

W.W.



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KENTUCKY OCCUPATIONAL SAFETY AND HEALTH

REVIEW COMMISSION

104 BRIDGE ST.

FRANKFORT, KENTUCKY 40601

PHONE (502) 564-6892

October 9, 1978

JULIAN M. CARROLL
GOVERNOR

IRIS R. BARRETT
EXECUTIVE DIRECTOR

MERLE H. STANTON
CHAIRMAN

CHARLES B. UPTON
MEMBER

JOHN C. ROBERTS
MEMBER

KOSHRC #455

COMMISSIONER OF LABOR
COMMONWEALTH OF KENTUCKY

COMPLAINANT

vs.

COX MOTOR COMPANY, INC.

RESPONDENT

ORDER OF DIRECTION FOR REVIEW
DECISION AND ORDER OF
REVIEW COMMISSION

Before STANTON, Chairman; UPTON and ROBERTS, Commissioners.

PER CURIAM:

A Recommended Order of Hearing Officer Charles A. Goodman III, issued under date of August 29, 1978, is presently before this Commission for review, pursuant to this Order of Direction for Review.

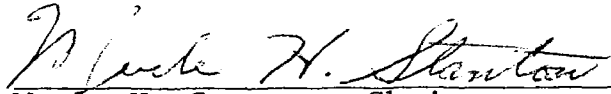
Three items were at issue in this case. The Hearing Officer has affirmed a failure to abate item no. 33 of citation 1 with a reduced penalty of \$200.00. We agree with his decision. The Recommended Order, however, lists item 33 as a non abatement of a violation of 803 KAR 2:015, Section 2 (1)(c). This Commission affirms a non abatement of a violation of 803 KAR 2:015, Section 1 (2)(c).

Item No. 34 of citation 1 is affirmed as a failure to abate with a penalty of \$200.00. The item is listed as a non abatement of a violation of 803 KAR 2:015, Section 2 (1)(e). This Commission affirms a non abatement of a violation of 803 KAR 2:015, Section 1 (2)(e) with a penalty of \$200.00.

KOSHRC #455

Mr. Goodman has affirmed a non abatement of item 35 of citation 1 with a penalty of \$200.00. A failure to abate a violation of 803 KAR 2:015 Section 2 (1)(g) is found. This Commission affirms a failure to abate a violation of 803 KAR 2:015 Section 1 (2)(g) with a penalty of \$200.00.

All other findings of the Hearing Officer not inconsistent with this decision are hereby AFFIRMED.



Merle H. Stanton, Chairman

/s/ Charles B. Upton

Charles B. Upton, Commissioner

/s/ John C. Roberts

John C. Roberts, Commissioner

DATED: October 9, 1978
Frankfort, Kentucky

DECISION NO. 620

This is to certify that a copy of this Decision and Order has been served by mailing or personal delivery on the following:

Commissioner of Labor (Messenger Mail)
Commonwealth of Kentucky
Attention: Honorable Michael D. Ragland
Executive Director for
Occupational Safety & Health

Honorable Kenneth E. Hollis (Messenger Mail)
General Counsel
Department of Labor
U. S. 127 - South
Frankfort, Kentucky 40601
Attention: Hon. Frederick G. Huggins
Assistant Counsel

Hon. John V. Porter (Certified Mail #458389)
Wells, Porter & Schmitt
Attorneys at Law
Paintsville, Kentucky 41240

Mr. James D. Cox, Sr., Pres. (Certified Mail #458390)
Cox Motor Company, Inc.
P. O. Box 511
Paintsville, Kentucky 41240

This 9th day of October, 1978.


Wayne A. Waddell, Counsel

Hayne

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KENTUCKY OCCUPATIONAL SAFETY AND HEALTH

REVIEW COMMISSION

104 BRIDGE ST.

FRANKFORT, KENTUCKY 40601

PHONE (502) 564-6892

August 29, 1978

JULIAN M. CARROLL
GOVERNOR

IRIS R. BARRETT
EXECUTIVE DIRECTOR

*KOSHRC
Decision +
Order No. 600*

MERLE H. STANTON
CHAIRMAN

CHARLES B. UPTON
MEMBER

JOHN C. ROBERTS
MEMBER

KOSHRC # 455

COMMISSIONER OF LABOR
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

COX MOTOR COMPANY, INC.

