

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE IOSHA BOARD
OF SAFETY REVIEW

IN THE MATTER OF THE)
COMMISSIONER OF LABOR,)
)
Complainant,)
)
v.)
Mid-America Sound Corp.,)
)
)
Respondent.)

CASE DOCKET NO. 12-003

F I L E D

MAR 19 2014

Indiana Board of
Safety Review

AGREED ENTRY

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor and Mid-America Sound Corporation, through their duly authorized representatives, being desirous of entering into this Agreed Entry prior to hearing do hereby stipulate and agree as follows:

PART I.

1. From August 24, 2011 through January 26, 2012, authorized employee(s) of the Indiana Department of Labor conducted an inspection regarding Mid-America Sound Corporation.
2. On February 8, 2012, the Commissioner of Labor issued Safety Order 1, Item Nos. 1, 2, and 3 (Indiana Department of Labor Inspection No. 315637199) alleging that Mid-America Sound Corporation had violated the Indiana Occupational Safety and Health Act (IC 22-8-1.1 *et seq.*). Safety Order 1, Item Nos. 1, 2, and 3 are attached hereto and incorporated herein.
3. Respondent duly and timely petitioned for review of Safety Order 1, Item Nos. 1, 2, and 3.

PART II.

1. The Petitioned for Review Safety Order 1, Item No. 1 consists of Subparts a) through e).
2. Safety Order 1, Item No. 1 alleges a "Knowing" violation of IC 22-8-1.1 Section 2 and assesses a total penalty of Twenty-One Thousand Dollars (\$21,000.00).
3. The Petitioned for Review Safety Order 1, Item No. 2 consists of subparts a) through c).
4. Safety Order 1, Item No. 2, alleges a "Knowing" violation of IC 22-8-1.1 Section 2 and assesses a total penalty of Twenty-One Thousand Dollars (\$21,000.00).
5. The Petitioned for Review Safety Order 1, Item No. 3 consists of subparts a) through c).
6. Safety Order 1, Item No. 3, alleges a "Knowing" violation of IC 22-8-1.1 Section 2 and assesses a total penalty of Twenty-One Thousand Dollars (\$21,000.00).
7. The total penalty assessed for Safety Order 1, Item Nos. 1, 2, and 3 is Sixty-Three Thousand Dollars (\$63,000.00).

PART III.

1. Complainant amends Safety Order 1, Item Nos. 1, 2, and 3 to classify each item as a "Serious" violation and to assess a total civil penalty for all items of Fifty Thousand Dollars (\$50,000.00).

2. Complainant further amends Safety Order 1 by deleting Item No. 1(e) and Item No. 2(a).
3. Mid-America will prepare a written safety operations management plan to be used in future stage erections with temporary roof structures that includes an analysis by an independent licensed, professional engineer of the loads and appropriate supports, including ballast and other stabilizing devices or systems, for each temporary roof structure use. Additionally, the written safety operations management plan shall include structural inspection procedures (including documentation of inspections), risk assessment to identify any workplace hazards, and emergency procedures for inclement weather and other conditions as applicable.
4. Mid-America submitted documentation showing that it provided a comprehensive, five-day training course by an outside organization for its employees designated as competent persons in the use of motor-driven temporary roof structures for purposes of the Act and/or its implementing regulations. The topics covered in the training included construction, inspection, and load testing of truss and roof structures for outdoor stages; load and destruction testing of truss beams; engineering concepts in design and testing of truss and roof structures; proper load distribution; fall protection; and stage rigging. Mid-America shall provide the same or substantially similar training to any additional employees designated as competent persons in the use of such motor-driven temporary roof structures.
5. Mid-America Sound Corporation will make four periodic payments, roughly every twelve (12) weeks, with the first payment in the amount of twelve thousand five

hundred dollars (\$12,500.00) due within four weeks of the date that this Agreed Entry becomes a Full and Final Safety Order; the second payment of twelve thousand five hundred dollars (\$12,500.00) due twelve weeks after that date; the third payment of twelve thousand five hundred dollars (\$12,500.00) due twelve weeks after that date, and the final payment of twelve thousand five hundred dollars (\$12,500.00) due twelve weeks after that date.

