Indiana Department of Labor
Indiana Occupational Safety and Health Administration
402 West Washington Street
Room W195
Indianapolis, IN 46204-2571
Phone: 317/232-1979 Fax: 317/233-8509

Certified Mail # 7003 1010 0003 5797 6836 9-4-08 jto

Safety Order and Notification of Penalty

To:

Phoenix of Tennessee, Inc.,
and its successors
1100 Tuckahoe Drive
Nashville, TN 37207

Inspection Site:

1725 E CR 1250 S
Haubstadt, IN 47639

Inspection Number: 311847461

Inspection Date(s): 05/17/2008 - 08/19/2008

Issuance Date: 09/04/2008

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

IOSHA
PENALTY ASSESSMENT WORKSHEET

Employer Phoenix of TN, dba/All About Towers
Inspection # 311847461

1	2	3	4					5	8	10	11	12	13	14
Alleged Violation Number	Standards Allegedly Violated	Vio Type S, K, R, O, F	Probability		Severity			Unadjusted Penalty	Adjusted Penalty	Abatement Date	Date of Follow-up	Number of Days Over Abatement	Number of Days Penalty Assessed For	Proposed Penalty for Failure To Abate
			greater	lesser	high	med	low							
1,01	1926.104(a)	S	x		x			5000.00	~~2500.00~~	~~0~~				
1,02	1926.104(b)	S	x		x			5000.00	~~2500.00~~	~~0~~				
1,03	1926.105(a)	S	x		x			5000.00	~~2500.00~~	~~0~~				
1,04	1926.251(a)(1)	S	x		x			5000.00	2500.00					

6. TOTAL $20,000.00

2,500.00 10 9-25-8 SA

9. Total proposed penalty to be assessed to employer ~~$10,000.00~~

15. TOTAL

Date notice of additional proposed penalties sent

Date employer received notice

7. Penalty adjustment factors in percents									
Good Faith			Size				History		Total
25	15	0	60	40	20	0	10	0	
				x			x		50%

Date order sent
Date employer received notice
Date & amount of penalties remitted

Prepared by _____ Date _____

Reviewed by _____ Date _____

State Form No. 46550 (2-94)

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 09/04/2008. 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.

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

29 CFR 1926.104(a): Lifelines, safety belts and lanyards were not used exclusively for employee safeguarding:

Haubstadt, IN job-site - On May 16, 2008, an employee climbed down the equipment rope using a Fisk Descender and no independent back-up system. The equipment rope, which was a dynamic kern-mantle rope, was routinely used for moving material up/down the tower and was not suitable for life safety purposes.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **$2,500.00**

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

29 CFR 1926.104(b): Lifelines were not secured above the point of operation to an anchorage or structural member capable of supporting a minimum dead weight of 5,400 pounds:

Haubstadt, IN job-site - On May 16, 2008, an employee climbed down the equipment rope using a Fisk Descender and no independent back-up system. The equipment rope, which was a dynamic kernmantle rope, was fastened to the tower with an open hook and a hand-line block (Bethea Tool & Equipment, HLB-1250). The hook was rated at 1 ton (2,000 pounds) and the block/sheave assembly was rated at 1,250 pounds.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **$2,500.00**

Safety Order and Notification of Penalty

Company Name: Phoenix of Tennessee, Inc.
Inspection Site: 1725 E CR 1250 S, Haubstadt, IN 47639

Safety Order 1 Item 3 Type of Violation: **Serious**

29 CFR 1926.105(a): Safety nets were not provided when workplaces are more than 25 feet above the ground and where the use of ladders, scaffolds, catch platforms, temporary floors, safety lines or safety belts is impractical:

Haubstadt, IN job-site - On May 16, 2008, an employee working at an elevation of just under 200' climbed down the equipment rope using a Fisk Descender and no independent back--up system. Neither a safety net nor safety line was in use.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **$2,500.00**

Safety Order 1 Item 4 Type of Violation: **Serious**

29 CFR 1926.251(a)(1): Defective rigging equipment was not removed from service:
Haubstadt, IN job-site - On May 16, 2008 and at times prior thereto, the equipment rope routinely used by the tower-hands to raise and lower material such as but not limited to panel antenna assemblies was attached to the platform at the top of the tower with an open hook (Bethea Tool & Equipment p/n SH). This hook was missing the safety latch ("keeper").

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **$2,500.00**

Robert A. Kattau
Director, Industrial Compliance

Indiana Department of Labor
Indiana Occupational Safety and Health Administration
402 West Washington Street
Room W195
Indianapolis, IN 46204-2571
Phone: 317/232-1979 Fax: 317/233-8509

INVOICE/DEBT COLLECTION NOTICE

Company Name: Phoenix of Tennessee, Inc.
Inspection Site: 1725 E CR 1250 S, Haubstadt, IN 47639
Issuance Date: 09/04/2008

Summary of Penalties for Inspection Number 311847461

Safety Order 01, Serious	=	$10,000.00
Total Proposed Penalties		$10,000.00

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).