RESPONDENT

NOTICE OF RECEIPT OF
RECOMMENDED ORDER, AND
ORDER OF THIS COMMISSION

All parties to the above-styled action before this Review Commission will take notice that pursuant to our Rules of Procedure a Decision, Findings of Fact, Conclusions of Law, and Recommended Order is attached hereto as a part of this Notice and Order of this Commission.

You will further take notice that pursuant to Section 48 of our Rules of Procedure, any party aggrieved by this decision may within 25 days from date of this Notice submit a petition for discretionary review by this Commission. Statements in opposition to petition for discretionary review may be filed during review period, but must be received by the Commission on or before the 35th day from date of issuance of the recommended order.

Pursuant to Section 47 of our Rules of Procedure, jurisdiction in this matter now rests solely in this Commission and it is hereby ordered that unless this Decision, Findings of Fact, Conclusions of Law, and Recommended Order is called for review and further consideration by a member of this Commission within 40 days of the date of this order, on its own order, or the granting of a petition for discretionary review, it is adopted and affirmed as the Decision, Findings of Fact, Conclusions of Law and Final Order of this Commission in the above-styled matter.

Parties will not receive further communication from the Review Commission unless a Direction for Review has been directed by one or more Review Commission members.

Copy of this Notice and Order has been served by mailing or personal delivery on the following:

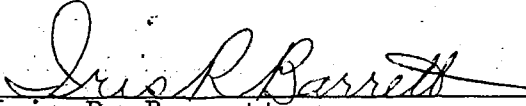
Commissioner of Labor (Messenger Service)
Commonwealth of Kentucky
Frankfort, Kentucky 40601
Attention: Honorable Michael D. Ragland
Executive Director for
Occupational Safety & Health

Honorable Kenneth E. Hollis (Messenger Service)
General Counsel
Department of Labor
U. S. 127 South
Frankfort, Kentucky 40601
Attention: Frederick G. Huggins
Assistant Counsel

Honorable John V. Porter (Certified Mail #457503)
WELLS, PORTER & SCHMITT
Attorneys at Law
Paintsville, Kentucky 41240

Mr. James D. Cox, Sr., Pres. (Certified Mail #457505)
Cox Motor Company, Inc.
P. O. Box 511
Paintsville, Ky. 41240

This 29th day of August, 1978.



Iris R. Barrett
Executive Director

KENTUCKY OCCUPATIONAL SAFETY
AND HEALTH REVIEW COMMISSION

FV
KOSHRC DOCKET
NUMBER 455

COMMISSIONER OF LABOR
COMMONWEALTH OF KENTUCKY

COMPLAINANT

V. FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDED ORDER

COX MOTOR COMPANY, INC.

RESPONDENT

* * *

FOR COMPLAINANT: Hon. Frederick G. Huggins
Assistant Counsel
Department of Labor
Capitol Plaza Tower
Frankfort, Kentucky 40601

FOR RESPONDENT: Hon. John V. Porter
Wells, Porter & Schmitt
80 Main Street
Paintsville, Kentucky 41240

GOODMAN, HEARING OFFICER

On or about October 20, 1977, an inspection was conducted by a Compliance Officer on behalf of the Commissioner of Labor (hereinafter referred to as "Commissioner"), said inspection being upon an automobile dealership located at or near 396 Broadway, Paintsville, Kentucky. At said time and place, employees of Cox Motor Company, Inc. (hereinafter referred to as "Cox") were engaged in the preparation, repair and maintenance of motor vehicles.

As a result of that inspection, the Commissioner issued two (2) citations on October 25, 1977, Citation No. 1 charging Cox with thirty five (35) non-serious violations, and Citation No. 2 charging Cox with two (2) regulatory violations of

the Kentucky Occupational Safety & Health Act (hereinafter referred to as "Act"), and proposing a total penalty for the alleged violations in the amount of Ninety Four Dollars (\$94.00). No Notice of Contest was filed by Cox as to any of the alleged violations.

Subsequently, on or about December 20, 1977, a follow-up inspection was conducted by the same Compliance Officer on behalf of the Commissioner, said inspection being at the above-mentioned address, and at said time and place, employees of Cox were engaged in the above-mentioned activities. Pursuant to said second inspection, the Commissioner issued a Notification of Failure to Correct Alleged Violations and of Proposed Additional Penalty on January 6, 1978, which charged Cox with failure to abate Item Nos. 33, 34 and 35 of the above-mentioned Citation No. 1, and proposing a total penalty for the alleged failure to abate in the amount of Two Thousand One Hundred Dollars (\$2,100.00).

