Occupational Safety and Health Administration

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Citation and Notification of Penalty

Company Name: James Boys Inc
Inspection Site: 4032 E Southcross, San Antonio, TX 78222

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

29 CFR 1926.1101(k)(3)(ii)(B): The employer did not inform employees who worked and/or were working in adjacent areas of the location and quantity of asbestos containing material and/or presumed asbestos containing material present in the area and the precautions to be taken to insure that airborne asbestos was confined to the area:

- a) The Reserves at Pecan Valley Apartments: On or about March 9, 2012, and at times prior thereto, the controlling employer did not inform the employers (subcontractors) Alco Painting & Remodeling, Frank Gonzales, Luis Lozada or Clemente Covarrubias of the location and quantity of the asbestos and presumed asbestos containing material present in the apartment units or any precautions to take to contain or control airborne asbestos.

Date By Which Violation Must be Abated:
Proposed Penalty:

09/25/2012

\$ 6300.00

for Alejandro Pantoja

Kelly C. Knighton
Area Director

9-6-12

Date

See pages 1 through 5 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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INVOICE/ DEBT COLLECTION NOTICE

Company Name: James Boys Inc
Inspection Site: 4032 E Southcross, San Antonio, TX 78222
Issuance Date: 09/06/2012

Summary of Penalties for Inspection Number 315630913

Citation 1, Serious = \$ 18900.00
TOTAL PROPOSED PENALTIES = \$ 18900.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above or the amounts agreed to in an Informal Settlement Agreement. 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 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 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.

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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. Information on any delinquent claims may be disclosed to commercial credit reporting agencies, private debt collectors, and/or referred to the Internal Revenue Service for collection.

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 second and subsequent demand letters sent in an attempt to collect the unpaid debt. Costs will not be assessed for first demand letters and payment default letters.

for Alyando Parto Jr
Kelly C. Knighton
Area Director

09/06/12