

→ file

February 1, 1980
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PLAINTIFF'S EXHIBIT

BOND-428

Mr. Ray H. Darling, Jr.
Executive Secretary
Occupational Safety and Health
Review Commission
1825 K Street, N.W.
Washington, D.C. 20006

Re: Marshall v. Bondex International
OSHRC Docket No. 79-7164
SOL No. 04665

Dear Mr. Darling:

Enclosed is the original of a complaint in the above-styled case which we would appreciate your filing for us.

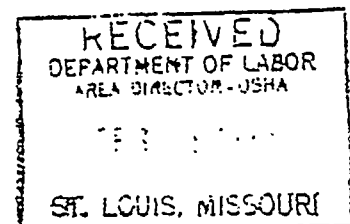
Sincerely,

Tedrick A. Housh, Jr.
Regional Solicitor

By Eugene F. DeShazo
Attorney

Enclosures

cc: St. Louis Area Office



UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

RAY MARSHALL,
SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR,
Complainant,

OSHRC DOCKET
NO. 79-7164

v.

BONDEX INTERNATIONAL,
Respondent.

COMPLAINT

Inspection has disclosed that, at the times and in the manner hereinafter stated, the provisions of section 5(a)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), hereinafter referred to as the Act, and the Occupational Safety and Health standards and regulations promulgated thereunder (29 CFR 1910) have been violated. It is therefore charged that:

I

Respondent Bondex International, a corporation with a principal office and place of business at 3616 Scarlet Oak Boulevard, Kirkwood, Missouri, is, and at all times hereinafter mentioned was, engaged in manufacturing waterproofing patching compounds, wallpaper pastes, and paint.

II

Respondent employs at all times hereinafter mentioned, approximately 34 employees at the aforesaid workplace in St. Louis, Missouri. Respondent utilizes goods, equipment and materials shipped from outside the state of Missouri and is engaged in a business affecting commerce. Respondent is, therefore, an employer within the meaning of the Act.

III

As a result of an inspection by an authorized representative of the Secretary, respondent was issued a citation for serious violations, together

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with a proposed penalty, pursuant to section 9(a) of the Act. The citation and proposed penalty were received by respondent on December 17, 1979. On December 19, 1979, the Area Director received from respondent a notice of intent to contest the citation for serious violations, and the proposed penalty, pursuant to section 10(c) of the Act. This notice was duly transmitted to the Occupational Safety and Health Review Commission. Jurisdiction of this proceeding is conferred upon the Occupational Safety and Health Review Commission by section 10(c) of the Act.

IV

During the period from September 25, 1979 through December 5, 1979, and at times prior thereto, at respondent's aforesaid workplace located at 3616 Scarlet Oak Boulevard, Kirkwood, Missouri, conditions or practices occurred or existed in violation of the provisions of the Act, and standards promulgated under the Act, which conditions or practices are described together with the provisions of the Act, and standards violated, abatement dates and proposed penalty, in citation number 1 for serious violations, attached as Appendix A hereto and incorporated by reference as if fully set out herein. At least one of respondent's employees was affected by each of the violations alleged.

V

The conditions, practices, means, methods, operations or processes referenced in paragraph IV above and described in Appendix A hereof, which were adopted or in use, created a substantial probability that death or serious physical harm could result from the aforesaid violations, and respondent did know or, with the exercise of reasonable diligence, could have known of the presence of these violations.

VI

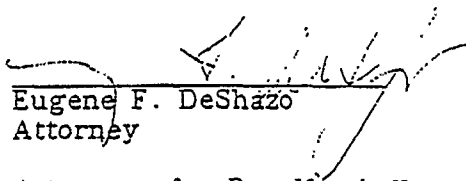
In determining the amount of the penalty proposed, due consideration was given to the size of the business of respondent, the gravity of the violations, the good faith of respondent and the history of previous violations, as required by section 17(j) of the Act. The abatement periods fixed were the shortest possible times in which it was believed abatement could be practically accomplished.

WHEREFORE, it is submitted on behalf of the Secretary that the citation for serious violations and the proposed penalty be affirmed.

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Carin Ann Clauss
Solicitor of Labor

Tedrick A. Housh, Jr.
Regional Solicitor


Eugene F. DeShazo
Attorney

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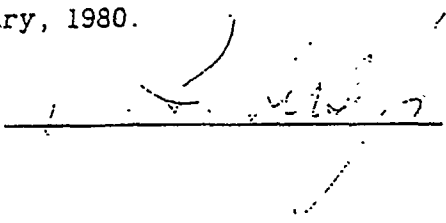
Attorneys for Ray Marshall,
Secretary of Labor, United
States Department of Labor

NOTICE TO RESPONDENT

You are hereby notified that you must plead or otherwise answer this complaint, either denying or admitting the allegations, within fifteen days of your receipt of this complaint. Failure to do so may result in dismissal of your notice of contest. See Rule 33(b), Rules of Procedure, Occupational Safety and Health Review Commission. All communications and pleadings should be addressed to and mailed to the Occupational Safety and Health Review Commission, 1825 K Street, N.W., Washington, D.C. 20006 and a copy to the above attorneys of record and any other parties of record.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing complaint was mailed to Frank L. Pellegrini, 706 Chestnut Street, Suite 1025, St. Louis, Missouri 63101, attorney for respondent, and Amos Green, Business Agent, International Brotherhood of Teamsters, Local 688, 300 South Grand, St.-Louis, Missouri 63103, authorized employee representative, by certified mail, return receipt requested, this 1st day of February, 1980.



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