The pertinent procedural information is as follows:

- 1) Initial inspection conducted on or about October 20, 1977, by the Commissioner at the above-mentioned address.
- 2) Two (2) citations were issued on October 25, 1977, Citation No. 1 containing thirty five (35) non-serious violations, with a total proposed penalty of Ninety Four Dollars (\$94.00), and Citation No. 2 containing two (2) regulatory violations, with no proposed penalty therefor.
- 3) Follow-up inspection conducted on or about December 20, 1977, by the Commissioner at the above-mentioned address.
- 4) Notification of Failure to Correct Alleged Violations and of Proposed Additional Penalty was issued on January 6, 1978, charging Cox with failure to abate Item Nos. 33, 34 and 35 of Citation No. 1 previously issued on October 25, 1977, and proposing a total penalty therefor of Two Thousand One Hundred Dollars (\$2,100.00).
- 5) Notice of Contest received January 23, 1978, contesting said Notification of Failure to Correct.

- 6) Notice of Receipt of Contest mailed January 30, 1978, and Certification of Employer Form received February 6, 1978.
- 7) Complaint received February 14, 1978, and Answer received February 27, 1978.
- 8) Notice of Assignment to Hearing Officer and Notice of Hearing were mailed on March 3, 1978.
- 9) Hearing was conducted on March 16, 1978, at the Mayo State Vocational-Technical School, Paintsville, Kentucky.
- 10) Transcript of testimony at hearing was received by Hearing Officer on March 22, 1978, and notice of same was mailed on that day.
- 11) Brief for Complainant received April 10, 1978, and brief for Respondent received May 25, 1978.

The above-mentioned hearing was held pursuant to KRS 388.071(4), which authorizes the Review Commission to hear and rule on appeals from citations, notifications and variances issued under the provisions of the Act, and to adopt and promulgate rules and regulations with respect to procedural aspects of the hearings. Under the provisions of KRS 388.081, the within hearing was authorized by the provisions of said Chapter and same may be conducted by a Hearing Officer appointed by the Review Commission to serve in its stead. The decisions of said Hearing Officer are subject to review by the Review Commission upon appeal timely filed by either party, or upon its own Motion, subsequent to which the Review Commission may sustain, modify or dismiss a citation or penalty.

As to Item No. 33 contained in Citation No. 1, the Standard violated and allegedly not abated, as adopted by KRS Chapter 338, the description of the violation, and the penalty proposed for said alleged non-abatement are as follows:

803 KAR 2:015 Section 1(2)(c)	Facilities for flushing electrolyte from eyes and skin with water were not provided for the battery charging operation.	\$ 700.00
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803 KAR 2:015, Section 1(2)(c) reads as follows:

Facilities shall be provided for flushing electrolyte from the eyes and skin with water. An adequate water supply shall be within twenty-five (25) feet of any part of the area designated above.

As to Item No. 34 contained in Citation No. 1, the Standard violated and allegedly not abated, as adopted by KRS 338, the description of the violation, and the penalty proposed for said alleged non-abatement are as follows:

803 KAR 2:015 Section 1(2)(e)	A face shield was not provided for employees engaged in the battery charging operations.	\$ 700.00
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803 KAR 2:015, Section 1(2)(e) reads as follows:

A face shield shall be provided and available at each charging unit. The use of the face shield shall be required for connection and disconnection of vehicle or charger leads to the battery terminals and for the addition or pouring of electrolyte.

As to Item No. 35 contained in Citation No. 1, the Standard violated and allegedly not abated, as adopted by KRS Chapter 338, the description of the violation, and the penalty proposed for said alleged non-abatement are as follows:

803 KAR 2:015 Section 1(2)(g)	Operating and first-aid instructions were not posted in each charging area and on each battery charger.	\$ 700.00
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803 KAR 2:015, Section 1(2)(g) reads as follows:

The following instructions shall be posted at each charging installation and on each battery charger: "Wear Face Shield" (Batteries may explode). "Turn Off Charger to Connect or Disconnect Battery" "Wash Acid Spills Immediately." "First Aid For Acid in Eyes or on Skin Quickly Flush With Water for Ten (10) Minutes."

Jurisdiction of the parties and the subject matter and due and timely notice of hearing is found by this Hearing Officer.

