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1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF LABOR AND TRAINING  
2 DIVISION OF PROFESSIONAL REGULATION

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5 PROCEEDINGS AT HEARING :

:

6 IN RE: :

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7 HOISTING BOARD :

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8 .....

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DATE: AUGUST 8, 2006

12

TIME: 10:00 A.M.

PLACE: 1511 PONTIAC AVENUE

13

BUILDING 70

CRANSTON, RI

14

15

16

PRESENT:

17 DAVID BURNHAM

BENJAMIN ANTHONY

18 JOHN SHAW

ELLERY WOOD

19 DAVID RODRIGUES, INVESTIGATOR

20

21

22

23 RHODE ISLAND COURT REPORTING

25 SEA VIEW AVENUE

24 EAST PROVIDENCE, RI 02915

(401) 437-3366

0002

1 (COMMENCED AT 10:05 A.M.)

2 MR. RODRIGUES: I'm going to call

3 the meeting to order. The first order of business

4 is acceptance of the minutes from the previous

5 meeting.

6 MR. BURNHAM: I forgot mine, but I

7 did read them, and I'd entertain a motion to

8 approve the minutes as presented.

9 MR. RODRIGUES: We have a motion.

10 All in favor? Opposed? So carried. Next is an

11 appeal of the Boezi Corporation and Oscar Zapien.

12 At this time, I'm going to recuse myself because I

13 was involved in the investigation, and I'm going

14 to pass the chair over to Mr. David Burnham.

15 MR. BURNHAM: Okay. Probably  
16 before we proceed, are you going to testify on  
17 behalf of Boezi?

18 MR. BOEZI: Yes.

19 MR. BURNHAM: And Mr. Rodrigues is  
20 going to testify, so I'm going to ask the  
21 stenographer to swear those folks in before we  
22 begin.

23 JOHN BOEZI, JR., DAVID M. RODRIGUES

24 (SWORN)

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1 MR. BURNHAM: Just so that you  
2 understand the procedure, the board will hear  
3 testimony from Mr. Rodrigues as to what events  
4 brought us here this morning, and then the board  
5 can ask any questions of David's comments and  
6 presentation.

7 And then we'll give you an opportunity  
8 to address the board and tell us your view of the  
9 chain of events that led us here this morning.

10 And then based on the information we  
11 hear this morning, we will determine whether the  
12 board believes a violation has occurred and act on  
13 that. And then subsequently, we will look at  
14 issues related to the violation, fines that we'll

15 recommend.

16           We have not had any previous information  
17 as to your case here, so what we're hearing and  
18 what we have before you this morning is the  
19 violation which is the notice that went to you or  
20 to your corporation, and so we're going to listen  
21 to what's said and make a determination on that,  
22 just so you understand.

23           MR. BOEZI: Okay.

24           MR. BURNHAM: So David, if you

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1 would begin and tell us what chain of events  
2 brought us here this morning on this issue.

3           MR. RODRIGUES: May 26th, Friday,  
4 I received a complaint from an unlicensed operator  
5 at a car dealership being built at 1515 Bald Hill  
6 Road in Warwick. General contractor is New  
7 England Construction.

8           Upon arrival, I witnessed masons  
9 breaking down staging. As they're breaking down  
10 the staging, they were placing them on to the  
11 forks of a forklift, a construction forklift. And  
12 as I watched, once the forks were full, an  
13 individual jumped in the seat of the forklift and  
14 drove it around the building, bringing the pipe  
15 staging to a different area on the job site.

16           Upon interviewing this operator, it was  
17 found that his name was Oscar Zapien, an employee  
18 of Boezi Corporation. I'm familiar with this  
19 individual. The day before, he was here at the  
20 department taking a written exam.

21           Actually, it was a Spanish exam, for  
22 construction forklift. There was no results  
23 given. It takes two weeks to process the test.  
24 So he was operating without a license.

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1           I informed him that he was in violation  
2 of the law. There was a language barrier. So I  
3 proceeded over to the job trailer where there was  
4 construction -- where New England Construction has  
5 their offices, general contractor, and I spoke  
6 with Anthony Guccione (Phonetic), which was here  
7 last month.