6. It is understood and agreed by the Respondent and Complainant that this Agreed Entry and attachments will constitute a final, enforceable IOSHA Safety Order(s) and penalties for the purposes of the IOSHA Act.
7. Respondent confirms Complainant's right to inspect its workplaces, in accordance with the Act.
8. Respondent hereby withdraws its Petition for Review previously filed in this matter.

PART IV.

1. Nothing contained in this agreement shall be construed to affect the Commissioner's interpretation of the Indiana Occupational Safety and Health Act or any standard or regulation enforced pursuant thereto or the applicable classification thereof.
2. It is stipulated by and between the parties that this order and the terms and conditions set forth herein are not intended to be, and shall not be construed by anyone as an admission of any wrongdoing whatsoever by Mid-America Sound Corporation. It shall not be used by any party except for these proceedings, and enforcement matters arising out of these proceedings and any other subsequent IOSHA proceedings between the parties. The agreements, statements, and actions taken herein are made in

order to compromise and settle this matter economically and amicably, and they shall not be used for any other purpose, except as herein stated.

3. The invalidity or unenforceability of any section, subsection, clause or provision of this Agreed Entry does not affect the remaining sections, subsections, clauses, or provisions of this Agreed Entry.
4. Respondent, upon full execution of this Agreed Entry, will post this Agreed Entry for three (3) working days, pursuant to Board of Safety Review Rules of Procedure, 615 IAC 1-2-18(b)(3).

AGREED this 14th day of March, 2014.

MID-AMERICA SOUND CORPORATION

COMMISSIONER OF LABOR

By: *Kerry Darrenburg*
Title: PRESIDENT

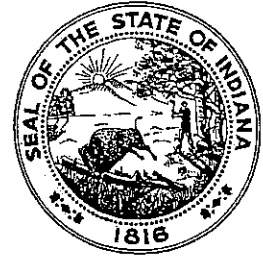
By: *Timothy E. Maley*
Timothy E. Maley,
Deputy Commissioner IOSHA

Approved as to Form:

By: *Patricia L. Ogden*
Patricia L. Ogden
Counsel for Mid-America Sound
Corporation

By: *Michael W. Padgett*
Michael W. Padgett
Counsel for IOSHA

Indiana Department of Labor
Indiana Occupational Safety & Health Administration
402 West Washington Street
Room W195
Indianapolis, IN 46204
Phone: (317) 232-2655 FAX: (317) 232-3790



Certified mail # 7003 1010 00035932 1285 2-8-12 jto

Safety Order and Notification of Penalty

To: Mid-America Sound Corporation,
and its successors
6643 West 400 North
Greenfield, IN 46140

Inspection Number: 315637199
Inspection Date(s): 08/24/2011 - 01/26/2012
Issuance Date: 02/08/2012

Inspection Site:
1202 East 38th Street
Indianapolis, IN 46205-2807

The violation(s) described in this Safety Order and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1: 1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules, or provisions of the statute and stating the amount of any penalty(ies).

Informal Conference - Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any of the results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

Right to Contest - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days

on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s) and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent agency appointed by the governor with authority to conduct hearings and to issue decisions concerning disputed safety order(s) and notification(s) of penalty. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

Posting - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

Penalties - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

Abatement - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

PMAs - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall include the following information:

(1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the

prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

Notification of Corrective Action - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty.

Followup Inspections - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the Indiana Department of Labor/IOSHA at the address shown above.

Notice to Employees - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to

the Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.



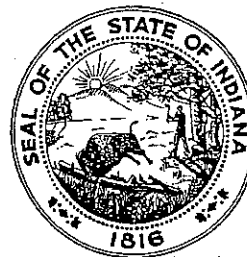
NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 02/08/2012. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on _____ at _____.