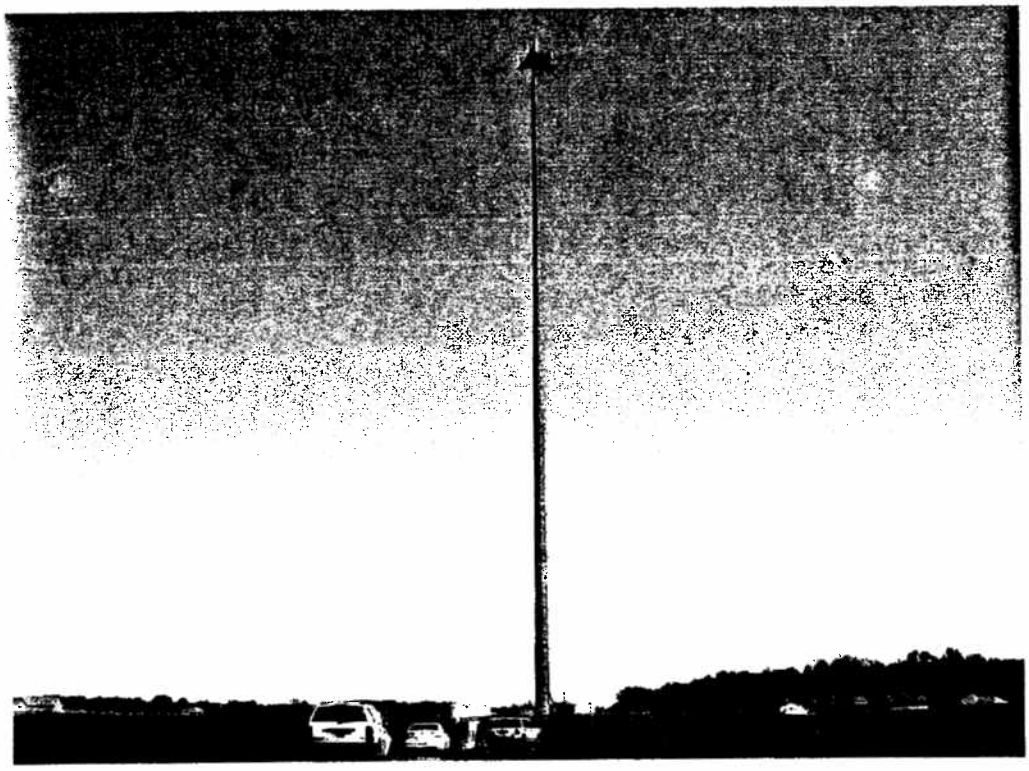
Robert A. Kattau
Director, Industrial Compliance

9-4-08
Date

State Form 48593 (10-97)

Indiana Department of Labor
Occupational Safety and Health Administration

Photo Mounting Work Sheet



IOSHA Complaint or Inspection Number: _____ Photo ID Number: DSCN4065

Date of Photo: May 17, 2008 Time of Photo: 11:15 am CDT am / pm (circle one) Trade Secret: Yes / No (circle one)

Classified Material: Yes / No (circle one) Name of Photographer: Scott Frosch

Safety Order Number: _____ Item: _____ Instance: _____

Location (Photo and Photographer): CSHO in driveway leading to cell tower compound. CSHO is looking north toward the tower.

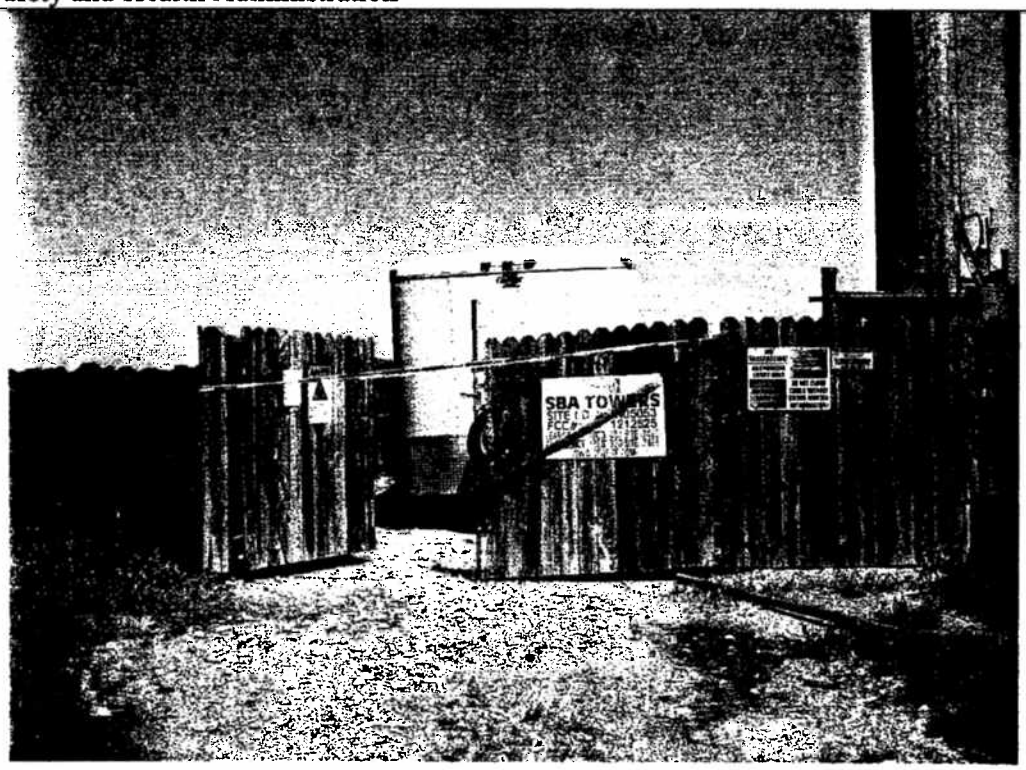
Description of Hazard / Abatement: This tower is owned by SBA. SBA leases the ground from the neighboring landowner. SBA rents space on their towers to cellular phone carriers, in this case, AT&T. AT&T hires contractors to install, maintain, replace, etc., the equipment on the towers. In this case, AT&T hired General Dynamics to oversee upgrade of existing services on a series of cell towers. General Dynamics subcontracted All Around Towers to perform the work on this particular tower. The crew was at the very beginning of this process when the incident occurred.

(This section for IOSHA only)
CSHO Number: L6770 Opt. Report Number: _____

State Form 48593 (10-97)

Indiana Department of Labor
Occupational Safety and Health Administration

Photo Mounting Work Sheet



IOSHA Complaint or Inspection Number: _____ Photo ID Number: DSCN4070

Date of Photo: May 17, 2008 Time of Photo: 11:17 am CDT am / pm (circle one) Trade Secret: Yes / No (circle one)

Classified Material: Yes / No (circle one) Name of Photographer: Scott Frosch

Safety Order Number: _____ Item: _____ Instance: _____

Location (Photo and Photographer): CSHO in driveway leading to cell tower compound. CSHO is looking north toward the tower.

