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**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 #: 034833568K (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: 034833568K
PLACE OF OCCURRENCE: 360 PARK AVENUE SOUTH MANHATTAN
DATE OF OCCURRENCE: 03/05/2010
ISSUING OFFICER/AGENCY: 2342 DOB
ECB CODE: B109
CHARGE: BC 3301.2 AC 27 1009A
DISPOSITION: DISMISSED


CIVIL PENALTY IMPOSED: \$0.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV: 034833568K BC 3301.2 AC 27 1009A

Petitioner appeared by M. Burns along with issuing inspector Islam. Respondent, Concord Restoration Inc., appeared by R. Hochman and William Fusco, vice-president of Respondent corporation. Issuing inspector Islam testified that he went to the premises due to an incident report filed with the Department of Buildings. He went to the site and spoke with the site safety manager who told him that a hammer fell from a scaffold but the site safety manager did not see the hammer fall. Inspector Islam took photos at the site. (Exhs. 1a, 1b, 2a, 2b) Inspector Islam testified that there was a sidewalk shed and a catch-all to protect pedestrians and Respondent had an approved site safety plan. A stop work order was issued. Mr. Fusco testified that Respondent was in compliance with the site safety plan and had all necessary safeguards installed. The stop work order was lifted without any additional safety features being required. The allegations state that Respondent failed to safeguard persons and property affected by construction operations, however there was no evidence presented to show that Respondent failed to install all necessary safeguards at the site. The fact that a hammer fell is not sufficient to find Respondent in violation of the section charged. Based on the evidence presented, I find that Respondent took all necessary and possible safety precautions and was in compliance with Department of Buildings approved plans and that a valid defense was presented. Accordingly, the violation is dismissed.

TOTAL CIVIL PENALTY: \$0.00

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 <small>Thu Oct 2010 10/28/10 17:00:12</small>	<small>Control5</small> NOV 04 2010 <small>10/28/2010</small> Date
Rachel Potasznik, Administrative Law Judge	

**PAYMENT DUE WITHIN TEN (10) DAYS
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