_____. Employees and/or representatives of employees have a right to attend an informal conference.

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315637199
Inspection Dates: 08/24/2011 - 01/30/2012
Issuance Date: 02/08/2012



Safety Order and Notification of Penalty

Company Name: Mid-America Sound Corporation
Inspection Site: 1202 East 38th Street, Indianapolis, IN 46205-2807

Safety Order 1 Item 1 Type of Violation: **Knowing**

IC 22-8-1.1 Section 2: The employer did not establish and maintain conditions of work which were reasonably safe and healthful for employees, and free from recognized hazards that were causing or likely to cause death or physical harm to employees in that employees were exposed to traumatic body injuries such as but not limited to fractures and lacerations:

a) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage, did not develop and implement an Operations Management Plan pertaining to the construction of the 2011 structure.

Among other methods, a feasible abatement method to correct this hazard is to: Develop and implement a current Operations Management Plan based on sound engineering analysis which defines the actions to be taken for different parts of the structure under prescribed loading conditions with particular regard to wind loads in accordance with **ANSI E1.21-2006 3.5.3.**

b) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage did not prepare proper layout drawings, engineering documentation, and Operations Management Plan for each use.

Among other methods, a feasible abatement method to correct this hazard is to: Develop proper documentation and an Operations Management Plan for each use of the structure in accordance with **ANSI E.21-2006 5.2.3.**

c) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage, did not develop a risk assessment plan and make workers aware of the hazards pertaining to the construction of the 2011 structure.

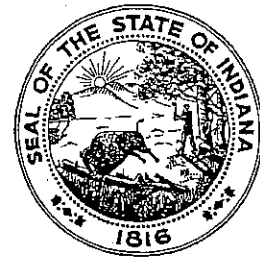
Among other methods, a feasible abatement method to correct this hazard is to: Develop a risk assessment plan and make workers aware of the hazards involved with the erection, use and dismantling of the structure in accordance with **ANSI E1.21-2006 5.2.7**

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Indiana Department of Labor

Occupational Safety and Health Administration

Inspection Number: 315637199
Inspection Dates: 08/24/2011 - 01/30/2012
Issuance Date: 02/08/2012



Safety Order and Notification of Penalty

Company Name: Mid-America Sound Corporation
Inspection Site: 1202 East 38th Street, Indianapolis, IN 46205-2807

d) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage, did not conduct periodic inspections by a qualified person, with appropriate documentation, on the structure constructed at the 2011 Hoosier Lottery Grandstand.

Among other methods, a feasible abatement method to correct this hazard is to: Implement inspection procedures and appropriately document inspections and provide appropriate training to employees required to conduct the inspections in accordance with ANSI E1.21-2006 6.2.2 and 6.5

e) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage, did not keep records for each structural component pertaining to the 2011 structure.

Among other methods, a feasible abatement method to correct this hazard is to: Keep records for each structural component in the structure in accordance with ANSI E1.21-2006 6.6

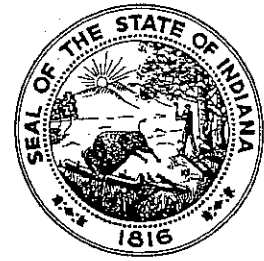
Date By Which Violation Must be Abated:	03/06/2012
Proposed Penalty:	\$21,000.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Indiana Department of Labor

Occupational Safety and Health Administration

Inspection Number: 315637199
Inspection Dates: 08/24/2011 - 01/30/2012
Issuance Date: 02/08/2012



Safety Order and Notification of Penalty

Company Name: Mid-America Sound Corporation.
Inspection Site: 1202 East 38th Street, Indianapolis, IN 46205-2807

Safety Order 1 Item 2 Type of Violation: **Knowing**

IC 22-8-1.1 Section 2: The employer did not establish and maintain conditions of work which were reasonably safe and healthful for employees, and free from recognized hazards that were causing or likely to cause death or physical harm to employees in that employees were exposed to traumatic body injuries such as but not limited to fractures and lacerations:

a) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage, did not provide cross-bracing as recommended by the manufacturer.

Among other methods, a feasible abatement method to correct this hazard is to: Provide and utilize all equipment to construct the load bearing roof structure required by ANSI E1.21-2006 3.9.2.1 and the manufacturer recommendations.

b) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage did not take into consideration the soil conditions at the location.