Upon review of the pleadings, testimony, briefs and evidence herein, the following Findings of Fact, Conclusions of Law, and Recommended Order are hereby made.

FINDINGS OF FACT

On the date of the follow-up inspection, employees of Cox were engaged in the preparation, repair and maintenance of motor vehicles at Cox's showroom and garage located at or near 396 Broadway, Paintsville, Kentucky.

An extended recitation of the factual circumstances surrounding the initial inspection and follow-up inspection will not be necessary. The only factual issue in dispute is whether Cox did or did not have face shields as required by 803 KAR 2:015, Section 1(2)(e). Moreover, at the beginning of the hearing, Counsel for Cox admitted that, at the time of the follow-up inspection, there were no facilities for flushing electrolyte and no operating and first aid instructions present; whereupon, pursuant to motion by Counsel for Commissioner, a Summary Judgment for Commissioner against Cox as to Item Nos. 33 and 35, abovementioned, was granted (Transcript of Hearing [herein-after TR], p 7, 8).

It was the testimony of the Compliance Officer, Irma Robinette, that she conducted both the initial and follow-up inspection and upon neither of these two occasions did Cox request or demand a search warrant (TR, p 10).

The Compliance Officer testified that she failed to observe a face shield at the battery charging unit and she was informed by Mr. James Cox II, who

accompanied her during the initial and follow-up inspection, that Cox did not have a face shield and had not obtained one (TR, p 15). Not only did the Compliance Officer observe no face shield at the battery charging unit, but she also failed to observe a face shield anywhere on the premises (TR, p 18). The Compliance Officer inspected another battery charging unit and also failed to find a face shield present at that location.

Counsel for Commissioner introduced into evidence two photographs depicting two battery charging units with no face shield being present in either photograph. In addition to the statement by Mr. Cox that no face shields were available, the Compliance Officer testified that she also received statements from two other employees to the same effect (TR, p 20). The hazard involved in the nonavailability of face shields is the lack of facial protection for employees charging batteries should a battery explode.

Upon cross-examination by Counsel for Cox, the Compliance Officer stated that she did not observe anyone actually charging batteries (TR, p 28).

Mr. Jerome Scott Connelly was then brought on as a witness for Commissioner. Mr. Connelly is a Compliance Officer trainee who accompanied the Compliance Officer upon her follow-up inspection of Cox. Mr. Connelly testified that Mr. James Cox II acted as management representative during the opening conference and the walk-around (TR, p 39).

Mr. James Cox, President of Cox Motor Company, Inc., then testified on behalf of Cox. He stated that James Cox II is his son, is an employee of Cox, but is not a corporate officer (TR, p 41). Mr. Cox further testified that he had made a good faith effort to obtain the electrolyte flushing solution and

the instruction sheets, but had been unable to do so at the time of the follow-up inspection. Both items had, at the time of the hearing, been obtained by Cox (TR, p 43). As to the face shield, Mr. Cox stated that Cox did have a face shield in the garage, but he couldn't say whether it was in the "right place" (TR, p 42). Extensive testimony was elicited from Mr. Cox to the effect that Cox has an outstanding safety record and has expended quite a sum of money in the last few years toward the improvement of safety.

The Compliance Officer in proposing a penalty for the apparent non-abatement of Items 33, 34 and 35, as contained in Citation No. 1, did so in accordance with the policy guidelines promulgated by the Commissioner. Under these guidelines, if there is no original penalty assessed, as there was not for these three items, a minimum daily penalty of One Hundred Dollars (\$100.00) for each item is imposed, which is multiplied times the number of days from the last date upon which the violation was to have been corrected until the time of the inspection. If the time span is more than seven (7) days, the maximum multiplier remains at seven (7). Therefore a Seven Hundred Dollar (\$700.00) penalty for non-abatement of each item was assessed, which totaled Two Thousand One Hundred Dollars (\$2,100.00) for all three non-abated items.

CONCLUSIONS OF LAW

At the onset, two questions of law must be resolved.