8           I informed him of the violation and he  
9 said, "They can't be operating," and I said,  
10 "Well, they are." From the pictures that were  
11 given at last month's testimony, they were working  
12 behind the building out of the view of the  
13 superintendent.

14           This is not my first run-in with Boezi.  
15 Back in October 20th, Boezi was a subcontractor at  
16 the new Hummer dealership on Hurd Buick, 1705

17 Hartford Avenue. And the same individual, Oscar  
18 Zapien, was operating a construction forklift. At  
19 that time, I issued a warning. There was no  
20 violation issued to them at the time.

21 The results from Mr. Zapien's exam, he  
22 was unsuccessful in obtaining a passing grade, so  
23 at this time, he does not have a license. On  
24 June 20th, I did a follow-up call to Anthony

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1 Guccione from New England Construction, and at  
2 that time he did inform me that Boezi Corporation  
3 did hire a licensed operator, his name was Wayne  
4 Henderson, and he did have a valid Rhode Island  
5 Hoisting Engineers License. Mr. Chairman, that's  
6 all I have.

7 MR. BURNHAM: Any questions of  
8 David at this time?

9 MR. SHAW: I have one question.

10 You actually witnessed Oscar Zapien driving this  
11 lift?

12 MR. RODRIGUES: Yes.

13 MR. BURNHAM: Mr. Boezi, anything  
14 to add?

15 MR. BOEZI: Well, I was away on  
16 vacation when this happened. What we did was it  
17 was the Friday or Thursday before the Memorial Day

18 weekend, I believe, and the guys worked ten-hour  
19 days to get the job done, completed. So, most of  
20 my guys go camping, so they wanted an extra day.

21 And we completed the job, I hopped on my  
22 plane and took off for the long weekend in the  
23 afternoon. So as far as I knew, we're done.  
24 They're going to leave the staging up. And

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1 everybody is hopping in their trucks and nobody is  
2 coming back to work until Tuesday morning.

3 I get a call from David that this kid  
4 Oscar was operating on the forklift. I said,  
5 "David, I don't know what you're talking about.  
6 They're not supposed to be working there.  
7 Everybody is off." He says, "Well, this guy's  
8 working there."

9 When I come back, I find out that New  
10 England Construction, who we were working for,  
11 said that he wanted the staging all ripped down  
12 and the area cleaned out so they could backfill a  
13 wall or whatever the case may be.

14 So three of the laborers, my foreman,  
15 told them to go in and rip the staging down. They  
16 were supposed to do it by hand, slide everything  
17 down, only two levels high, and just pile it up on  
18 the ground. The forklift operator that we had at

19 the time had made plans, he was part of the crew  
20 that wasn't going to work on the Friday because we  
21 were working ten-hour days.

22 So when my foreman -- this is all after  
23 the fact that I'm finding this out. When my  
24 foreman says, "Can you come in tomorrow and help  
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1 him with the staging?" "I can't do it. I made a  
2 commitment."

3 So, apparently the pressure from New  
4 England to get the area cleaned out, whatever the  
5 case may be, that he took the test earlier in the  
6 week and he thought that he had carte blanche to  
7 jump on the machine, whatever the case may be. He  
8 works for me. It's my responsibility. But that  
9 was the scenario leading up to that.

10 As far as having a licensed operator,  
11 we've had one from day one when we started this  
12 job in April. We faxed over copies to your  
13 office. And we've had them right along. Truth of  
14 the matter is November, when David came to my job  
15 and wrote up this kid Oscar with a warning, we  
16 didn't have one in place.

17 And what happens is you hire them, they  
18 come, they go. You got a hole in your schedule,  
19 and then basically you gamble for that two or

20 three days to keep everybody else working until  
21 you can replace them. It happens. But, I'm  
22 trying to get these guys tested.

23 And I have a couple of guys on my crew  
24 that are steady, that are back every year.

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1 Because it's a seasonal business, you know, we're  
2 like landscapers. We work that eight, nine months  
3 a year. Then guys move on and find other  
4 positions. They don't wait for to us call them  
5 back. So, we always have that transience. It's a  
6 problem.