Among other methods, a feasible abatement method to correct this hazard is to: Conduct an analysis on the soil conditions that are to be used including but not limited to type of soil and weather exposures anticipated in accordance with ANSI E.21-2006 3.9.4.2.

c) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage, did not designate a competent person.

Among other methods, a feasible abatement method to correct this hazard is to: Provide and train employees designated as competent persons in accordance with ANSI E1.21-2006 5.2.1.

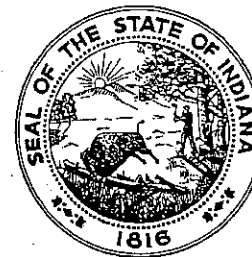
Date By Which Violation Must be Abated:	03/06/2012
Proposed Penalty:	\$21,000.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Indiana Department of Labor

Occupational Safety and Health Administration

Inspection Number: 315637199
Inspection Dates: 08/24/2011 - 01/30/2012
Issuance Date: 02/08/2012



Safety Order and Notification of Penalty

Company Name: Mid-America Sound Corporation
Inspection Site: 1202 East 38th Street, Indianapolis, IN 46205-2807

Safety Order 1 Item 3 Type of Violation: Knowing

IC 22-8-1.1 Section 2: The employer did not establish and maintain conditions of work which were reasonably safe and healthful for employees, and free from recognized hazards that were causing or likely to cause death or physical harm to employees in that employees were exposed to traumatic body injuries such as but not limited to fractures and lacerations:

a) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage, did not have current engineering calculations, design notes, and test results for the structure constructed at the 2011 Hoosier Lottery Grandstand.

Among other methods, a feasible abatement method to correct this hazard is to: Develop current engineering documentation in accordance with ANSI E1.21-2006 3.4.3.

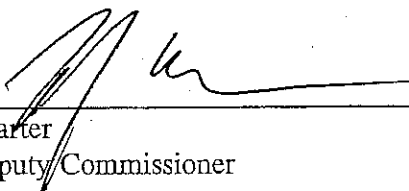
b) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage, did not have adequate knowledge of the engineering documentation pertaining to the construction of the 2011 structure.

Among other methods, a feasible abatement method to correct this hazard is to: Contract a component engineer to provide engineering guidance and training on engineering documentation in accordance with ANSI E1.21-2006 5.2.2.

c) Facility Wide - Mid America Sound, contracted to construct the Load Bearing Roof Structure on the 2011 Hoosier Lottery Grandstand stage, did not take into full consideration weights of all equipment including but not limited to follow-spot chairs, temporary personnel occupancy and reactions from fall protection systems pertained to the 2011 structure.

Among other methods, a feasible abatement method to correct this hazard is to: Assess all loads on the fully assembled truss system in accordance with ANSI E1.2 -2006 5.4.1.

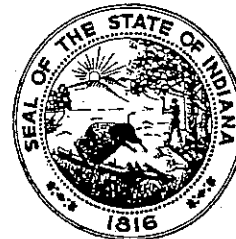
Date By Which Violation Must be Abated: 03/06/2012
Proposed Penalty: \$21,000.00



Jeffrey S. Carter
IOSHA Deputy Commissioner

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Indiana Department of Labor
Occupational Safety & Health Administration
402 West Washington Street
Room W195
Indianapolis, IN 46204
Phone: (317) 232-2655 FAX: (317) 232-3790



INVOICE/DEBT COLLECTION NOTICE

Company Name: Mid-America Sound Corporation
Inspection Site: 1202 East 38th Street, Indianapolis, IN 46205-2807
Issuance Date: 02/08/2012

Summary of Penalties for Inspection Number 315637199

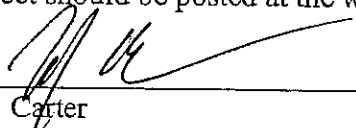
Safety Order 01, Knowing	=	\$63,000.00
Total Proposed Penalties		\$63,000.00

Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA". Please indicate IOSHA's Inspection Number (indicated above) on the remittance.

IOSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A work sheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the safety order(s).


Jeffrey S. Carter
IOSHA Deputy Commissioner

2/8/12
Date