

STATE OF NORTH CAROLINA)
COUNTY OF WAKE)

FILE NO.
104367

COMMISSIONER OF LABOR OF)
THE STATE OF NORTH CAROLINA,)
CHERIE BERRY)

ORDER

Complainant)

v.)

CAROLINA WOOD ENTERPRISES Inc.)
902 South Chatham Avenue)
Siler City, NC 27344)

Respondent)

THIS CAUSE came on for telephonic hearing before Christine M. Ryan, the undersigned Hearing Officer designated by the Commissioner of Labor of the State of North Carolina in accordance with 13 NCAC 12.0905 on November 16, 2017, 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 through Angela Leon, Senior Investigator. The Respondent appeared via telephone through Human Resources Director Deanna Culberson.

Pursuant to N.C. Gen Stat. §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 Chapter 64, Article 2 of the North Carolina General Statutes.

Based upon the facts and evidence presented at the hearing, and with due consideration of the contentions 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 of 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 64, Article 2 of the North Carolina General Statutes, (the "Act") as well as regulations adopted pursuant thereto.

2) Respondent, Carolina Wood Enterprises, Inc., (hereinafter Respondent) is a North Carolina corporation doing business in Siler City, NC. At all times relevant to this matter, Respondent was in the business of operating a lumber store in Siler City, NC.

3) Respondent is an employer within the meaning of N.C. Gen. Stat. §64-25(4) and all of Respondent's employees referred to in the Complaint are "employees" within the meaning of N.C. Gen. Stat. §64-25(3).

4) Respondent at all times relevant to this matter, employed 25 or more employees in North Carolina, as employee is defined in N.C. Gen. Stat. §64-25 (3).

5) On or about March 14, 2017, Complainant received a 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) An Investigator for Complainant investigated the allegation, and concluded that the complaint was not false and frivolous, as the Respondent was not initially conducting an E-Verify check on new employees.

7) A telephonic hearing was held on November 16, 2017 to review the investigative case file resulting from the complaint pursuant to N.C. Gen. Stat. §64-30 and 13 NCAC 12.0905.

8) Testimony provided by Respondent to the Hearing Officer showed that, while Respondent had not enrolled in the "E-Verify" program prior to March 14, 2017, Respondent was enrolled in "E-Verify" as of the date of the hearing. Further, Respondent agreed to provide a sworn statement that it verified the work authorization of all employees currently and previously employed by Respondent at the hearing, and provided the statement on December 13, 2017. A copy of the statement is attached as Exhibit A.

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 the 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 March 14, 2017 was not false and

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 its employees within three employer business days, and therefore is not entitled to the presumption of compliance provided in 13 NCAC 12.0903(a).

6) Prior to the hearing in this matter, Respondent had enrolled in the "E-Verify" system and had verified the work authorization of its current and prior employees utilizing 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 requirements of E-Verify pursuant to N.C. Gen. Stat. §64-26(a), and a violation of E-Verify has NOT occurred.

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.

This the 18th day of DECEMBER, 2017



Christine M. Ryan
Administrator
Hearing Officer

CERTIFICATE OF SERVICE

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

Deanna Culberson
Carolina Wood Enterprises, Inc.
902 South Chatham Avenue
Siler City, NC 27344

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

THIS THE 18th DAY of DECEMBER 2017.



Christine M. Ryan
Administrator
Hearing Officer
North Carolina Department of Labor
1101 Mail Service Center
Raleigh, NC 27699-1101
919-707-7978

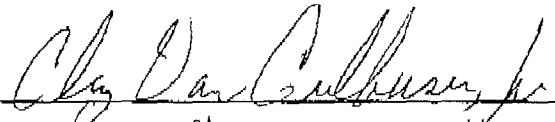
**Exhibit
"A"**

STATE OF NORTH CAROLINA)
COUNTY OF Chatham)

SWORN STATEMENT

1. I am Clay Van Culberson JR., and I hold the position of President with Carolina Wood Enterprises, Inc. (Respondent).
2. I certify that Respondent has enrolled in the E-Verify program effective April 3, 2017.
3. Following enrollment in E-Verify, an E-Verify check was conducted on all employees working at the time of enrollment and prior to enrollment back to March 28, 2015.
4. I further certify that Respondent has continued to E-Verify all new hires within three (3) business days of hire since enrollment.
5. Pursuant to the provisions of 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct.

This the 13th day of December, 2017.


Print Name: Clay Van Culberson JR.