Description of Hazard / Abatement: The photo shows the signs on the gate to the cell tower compound. The tower is owned by SBA Towers and has a Site ID number of IN05053 and an FCC number of 1212525. The sign shows a company website, www.sbatowers.com and a phone number to use in case of emergency, 1-888-950-7483.

(This section for IOSHA only)

CSHO Number: L6770 Opt. Report Number: _____

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Report

Fri Aug 29, 2008 2:45PM

Rpt ID	Assignment Nr.	CSHO ID	Supervisor ID	Inspection Nr.	Opt. Insp. Nr.
0551800	915194138	L6770		311847461	

Establishment Name		Phoenix of Tennessee, Inc.			
Site Address	1725 E CR 1250 S Haubstadt, IN 47639	Site Phone		Site Fax	
		Other			
Mailing Address	1100 Tuckahoe Drive Nashville, TN 37207	Mail Phone	615-860-9712	Mail Fax	615-860-2342
		Other			
Controlling Corp		Employer ID	20-342-8443		
Ownership	A. Private Sector	City	2060	County	051
Legal Entity	A. Corporation	Previous Activity (State Only)			

Related Activity					
Type	Number	Satisfied	Type	Number	Satisfied
A. FATCAT	100992064				

Employed in Establishment	4	Advance Notice?	No	Category	S. Safety
Covered By Inspection	4	Union?	No		
Controlled By Employer	45	Walkaround?	No	Interviewed?	Yes

SIC Inspected		Primary SIC	1799	Secondary SIC	
NAICS Inspected		Primary NAICS	238990	Secondary NAICS	

Inspection Type	A. FATCAT	Reason No Inspection	
Scope of Inspection	B. Partial Inspection		
Classification	Safety Construction		
National Emphasis			
Local Emphasis			
Strategic Initiatives			

Anticipatory Warrant Served?	No	Denial Date	Date ReEntered	Date ReDenied	ReEntered
Anticipatory Subpoena Served?	No				

Entry	05/16/2008	12:00 PM	First Closing Conference	08/19/2008	09:00 AM
Opening Conference	05/16/2008	12:05 PM	Second Closing Conference		
Walkaround	05/16/2008	12:15 PM	Exit	05/16/2008	04:00 PM
Days On Site	1		Case Closed		
			No Citations Issued		

Type	ID	Optional Information
S	1	203428443

CSHO Signature		Date	8/28/2008

OSHA-300A Data

Fri Aug 29, 2008 2:45PM

Establishment Name	Phoenix of Tennessee, Inc.	Ownership	A Private Sector
Controlling Corp		Employer ID	20-342-8443

SUMMARY OSHA-300A DATA	Log Year	2007	Data Not Available		Data Not Required		Partial Log Year	N	# Of Weeks	
TRC RATE	1.8	DART RATE	1.8		Annual Average Number of Employees	65		Total Hours Worked by All Employees	112041	

Number of Cases				Number of Days *Columns may not appear in same order as on the paper form		Injury and Illness Types * Columns may not appear in same order as on the paper form.					
(G) Deaths	(H) Days Away	(I) Job Xfer or Restrict	(J) Other Recordable	(*) Nbr Days Away from Work	(*) Nbr Days Job Xfer or Restrict	(M1) Injuries	(M2) Skin Disorders	(M3) Respiratory Conditions	(M4) Poisonings	(*) Hearing Losses	(*) All Other Illnesses
0	1	0	0	6	0	1	0	0	0	0	0

SUMMARY OSHA-300A DATA	Log Year	2006	Data Not Available		Data Not Required		Partial Log Year	N	# Of Weeks	
TRC RATE	0.0	DART RATE	0.0		Annual Average Number of Employees	144202		Total Hours Worked by All Employees	55	

Number of Cases				Number of Days *Columns may not appear in same order as on the paper form		Injury and Illness Types * Columns may not appear in same order as on the paper form.					
(G) Deaths	(H) Days Away	(I) Job Xfer or Restrict	(J) Other Recordable	(*) Nbr Days Away from Work	(*) Nbr Days Job Xfer or Restrict	(M1) Injuries	(M2) Skin Disorders	(M3) Respiratory Conditions	(M4) Poisonings	(*) Hearing Losses	(*) All Other Illnesses
0	0	0	0	0	0	0	0	0	0	0	0

SUMMARY OSHA-300A DATA	Log Year	2005	Data Not Available		Data Not Required		Partial Log Year	N	# Of Weeks	
TRC RATE	0.0	DART RATE	0.0		Annual Average Number of Employees	45		Total Hours Worked by All Employees	90386	

Number of Cases				Number of Days *Columns may not appear in same order as on the paper form		Injury and Illness Types * Columns may not appear in same order as on the paper form.					
(G) Deaths	(H) Days Away	(I) Job Xfer or Restrict	(J) Other Recordable	(*) Nbr Days Away from Work	(*) Nbr Days Job Xfer or Restrict	(M1) Injuries	(M2) Skin Disorders	(M3) Respiratory Conditions	(M4) Poisonings	(*) Hearing Losses	(*) All Other Illnesses
0	0	0	0	0	0	0	0	0	0	0	0

EMPLOYER NAME AND ADDRESS VERIFICATION

TO WHOM SHOULD SAFETY ORDER(S) AND NOTIFICATION OF PENALTY AND/OR FAILURE TO ABATE NOTICE(S) BE SENT:

Person: Erwin Schulz

Company Name: All Around Towers

Mailing Address: 1100 Tuckaloe Dr
Nashville, TN 37207

Street Address (if mailing address is a post office box):

If address is a Rural Route, give directions:

EMPLOYER REPRESENTATIVE:

