

**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

AMP UNITED, LLC.

Employer

**Inspection No.
1660546**

**DENIAL OF PETITION
FOR RECONSIDERATION**

The Occupational Safety and Health Appeals Board (Board), acting pursuant to authority vested in it by the California Labor Code hereby denies the petition for reconsideration (Petition) filed in the above-entitled matter by AMP United, LLC (Employer).

JURISDICTION

The California Division of Occupational Safety and Health (Division) issued two citations to Employer alleging two violations of occupational safety and health standards codified in California Code of Regulations, title 8.¹ The citations were issued on June 6, 2023, and Employer timely appealed, commencing administrative proceedings before the Board.

The parties subsequently agreed to settlement, and the administrative law judge (ALJ) assigned by the Board to adjudicate this matter prepared a corresponding settlement order (Order) embodying the parties' agreement. On February 3, 2025, the ALJ served the Order on Employer and the Division. The Order stated that the parties agreed to resolve the citations on terms specified in the Order. The Order also stated that "If you disagree with this order you may petition the Appeals Board for reconsideration within 30 days." Employer timely filed its Petition.

The Division answered the Petition.

ISSUE

1. Has Employer established good cause to set aside the Order?

**REASON FOR DENIAL
OF
PETITION FOR RECONSIDERATION**

The Board has fully reviewed the record in this case, including the arguments presented in the petition for reconsideration. We have taken no new evidence.

¹ References are to California Code of Regulations, title 8 unless specified otherwise.

1. Has Employer established good cause to set aside the Order?

Labor Code section 6617 sets forth five grounds upon which a petition for reconsideration may be based:

- (a) That by such order or decision made and filed by the appeals board or hearing officer, the appeals board acted without or in excess of its powers.
- (b) That the order or decision was procured by fraud.
- (c) That the evidence does not justify the findings of fact.
- (d) That the petitioner has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.
- (e) That the findings of fact do not support the order or decision.

Employer's Petition asserts none of the statutory grounds upon which we may grant reconsideration, which is reason to deny the petition. (*Arodz Motorsports, LLC, dba A1 Tune & Lube*, Cal/OSHA App. #1087194, Denial of Petition for Reconsideration (Nov. 22, 2017).)

Even if we were to construe the Petition to assert that the evidence does not support the Order (Lab. Code § 6617, subd. (e)), we would uphold the Order.

The Board has held that a voluntary settlement agreement will not be reconsidered by the Board absent an allegation of fraud, misrepresentation, or other grounds to void the agreement between the employer and the Division. (*Santa Barbara Center for the Performing Arts, Inc., dba Granada Theatre*, Cal/OSHA App. 1311884, Decision After Reconsideration (June 6, 2022).)

Neither Employer's Petition nor the record contain any allegation or suggestion that the settlement agreement was the result of "fraud, misrepresentation, mutual mistake of fact or undue influence[.]" which are the grounds provided in Board regulation section 364.2, subdivision (f), for setting aside a settlement order. Board precedents consistently follow that provision. (*Luu's Brothers Corp. dba A&A Supermarket*, Cal/OSHA App. 07-5156, Denial of Petition for Reconsideration (Feb. 23, 2009); *Eco-Bay Services*, Cal/OSHA App. # 1443556, Denial of Petition for Reconsideration (Apr. 11, 2022).) Absent such allegations, let alone evidence thereof, there is no basis in the record to set aside the Order.

DECISION

For the reasons stated above, Employer's Petition is denied. The ALJ's Order and penalties are affirmed.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

/s/ Ed Lowry, Chair

/s/ Judith S. Freyman, Board Member

/s/ Marvin P. Kropke, Board Member

FILED ON: 05/01/2025