The first question is whether the statements by James Cox II and others to the effect that there were no face shields available may be properly admitted into evidence under the "admission" exception to the hearsay rule which allows introduction of an extrajudicial statement by certain agents and/or employees

of a party. Caddy Oil Company v. Somner, 186 Ky. 843, 218 SW2d 288 (1920). Counsel for Commissioner, in his brief, contends that the statements made by Mr. James Cox II should be allowed into evidence in that Mr. Cox, at the time the statements were made, was acting within the apparent scope of his authority. Counsel for Cox, in his brief, contends that the evidence failed to establish any customary manner of dealing from which it could be implied that James Cox II was authorized to make the statements in question. Upon review of the authority, this Hearing Officer has come to the opinion that the statements of James Cox II (and any other employees) as to the nonavailability of face shields are not admissible as proper exceptions to the hearsay rule. Even though Mr. Cox did act as management representative during the walk-around inspection, this alone did not extend the scope of his actual or apparent authority to the point of allowing extrajudicial statements made by him to be binding against the interest of Cox. Borderland Coal Co. v. Kerns, 165 Ky. 487, 177 SW2d 266 (1915). However, as shall be seen below, even though all statements made by Mr. James Cox II and/or any other employee to the effect that face shields were not available are not to be included in evidence, this is not dispositive as to whether Item 34 be affirmed or dismissed.

The next question of law to be considered is one which was brought out during the course of the hearing by counsel for Cox and reiterated in his brief. Cox contends that the KAR references contained in Citation No. 1 as to Items 33, 34 and 35, were incorrect, did not constitute proper notice to Cox, and therefore the items of non-abatement should be dismissed.

There was much confusion at the hearing as to whether the section and subsection numbers of 803 KAR 2:015 were correctly stated in the citation as

issued pursuant to the original inspection. Upon researching the matter, this Hearing Officer has concluded that the section and subsection references were incorrect.

The original inspection on Cox was conducted October 20, 1977. At that time, according to the Administrative Register, and as above indicated, the proper reference as to Item No. 33 was 803 KAR 2:015, Section 1(2)(c). However, the Citation issued against Cox referenced 803 KAR 2:015, Section 2(1)(c). Also, the correct reference for Item No. 34 was 803 KAR 2:015, Section 1(2)(e), rather than 803 KAR 2:015, Section 2(1)(e), as listed in the Complaint. Finally, the correct reference for Item No. 35 was 803 KAR 2:015, Section 1(2)(g), rather than 803 KAR 2:015, Section 2(1)(g), as listed in the Complaint.

Perhaps the reason for this erroneous numbering is that, on November 17, 1977, an amendment to 803 KAR 2:015 was proposed by the Department of Labor. This amendment changed the section number on batteries from 1 to 2 and made various other changes in the numbering and lettering system, so that 803 KAR 2:015, Section 1(2)(c) became Section 2(1), Section 1(2)(e) became Section 2(5), and Section 1(2)(g) became Section 2(7). It should be emphasized however, that this amendment, which became effective February 1, 1978, was simply a re-numbering and relettering amendment and did not in any way change the wording of 803 KAR 2:015 concerning batteries.

Therefore, the question is then, even though Cox was incorrectly cited, does this error by the Commissioner exculpate Cox from liability as to these three items? It does not.

In J. L. Mabry Grading, Inc., CCH 15,686 (April, 1973), the Federal

Review Commission was faced with a situation wherein a citation for a serious violation was based upon a regulation not in effect at the time of the alleged violation. In holding that the Administrative Law Judge had erred in dismissing the Complaint and not allowing an amendment thereof, the Review Commission stated that as long as a citation provides a plain statement of the factual conditions considered to constitute a violation of the regulation so that the Respondent is apprised of the subject facts in order to take proper corrective action and/or file a Notice of Contest or otherwise defend the action, the Complaint is sufficient. The Review Commission cited with approval a Labor Relations case, American Newspaper Publishers Association v. NLRB, 193 Fed. 2d 782 (7 Cir., 1951), aff'd 345 US 100 (1953), wherein it was stated at 800:

Where, as here, the complaint clearly describes an action which is alleged to constitute an unfair labor practice but fails to allege which subsection of the act has been violated or alleges the wrong subsection, such failure or mistake, if it does not mislead the parties charged, does not prevent the Board from considering and deciding the charge so presented.

Nor can Cox be heard to complain that Mabry may be distinguished from the case at hand because there a citation was allowed to be amended and here there has been no such motion on behalf of the Commissioner to amend. In Hawkins Construction Co., 15,326 CCH (Nov., 1972), an Administrative Law Judge denied an employer's motion to strike violations from a complaint because they were inaccurately numbered in the citation as a result of overlooked amendments to the regulation. The Judge denied dismissal because the employer had been adequately notified of the violation (there being no substantive changes in the amended regulation) and also because the employer, upon receipt of the citation containing the inaccurate numbers, denied all allegations and failed, until the hearing, to make any

objection to the regulations as cited. In the within action, Cox's Answer did not set forth any claim of erroneous numbering or lettering, which claim was not brought to this Hearing Officer's attention until the hearing itself.