E. Schulz
Signature (Note: Your signature is only verifying the correct name and address of the employer)

Erwin Schulz
Printed Name

5-12-08
Date

State Form 44779 (R3/8-94)

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Narrative

Fri Aug 29, 2008 2:45PM

Inspection Nr.	311847461
Opt. Case Number	

Establishment Name	Phoenix of Tennessee, Inc.		
Legal Entity	A. Corporation	Type of Business	

Additional Citation Mailing Addresses	

Organized Employee Groups	

Union Representatives	

Authorized Employee Representatives	

Employer Representatives Contacted

Name	Title	Credentials Presented	Closing Conference	Opening Conference	Other Management Duties	Walk Around?
Erwin Schultz	Field Superintendant	Yes	No	Yes	No	Yes
Doug Graham	Owner	Yes	Yes	No	Yes	No
Gary Cox	Safety Coordinator	Yes	Yes	No	Yes	No

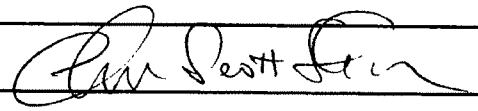
Employees Interviewed	
Jason Smith 1721 N. Troy Loop Inverness, FL 34453 Voice: (352) 400-5667	Heath Grabenstein 215 Windy Hill Drive Moon Township, PA 15108 Voice: (412) 628-3725
Travis Simpson x Haubstadt, IN 47639 Voice: (443) 248-0938	

Other Persons Contacted	
Steve Taylor 1732 E. Warrenton Road Haubstadt, IN 47639 Voice: (812) 867-6302	

Entry	05/16/2008	12:00 PM	First Closing Conference	08/19/2008	09:00 AM
Opening Conference	05/16/2008	12:05 PM	Second Closing Conference		
Walkaround	05/16/2008	12:15 PM	Exit	05/16/2008	04:00 PM
			Case Closed		

Followup Inspection?		Reason	

Coverage Information/Additional Comments

CSHO Signature		Date	8/28/2008
Accompanied By			

INSPECTION CHECKLIST

OPENING CONFERENCE

I explained and/or discussed the following items: *(Check all that apply).*

- ☑ Purpose, nature and scope of the inspection. Indicate scope: _____
- ☑ Inquired about knowledge of IOSHA and previous inspection(s).
- ☑ Ascertained that employer representative has the authority to set abatement times, accompany on walk-around, etc.
- ☑ Discussed legal authority and right of entry as provided by Indiana Code 22-8-1.1, Section 23.1 *(Explain objections in comment section).* no objection
- ☑ Inquired about other contractors on the job site.
- ☑ Ask for Union or employee representatives and explained their rights to attend. non-union
- ☑ Review the IOSHA 300 logs and calculated DART / TRC rates, if required.
- ☑ Ask about restricted areas or special safety equipment requirements.
- ☑ Explained the employer's rights and obligations on the walk around.
- ☑ Explained interview of employees and what would be discussed.
- ☑ Ascertained if toxic chemicals are used on the job site. *(If yes, explain in narrative).* N/A
- ☑ Discuss confidentiality of trade secrets.
- ☑ Discuss camera and picture taking of hazards / alleged violations.
- ☑ Discuss and arrange for a closing conference.
- ☑ IOSHA safety poster – Where is it posted? _____
- ☑ Hazard Communication Program – comments _____

_____

- ☑ Lockout / Tagout Program – comments _____

_____

WALK-AROUND

The following rights were explained to all employees who were interviewed: (Check all that apply)

- ☐ To either file a verbal complaint during the course of the inspection or file a written complaint at any time without fear of discrimination.
- ☐ To review all Safety Orders which must be posted.
- ☐ To contest the abatement dates on the Safety Orders within 15 working days if they are inappropriate.
- ☐ To have a closing conference and attend all subsequent hearings at their request.
- ☐ To be informed of the presences of toxics or harmful physical agents and to be trained in the use and to be provided with all necessary personal protective equipment.

CLOSING CONFERENCE

The following items were explained and/or discussed.

- ☐ That Safety Orders (citations) may be issued on each alleged violation and penalties may be proposed.
- ☐ The requirement to post the Safety Orders is for a minimum of 3 days or until abated, whichever is later.
- ☐ Explained that abatement dates exclude holidays.
- ☐ All apparent alleged violations discussed and all abatement dates set.
- ☐ The procedure to get an extension of the abatement times.
- ☐ The required letter to IOSHA to verify abatement.
- ☐ The follow-up inspection and possible penalties for failure to abate in the specified time.
- ☐ The procedures to request a temporary or permanent variance if abatement is not feasible.
- ☐ The right to telephone the IOSHA Division Director to request an informal hearing, or to file a formal written notice of contest; either must be done within 15 working days from receipt of the Safety Orders & Notice of Proposed Penalty.
- ☐ The free consultation services provided by the Bureau of Safety, Education and Training.
- ☐ Industrial Hygiene / Safety referral as a continuation of this inspection *(if necessary).*

COMMENTS: _____

_____

_____

_____

_____

_____

4. Date/Time
May 17, 2008 2:45 pm

1926.104(a)

20. Instance Description - Describe the following:

a) Hazards-Operation/Condition-Accident: An employee climbed down the equipment rope using a Fisk Descender and no independent back-up system. The equipment rope, which was a dynamic kern-mantle rope, was routinely used for moving material up/down the tower and was not suitable for life safety purposes.

The employer is a specialty trade contractor, performing a wide variety of communication tower construction and service work. On this job the employer had been fired to change out existing panel antennas with new, larger units. The goal was increasing both coverage and capacity. After assembling the panel antennas on the ground, the antennas are raised up to the platform and installed on the top of the tower.

To facilitate work coming up over the next couple of days, the employer decided to spend an hour or so getting this particular job-site set up for the actual tower work. The All About Tower crew headed to the job-site about 4pm to take pre-job photos and rig the equipment rope.

