

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

FILE NO  
208968

COMMISSIONER OF LABOR OF  
THE STATE OF NORTH CAROLINA  
JOSH DOBSON

Complainant

ORDER

v.

Ground Thunder Construction, Inc  
227 West Trade Street  
Suite 2020  
Charlotte, NC 28202

Respondent

THIS CAUSE came on for telephonic hearing before Kisha Scotton, the undersigned Hearing Officer designated by the Commissioner of Labor of the State of North Carolina in accordance with 13 NCAC 12.0905 on July 25, 2024, for the Respondent's alleged failure to comply with the provisions of Chapter 64, Article 2 of the North Carolina General Statutes entitled "Verification of Work Authorization," commonly known as "E-Verify".

The Complainant was present via telephone through Christina Morales-Bebrin, Senior Wage and Hour Investigator. The Respondent was present via telephone through its counsel, Bryan Holbrook, Partner of Fisher Phillips and Jessica Cook, Partner of Fisher Phillips.

Pursuant to N.C. General Statute 64-30(l), the Commissioner shall hold a hearing if the investigation reveals that a complaint is not false and frivolous to determine if a violation of N.C. Gen. Stat. 64-26 has occurred, and if appropriate, impose civil penalties in accordance with the Chapter 64, Article 2 of the North Carolina General Statutes.

Based upon the facts and evidence presented at the hearing, and with the due consideration of the contention of both parties, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law and enters an Order accordingly:

#### FINDINGS OF FACT

- 1) Complainant, Commissioner of Labor for the State of North Carolina hereinafter Commissioner) is charged by law with the responsibility for enforcement of the provisions of the Verification of Work Authorization Act, Chapter 54, Article 2 of the North Carolina General Statutes, (the "Act") as well as regulations adopted pursuant thereto.
- 2) Respondent, Ground Thunder Construction, Inc. dba Ground Thunder Construction, (hereafter Respondent) is a North Carolina corporation doing business in Charlotte, North Carolina. At all times relevant to this matter, Respondent was in the business

of construction called Ground Thunder Construction, Inc, in Charlotte, North Carolina.

- 3) Respondent is an employer within the meaning of N.C. General Statute 64-25(4) and all of Respondent's employees referred to in the Complaint are "employees" within the meaning of NC General Statute 94-25(3).
- 4) Respondent at all times relevant to this matter, employed 25 or more employees in North Carolina, as employee is defined in NC General Statute 94-25(3).
- 5) On or about February 29, 2024, Complainant received an anonymous complaint that alleged that Respondent was not verifying the work authorization of its employees as required by chapter 64, Article 2 of the North Carolina General Statutes.
- 6) Prior to February 29, 2024, the Complainant had not received a complaint against Respondent.
- 7) An Investigator for Complainant investigated the allegation and concluded that the complaint was not false or frivolous.
- 8) A telephone hearing was held on July 25, 2024, to review the investigative case file resulting from the complaint pursuant to NC General Statute 64-30 and 13 NCAC 12.0905.
- 9) Evidence provided by the Respondent to the Hearing Officer prior to the hearing showed that, Respondent enrolled in the "E-Verify" program on March 13, 2024, after the initiation of the E-Verify investigation.
- 10) Evidence provided by the Respondent to the Investigator and to the Hearing Officer, prior to the hearing, showed that the Respondent did not consistently process E-Verify on employees within 3 business days.

Based upon the foregoing FINDINGS OF FACT, the undersigned Hearing Officer makes the following:

#### CONCLUSIONS OF LAW

- 1) The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.
- 2) The Respondent is subject to the jurisdiction and provisions of this Act.
- 3) Respondent is required to verify the work authorization of its employees under Article 2 of Chapter 64 of the North Carolina General Statutes.
- 4) The complaint filed against Respondent on February 29, 2024 was not false or frivolous.
- 5) At the time the complaint was filed, Respondent was not enrolled in the "E-Verify" system and was not verifying the work authorization of all of its employees within three employer business days, and therefore was not entitled to the presumption of compliance provided in 13 NCAC 12.0903(a).

- 6) At the time of the hearing, in this matter, Respondent was enrolled in the E-Verify system and had verified the work authorization of the employees hired after enrollment in the "E-Verify" system.
- 7) Because of the verification of work authorization that occurred between the time the complaint was filed and the hearing, Respondent is now in compliance with the E-Verify requirements for employees hired after enrollment in the "E-Verify" system.

BASED UPON the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED as follows:

- 1) Respondent is currently in compliance with the requirements of Article 2, Chapter 64 of the North Carolina General Statutes.
- 2) Respondent is hereby ordered to file the enclosed sworn affidavit (Exhibit B) within three (3) business days of this Order.

This the 31<sup>st</sup> day of July, 2024.

Kisha Scotton

Kisha Scotton  
Administrator  
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date served a copy of the foregoing ORDER upon:

Ground Thunder Construction, Inc.  
Ground Thunder Construction  
c/o Fisher & Phillips LLP  
ATTN.: Bryan Holbrook, Partner  
227 West Trade Street, Suite 2020  
Charlotte, NC 28202

by depositing a copy of the same in the United States Mail, Certified Mail, postage prepaid at  
Raleigh, North Carolina.

THIS THE 31<sup>st</sup> DAY OF July, 2024.

Kisha Scotton  
Kisha Scotton  
Administrator  
Hearing Officer  
North Carolina Department of Labor  
1101 Mail Service Center  
Raleigh, North Carolina 27699-1101  
919-707-7980

STATE OF NORTH CAROLINA )  
COUNTY OF Mecklenburg )

SWORN AFFIDAVIT  
INVESTIGATION 208968

1. I am Bob Weeks, and I hold the position of CEO with Ground Thunder Construction, Inc. dba Ground Thunder Construction (Respondent) in the North Carolina Department of Labor Investigation 208968.
2. I certify that Respondent was required to enroll in E-Verify under Chapter 64, Article 2 of the North Carolina General Statutes.
3. I certify that Respondent enrolled in E-Verify effective 18 March 2024
4. Following enrollment in E-Verify, an E-Verify check was performed on employees hired after enrollment in the "E-Verify" system.
5. Pursuant to the provisions of 28 U.S.C 1746, I state under penalty of perjury that the foregoing is true and correct.

This the 1st day of August, 2024.

RA E Wark