



**THE CITY OF NEW YORK
ENVIRONMENTAL CONTROL BOARD**

HEARING LOCATION:
Environmental Control Board
66 John Street
10th Floor
New York, NY 10038
(212) 361-1400



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Method of Appearance
Live Hearing

DECISION AND ORDER
Violation #: 034832133R (1 NOV)
Hearing Date: October 28, 2010

To: HOCHMAN
80 MAIDEN LN-506
NY, NY 10038

City of New York v. CONCORD
RESTORATION INC

Total Civil Penalty: \$0.00

I Notice(s) of Violation (NOV(s)) was/were issued to the Respondent. On the record before me, and upon the Further Findings of Fact/Conclusions of Law stated below, I find as follows and, where applicable, order payment and compliance.

NOV: 034832133R		
PLACE OF OCCURRENCE: 360 PARK AVENUE SOUTH MANHATTAN		
DATE OF OCCURRENCE: 03/05/2010		
ISSUING OFFICER/AGENCY: 2461 DOB		
ECB CODE: B149		
CHARGE: BC 3314.4.3.1AC271045		
DISPOSITION: DISMISSED	CIVIL PENALTY IMPOSED:	\$0.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV: 034832133R BC 3314.4.3.1AC271045

Petitioner appeared by M.Burns along with issuing inspector DeMarco. Respondent, Concord Restoration Inc., appeared by R. Hochman and William Fusco, vice-president of Respondent corporation. Mr. Hochman moved to dismiss the violation on the grounds that the allegations fail to support the section of law charged. The section charged BC 3314.4.3.1 requires that "all suspended scaffolds shall be inspected daily by the licensed rigger or his or her foreman in accordance with Section 404 of Title 28 of the Ad. Code..." The allegations here do not allege a failure to maintain a daily inspection log. The issuing inspector DeMarco testified that he did see the daily inspection log at the site but also found unsafe conditions which should have been recorded in the log or remedied. Inspector DeMarco testified that he was at the site late in the day and there was no work being performed at the time he was there. Photos taken by the inspector were admitted into evidence. (Exhs. 1-3) Inspector DeMarco conceded that conditions could change during the day. Based on the evidence presented, I find that there was no violation of the section of law charged in that there was a daily inspection log performed and available at the site. Accordingly, the violation is dismissed.

TOTAL CIVIL PENALTY: \$0.00		
Tue Nov 2010 11/02/10 13:17:45	<i>RF</i> NOV 04 2010	11/02/2010
Rachel Potasznik, Administrative Law Judge		Date

**PAYMENT DUE WITHIN TEN (10) DAYS
READ BACK OF THIS ORDER - PROTECT YOUR RIGHTS**