This tower is equipped with climbing pegs and an aircraft cable that employees use as fall protection when climbing up/down the foot pegs. The tower hands on this crew all carried rope- and cable-grab devices to use in this application. In this case, the employee climbed up the tower using the foot pegs and cable grab attached to the lifeline and front D-ring of his harness.

Tower-hands routinely use an equipment rope to raise and lower material such as but not limited to panel antenna assemblies up and down the tower. At this job-site, the equipment rope was attached to the platform at the top of the tower with an open hook (see photos) and hand-line block. This hook was missing the safety latch ("keeper"). The purpose of the safety latch is to prevent the hook from hopping off the anchorage. This is important in rigging or other instances where momentary slack or looseness in the system can allow the hook to hop up and off the anchorage, allowing the load (or empty sling) to fall.

Tower-hands routinely use ropes on their job-sites. Some of the ropes are used to raise and lower material, and other ropes are used as life safety lifelines. Ropes used to raise/lower equipment are subjected to loading, and are more likely to become damaged through routine, repetitive use. In addition, equipment ropes are dynamic ("stretchy") and safety ropes are static. Because of these differences, it is imperative that the two sets of ropes never be interchanged. Equipment ropes are used for material, safety ropes are used for people. Period. In this case, the safety rope was left in a bucket on the ground and the employee climbed down the equipment rope.

Pre-job photos were taken of the existing antennas and their mounts and cable connections. These photos allow the supervisor to assess the work that needed to be done

on the platform and how easy/difficult the task would be. Copies of these photos are present on the disc containing the coroner's photos (see Exhibit Log).

After completing these tasks, the employee attached a Fisk Descender to the equipment rope that he had just rigged, and started to rapel down the rope. There was neither a safety net nor was there an independent back-up lifeline system in use as he made this rope descent.

The hook and hand-line block assembly that was attached to the equipment rope was designed and intended for use as an equipment hoisting system. The hook is rated with a working load limit (WLL) of 1 ton. The aluminum hand-line block is rated at 1,250 pounds. Equipment used as part of a personal fall arrest system must be able to withstand a shock load of 5,000 pounds. A 200# person falling 6' would be expected to generate that type of load - thus, this becomes the design criteria. The manufacturer's add in a safety factor when engineering the parts - so equipment intended and rated for human life safety is stronger and more durable than equipment rated for material lifting.

There was a formal safety program that contained disciplinary procedures. However, in this case, there was no evidence of any discipline until after this incident for violations such as occurred during this case. In addition, the competent person, the supervisor on site, failed to perform required inspections and did not fulfill his duties to enforce safe work procedures on the jobsite. This failure on the part of the employer's agent may negate potential claims of employee misconduct.

b) Equipment: Bethea Tool and Equipment (BTE) hand-line block and safety hook (BTE HLB 1250) - see photos. Safety latch ("keeper") on hook. Equipment rope (3/4" dynamic kernmantle).
c) Location: Haubstadt, IN job-site.
d) Injury/Illness: Death from falling up to 198' onto crushed rock.
e) Measurements: One (1) hook with missing safety latch - this hook was being used on the equipment rope system. 198' from ground to top of tower. Panel antenna assemblies weighing approximately 100#.

21. Photo Number	Location on Video
Various - see photo log	

23. Employer Knowledge: Joe McCraw, supervisor for Phoenix of Tennessee, was on-site at the time of the incident, and was standing at the base of the tower as the employee was atop the platform. Mr. McCraw had years of experience in the tower industry and had control over his job-site and work-crew. The violative conditions were in plain sight and would have been caught if the required job-site inspections had been performed by the employer's representative.

24. Comments (Employer, Employee, Closing Conference): The employer's representative Gary Cox, tells CSHO that he wanted to write-up the Supervisor for safety violations on this job, but that he is unable to locate Mr. McCraw and that Joe has not returned to work since the incident (several months ago). The employer's representatives continue, telling CSHO that they provided grief counseling to the victim's

coworkers. Then, those co-workers were fired. CSHO asks why. The employer's representatives state that they were shocked that those towerhands "did not look after each other" and so, they fired them all.

25. Other Employer Information:

26. Classification:				
Serious	Knowledge	S or O	Repeat?	Willful?
Y	Y	S	N	N

First Repeat	Second Repeat	Repeat Penalty

(2)

4. Date/Time
May 17, 2008 2:45 pm

1926.104(b)

20. Instance Description - Describe the following:

a) Hazards-Operation/Condition-Accident: An employee climbed down the equipment rope using a Fisk Descender and no independent back-up system. The equipment rope, which was a dynamic kernmantle rope, was fastened to the tower with an open hook and a hand-line block (Bethea Tool & Equipment, HLB-1250). The hook was rated at 1 ton (2,000 pounds) and the block/sheave assembly was rated at 1,250 pounds.

The employer is a specialty trade contractor, performing a wide variety of communication tower construction and service work. On this job the employer had been fired to change out existing panel antennas with new, larger units. The goal was increasing both coverage and capacity. After assembling the panel antennas on the ground, the antennas are raised up to the platform and installed on the top of the tower.

To facilitate work coming up over the next couple of days, the employer decided to spend an hour or so getting this particular job-site set up for the actual tower work. The All About Tower crew headed to the job-site about 4pm to take pre-job photos and rig the equipment rope.

This tower is equipped with climbing pegs and an aircraft cable that employees use as fall protection when climbing up/down the foot pegs. The tower hands on this crew all carried rope- and cable-grab devices to use in this application. In this case, the employee climbed up the tower using the foot pegs and cable grab attached to the lifeline and front D-ring of his harness.

Tower-hands routinely use an equipment rope to raise and lower material such as but not limited to panel antenna assemblies up and down the tower. At this job-site, the equipment rope was attached to the platform at the top of the tower with an open hook (see photos) and hand-line block. This hook was missing the safety latch ("keeper"). The purpose of the safety latch is to prevent the hook from hopping off the anchorage. This is important in rigging or other instances where momentary slack or looseness in the system can allow the hook to hop up and off the anchorage, allowing the load (or empty sling) to fall.