In the case at hand, as with the above two cited cases, there has been no demonstrated prejudice to Cox as a result of the erroneous designation of the section and subsections violated and allegedly non-abated by Cox. Cox, upon receipt of the citation, knew exactly what corrective procedures must be utilized in order to abate the violations and was neither confused nor confounded in any way by the erroneous designation. There being no prejudice against Cox and adequate notice to Cox, the citation cannot be dismissed because of the Commissioner's error. However, this should in no way be interpreted as an approval by this Hearing Officer of incorrectly drafted citations by the Commissioner, and is most emphatically not to be taken as an indication of this Hearing Officer granting any manner of latitude to the Commissioner in the future.

We now return to the matter of the face shields. Even though the "admissions" by those under the employ of Cox cannot be taken into consideration, and even though Counsel for Cox has supplied this Hearing Officer with a number of invoices which demonstrate that Cox had purchased several face shields well prior to the initial inspection, this Hearing Officer is of the opinion that Item No. 34 contained in Citation No. 1 must nonetheless be affirmed. 803 KAR, 2:015, Section 1(2)(e) states with specificity that a face shield shall be provided and available at each charging unit. This Standard does not state that a face shield simply be available somewhere on the premises. It is the uncontroverted testimony by the Compliance Officer that she observed no face shields

anywhere around the two battery charging units inspected, and this testimony is substantiated by the photographs introduced into evidence. Furthermore, Mr. Cox himself stated that, even though there was a face shield in the garage, he did not know if it was in the "right place." A face shield in some other location of the working area, even though in the possession of Cox, does not comply with a plain reading of the Standard. According to the invoices, Cox had these face shields in its possession even prior to the initial inspection. That being true, all that was required was for Cox to relocate the face shields already on hand to the charging units. This Cox did not do, and therefore Cox did not abate.

It being the finding of this Hearing Officer that Cox had failed to abate all three of the items in question, the last remaining issue is penalty. This Hearing Officer is aware that Cox was assessed the minimum amount of penalty for non-abatement if that non-abatement extends through a period of seven (7) days or more. Nonetheless, ample testimony was introduced at the hearing to the effect that Cox is safety conscious, has expended large sums of money on safety, and has an excellent safety record. Further, credit should be given for the fact that Cox did abate some thirty two (32) standard violations and two (2) regulatory violations within the prescribed time. Finally, it was the unrefuted testimony by Mr. Cox that he was in the process of making a good faith effort to abate these remaining three (3) items at the time of the follow-up inspection.

Accordingly, this Hearing Officer feels that an equitable adjustment of the proposed penalty for each item is in order, and therefore reduces each from Seven Hundred Dollars (\$700.00) to Two Hundred Dollars (\$200.00).

RECOMMENDED ORDER

NOW THEREFORE, IT IS HEREBY ORDERED:

That Item No. 33 of Citation No. 1 charging a non-abatement of 803 KAR 2:015, Section 2(1)(c) is hereby affirmed, but that the proposed penalty therefor of Seven Hundred Dollars (\$700.00) be hereby reduced to Two Hundred Dollars (\$200.00).


That Item No. 34 of Citation No. 1 charging non-abatement of 803 KAR 2:015, Section 2(1)(e) is hereby affirmed, but that the proposed penalty therefor of Seven Hundred Dollars (\$700.00) be hereby reduced to Two Hundred Dollars (\$200.00).

That Item No. 35 of Citation No. 1 charging non-abatement of 803 KAR 2:015, Section 2(1)(g) is hereby affirmed, but that the proposed penalty therefor of Seven Hundred Dollars (\$700.00) be hereby reduced to Two Hundred Dollars (\$200.00).

That, if not already abated, said non-abated violations must be abated immediately upon receipt of this Recommended Order.

That the total penalty therefor in the amount of Six Hundred Dollars (\$600.00) be paid without delay, but in no event later than thirty (30) days from the date of this Recommended Order.

Dated: August 29, 1978
Frankfort, Ky.
DECISION NO. 600



CHARLES A. GOODMAN III
HEARING OFFICER