Pre-job photos were taken of the existing antennas and their mounts and cable connections. These photos allow the supervisor to assess the work that needed to be done on the platform and how easy/difficult the task would be. Copies of these photos are present on the disc containing the coroner's photos (see Exhibit Log).

After completing these tasks, the employee attached a Fisk Descender to the equipment rope that he had just rigged, and started to rapel down the rope. There was neither a safety net nor was there an independent back-up lifeline system in use as he made this rope descent.

The hook and hand-line block assembly that was attached to the equipment rope was designed and intended for use as an equipment hoisting system. The hook is rated with a working load limit (WLL) of 1 ton. The aluminum hand-line block is rated at 1,250 pounds. Equipment used as part of a personal fall arrest system must be able to withstand a shock load of 5,000 pounds. A 200# person falling 6' would be expected to generate that type of load - thus, this becomes the design criteria. The manufacturer's add in a safety factor when engineering the parts - so equipment intended and rated for human life safety is stronger and more durable than equipment rated for material lifting.

There was a formal safety program that contained disciplinary procedures. However, in this case, there was no evidence of any discipline until after this incident for violations such as occurred during this case. In addition, the competent person, the supervisor on site, failed to perform required inspections and did not fulfill his duties to enforce safe work procedures on the jobsite. This failure on the part of the employer's agent may negate potential claims of employee misconduct.

b) Equipment: Bethea Tool and Equipment (BTE) hand-line block and safety hook (BTE HLB 1250) - see photos. Safety latch ("keeper") on hook. Equipment rope (3/4" dynamic kernmantle).
c) Location: Haubstadt, IN job-site.
d) Injury/Illness: Death from falling up to 198' onto crushed rock.
e) Measurements: One (1) hook with missing safety latch - this hook was being used on the equipment rope system. 198' from ground to top of tower. Panel antenna assemblies weighing approximately 100#.

21. Photo Number	Location on Video
Various - see photo log	

23. Employer Knowledge: Joe McCraw, supervisor for Phoenix of Tennessee, was on-site at the time of the incident, and was standing at the base of the tower as the employee was atop the platform. Mr. McCraw had years of experience in the tower industry and had control over his job-site and work-crew. The violative conditions were in plain sight and would have been caught if the required job-site inspections had been performed by the employer's representative.

24. Comments (Employer, Employee, Closing Conference): The employer's representative Gary Cox, tells CSHO that he wanted to write-up the Supervisor for safety violations on this job, but that he is unable to locate Mr. McCraw and that Joe has not returned to work since the incident (several months ago). The employer's representatives continue, telling CSHO that they provided grief counseling to the victim's coworkers. Then, those co-workers were fired. CSHO asks why. The employer's representatives state that they were shocked that those towerhands "did not look after each other" and so, they fired them all.

25. Other Employer Information:

26. Classification:

Serious	Knowledge	S or O	Repeat?	Willful?
Y	Y	S	N	N

First Repeat	Second Repeat	Repeat Penalty

such as occurred during this case. In addition, the competent person, the supervisor on site, failed to perform required inspections and did not fulfill his duties to enforce safe work procedures on the jobsite. This failure on the part of the employer's agent may negate potential claims of employee misconduct.

b) Equipment: Bethea Tool and Equipment (BTE) hand-line block and safety hook (BTE HLB 1250) - see photos. Safety latch ("keeper") on hook. Equipment rope (3/4" dynamic kernmantle).
c) Location: Haubstadt, IN job-site.
d) Injury/Illness: Death from falling up to 198' onto crushed rock.
e) Measurements: One (1) hook with missing safety latch - this hook was being used on the equipment rope system. 198' from ground to top of tower. Panel antenna assemblies weighing approximately 100#.

21. Photo Number	Location on Video
Various - see photo log	

23. Employer Knowledge: Joe McCraw, supervisor for Phoenix of Tennessee, was on-site at the time of the incident, and was standing at the base of the tower as the employee was atop the platform. Mr. McCraw had years of experience in the tower industry and had control over his job-site and work-crew. The violative conditions were in plain sight and would have been caught if the required job-site inspections had been performed by the employer's representative.

24. Comments (Employer, Employee, Closing Conference): The employer's representative Gary Cox, tells CSHO that he wanted to write-up the Supervisor for safety violations on this job, but that he is unable to locate Mr. McCraw and that Joe has not returned to work since the incident (several months ago). The employer's representatives continue, telling CSHO that they provided grief counseling to the victim's coworkers. Then, those co-workers were fired. CSHO asks why. The employer's representatives state that they were shocked that those towerhands "did not look after each other" and so, they fired them all.

25. Other Employer Information:

26. Classification:				
Serious	Knowledge	S or O	Repeat?	Willful?
Y	Y	S	N	N

First Repeat	Second Repeat	Repeat Penalty

4. Date/Time
May 17, 2008 2:45 pm

(4)
1926.251(a)(1)

20. Instance Description - Describe the following:

a) Hazards-Operation/Condition-Accident: The employer is a specialty trade contractor, performing a wide variety of communication tower construction and service work. On this job the employer had been fired to change out existing panel antennas with new, larger units. The goal was increasing both coverage and capacity. After assembling the panel antennas on the ground, the antennas are raised up to the platform and installed on the top of the tower.

Tower-hands routinely use an equipment rope to raise and lower material such as but not limited to panel antenna assemblies up and down the tower. At this job-site, the equipment rope was attached to the platform at the top of the tower with an open hook (see photos) and hand-line block. This hook was missing the safety latch ("keeper"). The purpose of the safety latch is to prevent the hook from hopping off the anchorage. This is important in rigging or other instances where momentary slack or looseness in the system can allow the hook to hop up and off the anchorage, allowing the load (or empty sling) to fall.

Use of proper rigging equipment is especially important in situations where the ground employees are positioned close to, if not under, the load being raised or lowered. This is the case in cell tower construction as the available work area in this case measured only 50'x50' and the height of the tower was 198.'

The employer has two duties under the standard (1926.251(a)), namely he must inspect the rigging equipment before each use, and he must remove any defective equipment from service. In this case, there was no pre-use inspection (as evident by lack of documented inspections - see Company Safety Manuals) and the hook was left in the job-trailer even though it was known to be bad (see interview statement of H. Grabenstein).

There was a formal safety program that contained disciplinary procedures. However, in this case, there was no evidence of any discipline until after this incident for violations such as occurred during this case. In addition, the competent person, the supervisor on site, failed to perform required inspections and did not fulfill his duties to enforce safe work procedures on the jobsite. This failure on the part of the employer's agent may negate potential claims of employee misconduct.

b) Equipment: Bethea Tool and Equipment (BTE) hand-line block and safety hook (BTE HLB 1250) - see photos. Safety latch ("keeper") on hook. Equipment rope (3/4" dynamic kernmantle).

c) Location: Haubstadt, IN job-site.

d) Injury/Illness: Death from being struck by falling material such as but not limited to panel antenna assemblies.

e) Measurements: One (1) hook with missing safety latch - this hook was being used on the equipment rope system. 198' from ground to top of tower. Panel antenna assemblies

weighing approximately 100#.

21. Photo Number	Location on Video
Various - see photo log	

23. Employer Knowledge: Travis Smith, a supervisor for Phoenix of Tennessee, tells CSHO: "The day after Jay's fall, the company sent me to all of the other tower sites in this market area to check for and remove bad climbing and rigging equipment. I found several hooks with missing keepers."

24. Comments (Employer, Employee, Closing Conference): During his interview with CSHO, one of the co-workers on the scene told me: I know what happened. I bet he used the bad hook - you know, the one with the missing gate. I asked how come it was available for use and the employee replied, well, it was just hanging on a hook in the trailer. See interview statement of Heath Grabenstein.

25. Other Employer Information:

26. Classification:				
Serious	Knowledge	S or O	Repeat?	Willful?
Y	Y	S	N	N

First Repeat	Second Repeat	Repeat Penalty

Closing Conference Worksheet
1926 Standards
Construction Safety & Health
Inspection # 311847461
Phoenix of Tennessee dba: AAT

1. Safety & Health Provisions	9. Electrical	17. Underground Construction
2. Environmental Controls	10. Scaffolding	18. Demolition
3. PPE & Life Safety Equipment	11. Fall Protection	19. Blasting & Explosives
4. Fire Protection	12. Cranes, Derricks, & Hoists	20. Power Transmission
5. Signs, Signals, & Barricades	13. Motor Vehicles & Mech. Eqpt.	21. Rollover Protection
6. Material Handling	14. Excavations	22. Stairways & Ladders
7. Tools, Hand & Power	15. Concrete & Masonry	23. Toxic/Hazardous Substances
8. Welding & Cutting	16. Steel Erection	24. General Duty

ALLEGED VIOLATIONS:

1. Type 3

Hazard On or about 5/16/08 - an ee- used Fisk descender to climb down the equipment rope.

Location Haubstadt IN

Other 15 day

2. Type 3

Hazard On or about 5/16/2008 an ee- climbed down equipment rope- block/tackle not rated at 5000 #

Location Haubstadt IN

Other 15 days

3. Type 24

Hazard On or about 5/16/2008 the equipment rope was attached w/ open hook. The safety latch "keeper" was missing.

Location Haubstadt IN

Other 15 days

4. Type 3

Hazard On or about 5/16/08 the ee- climbing down the equipment rope did not use an independent lifeline attached to back D-ring

Location Haubstadt IN

Other 15 days

1. Type 1

Hazard Ee- was not properly trained on use of Fisk Descendor.

Location Haubstadt IN

Other 15 days

2. Type _____

Hazard _____

Location ~~Haubstadt~~

Other _____

Received By _____ Date 8/19/08

The aforementioned hazards were noted by the IOSHA Compliance Officer during the onsite inspection of your worksite. The compliance officer's recommendations regarding the above referenced hazards are subject to review by the IOSHA supervisory personnel. You may receive Safety Orders and Notification of Penalties related to this IOSHA inspection.

State Form 47278 (8-95)

Notification?

OFFICE COPY

OPENING CONFERENCE ATTENDANCE

NAME	TITLE	DATE	
Scott Frosch	CSHO	5-17-08	
Erwin Schulz	AAT	5-17-08	
Tim Henley	Safety Mgr SBA	5-17-08	
Robert Seidel	General Dynamics	5-17-08	
Brittney Bichon	General Dynamics	5-17-08	
John Hellyer	General Dynamics	5-17-08	859-437-0006
Robert Hollinger	General Dynamics	5-17-08	615-545-372

CLOSING CONFERENCE ATTENDANCE

NAME	TITLE	DATE
Scott FROSCH	CSHO	8/19/2008
Brad Freeman	CSHO	8/19/2008
Felicia Roth	General Dynamics OTS Mgr.	8/19/08
Robert Seidel	General Dynamics	8/19/08
Douglas B. Graham	Phoenix of TN	8/19/08
GARY COX	Phoenix of TN	8/19/08

Indiana Department of Labor
Occupational Safety and Health Administration

Fatality/Catastrophe Report

Fri May 30, 2008 12:01pm

Reporting ID	0551800	Previous Activity (Type & Number)	0			Event Number	100992064	
Establishment Information	Establishment Name	Phoenix of Tennessee				Employer ID		
	Site Address	1732 East Warrenton Road Haubstadt IN 47639				City Code	2060	County Code 051
		Site Phone	(615) 533-3077	Site FAX				
	Mailing Address	1100 Tuckahoe Drive Nashville, IN 37207						
	Event Address (if different)	1732 East Warrenton Road Haubstadt, IN 47639						
Industry & Ownership	Type of Business					Primary SIC	1623	No. of Employees 5
	Ownership	A. Private Sector						
Receipt Information	Reported By				Date	05/16/08	Time	
	Job Title				Telephone			
Employee Representation	Group Name(s):							
Classification	A. Fatality							

Event Description	Event Date	Event Time	Number of Fatalities	Number of Hospitalized Injuries	Number of NonHospitalized Injuries	Number Unaccounted for
	05/16/08	06:30 pm	1	0	0	0
	Type of Event	Fell from				

Preliminary Description

Employee,Jonathan Joe Guilford age 23. Employee fell approximately 150 feet. He was coming down from the top of a telcom tower after shooting pre-job photographs. While descending the tower (by rapelling down) the load line, the load line came loose from the anchor point, allowing the employee to fall.

Action	Inspection Planned?	Supervisor(s) Assigned		CSHO(s) Assigned	
	Yes	L6770		L6770	

Strategic Initiatives	
National Emphasis	
Local Emphasis	

Optional Information	Type	ID	Optional Information Value

Comments

U. S. Department of Labor
Occupational Safety and Health Administration

Investigation Summary

Fri May 30, 2008 12:38pm

Reporting ID	Investigation Summary Number	OSHA-36 Number	OSHA-36 Establishment Name
0551800	**200996874**	**130992064**	**Phoenix of Tennessee**
Event Date	**05/16/08**	Event Time	**06:30 pm**
Type of Event	**Fell from**		

Inspection Number/ Establishment Name	**311847461 Phoenix of Tennessee**
Injured/Deceased Name	**Jonathan Guildford**
Sex:	**M. Male**
Age:	**23**
Injury:	**A. Fatality**
Nature:	**03 Bruise/contusion/abrasion**
Part of Body:	**04 Body system**
Source of Injury:	**24 Hoisting apparatus**
Event Type:	**05 Fall (from elevation)**
Environmental Factor:	**13 Working surface or facility layout condition**
Human Factor:	**06 Equipment in use not appropriate for operation or process**
Task:	**A Regularly Assigned**
Substance Code:	
Occupational Code	

Abstract:

Employee #1 was on top of a monopole telcom tower taking pre-job photographs. Employee #1 also rigged up the load line using an open hook and a simple block and tackle. After finishing these two tasks, Employee #1 began to rapel down the load line with a Fisk Descender attached to the front D-ring of his full-body harness. As he descended, the open hook rolled out of the large caribeener attached to the top of the platform. Employee #1 fell approx. 150 feet to the ground. The open hook, block and tackle, and rope landed right beside him. The large caribeener was still hooked to the top of the tower.

The open hook was missing the safety latch. The block and tackle was rated at 1,250 pounds, and was intended for lifting equipment, not for life safety purposes. The employee was not using an independent lifeline when he descended via the load line. The employee had not been properly trained in fall protection issues.

CONSTRUCTION ACCIDENT INFORMATION

Project Level Information

Type of Construction **B Alteration or rehabilitation**	
End-use Type of Construction Site **H Other building**	
If a building site, number of stories (in feet):	**1**
If a non-building structure, height (in feet) :	**198**
Project Cost **B $50,000 to $250,000**	

Victim Level Information

Victim's Name	**Jonathan Guildford**
Cause of Fatality / Accident	**Fall from/with structure (other than roof)**
Distance of the Fall (in feet)	**150**
Height above ground (or floor) of the worker when the fall occurred (ft)	**198**
Operation being performed by the victim	**Installing equipment (HVAC and other)**
Contributing Operation (if different from the operation above)	

Accident Report
State Form 3671
Administration

Indiana Department of Labor
Occupational Safety and Health

200996593

MOD Date	**1.** Reporting ID **551800**	**2.** Previous Activity? If Yes	**3.** Enter Number (identifies this report) **100992064**
4. a. Change?	b. Establishment Name **Phoenix of Tennessee**		**5.** Employer's ID (States option)
6. a. Change?	b. Site Address (Street, City, State, Zip) **1732 East Warrenton Road Haubstadt, IN 47639**	**7.** City Code **2060**	**8.** County Code **051**
9. Event Address (if different) (Street, City, State, Zip)			

Industry & Ownership	**10.** Type of Business **Communication Towers**	**11.** Primary SIC **1623**	**12.** No. of Employees **5**
	13. Ownership (Mark "X" in one box) **a. Private Sector** b. Local Government c. State Government d. Federal Agency/Code		
Receipt Information	**14.** Reported By **Randall Hanes**	**15.** Date **5/16/08**	**16.** Time **7:12pm**
	17. Job Title **Site Supervisor**	**18.** Telephone Number **404-285-8776**	
Employee Representation	**19.** Group Name(s)		
Site Contact	**20.** Name and Location **Tim Brown**		
	21. Job Title	**22.** Telephone Number **615-533-3077**	
Classification	**23.** Mark X in one box **a. Fatality** b. Catastrophe Reported by Professional c. Non-Fatality/Catastrophe by Employee or Other Party Or Media d. Non-Fatality/Catastrophe		

Event Description	**24.** Event Date **5/16/08**	**25.** Event Time **6:30pm**	**26.** Number of Fatalities **1**	**27.** Number of Hospitalized Injuries **0**	**28.** Number of non-hospitalized Injuries **0**	**29.** Number of Unaccounted for **0**
	30. Type of Event (e.g. fall from scaffold) **Fell from**					
	31. Preliminary Description Victim: Jonathan Joe Guilford Age: 25 Occupation: Tower climber **Employee fell in excess of 200 feet without fall protection. Deceased was most likely on tower shooting photographs. He returned after work and climbed the tower most likely for this purpose. This is all of the information we have at this time.**					

Action	**32.** Inspection Planned? **Yes** No If No, Reason:	**33.** Supervisor(s) Assigned a. b.	**34.** CSHO Assigned a.

35. Optional Information

Type	ID	Value	Type	ID	Value

37. Comments

INOSHA-36(S) (Rev. 1/84)