7 David will tell you I'm working hard.  
8 We tested guys last month, weren't successful;  
9 testing again this month. Doing everything we  
10 can. But as far as, you know, the scenario that  
11 David explained, that is basically the way it come  
12 down.

13 In all reality, they were pressured  
14 there that day from New England Construction.  
15 They had all worked hard to take a big long  
16 weekend, but doing the contractor a favor, it all  
17 falls back on me. Part of doing business.

18 MR. BURNHAM: Obviously, you are  
19 aware of the licensing requirements?

20 MR. BOEZI: Yes.

21           **MR. BURNHAM:** Some issues with the  
22 operator not even being in the seat, some definite  
23 safety issues here. That's basically my concern  
24 as a member of the board.

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1           **MR. BOEZI:** Right.

2           **MR. BURNHAM:** Not just simply the  
3 licensing part of it, I think the safety aspect of  
4 it is more concerning, whether the person had a  
5 license or not.

6           **MR. BOEZI:** Right.

7           **MR. BURNHAM:** If it was a licensed  
8 person, then they weren't even in the seat while  
9 the forklift was raised and, in fact, being used.  
10 That's a serious safety issue.

11           **MR. BOEZI:** He wasn't in the seat,  
12 David? I was unaware of that.

13           **MR. RODRIGUES:** The implement on  
14 the forklift was in the air, enabling them to hang  
15 the pipe staging.

16           **MR. BOEZI:** Was there an operator  
17 in the seat?

18           **MR. RODRIGUES:** No.

19           **MR. BURNHAM:** He then got into the  
20 seat, if I understood the testimony, and moved the  
21 pipe staging with the forklift to another

22 location.

23 MR. RODRIGUES: Yes.

24 MR. BURNHAM: Those are serious

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1 issues. I mean, you try to avoid accidents.

2 MR. BOEZI: Never had an accident,  
3 three generations of masonry contractors, and I

4 hope I never do. Like I said, I'm working on it.

5 We hire safety people to come in and drill the  
6 beam. We got them all OSHA approved, OSHA  
7 certified. They've seen movies on the forklifts.

8 I'm spending money to do the right thing here.

9 MR. ANTHONY: David, has this  
10 company been in front of us before?

11 MR. RODRIGUES: No. Just the  
12 warning.

13 MR. BURNHAM: Same company, same  
14 operator.

15 MR. RODRIGUES: I'd just like to  
16 add, there was another violation on that job. It  
17 did not include Boezi. It did not include New  
18 England.

19 At the time, Narragansett Improvement,  
20 they were in charge of the demo of the existing  
21 building and they had a subcontractor that was  
22 unlicensed. But New England Construction was

23 on-site and I met with Anthony Guccione and I  
24 asked him, "Who is your mason?"

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1 He informed me that it was Boezi. I  
2 said, "I have had problems with Boezi. Make sure  
3 he has licensed people." And that date was  
4 April 11, '06.

5 MR. BURNHAM: The licensed  
6 operator that you hired was?

7 MR. RODRIGUES: I don't have his  
8 name.

9 MR. BOEZI: I know we faxed the  
10 material over to David and he was in place before  
11 we started working there.

12 MR. RODRIGUES: Did you give that  
13 to Anthony? Because I never received a copy. Did  
14 you give it to Anthony?

15 MR. BOEZI: Tony, he was supposed  
16 to fax it over to you.

17 MR. RODRIGUES: I never received  
18 it. I just received a name.

19 MR. BURNHAM: Okay. Is there any  
20 other questions or any other thoughts on your mind  
21 that you would like to enter at this time?

22 MR. BOEZI: Other than like I  
23 said, we're doing everything in our power to make

24 everybody happy and keep -- stay as legal as we

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1 possibly can, even with the training, building

2 staging, all the way down the line.

3 The industry is growing at the point

4 where sometimes you get behind, and I was left

5 behind a little bit and thought maybe I could get

6 away with something a year or two ago, but now

7 everything is licensing and we've come to terms

8 that we have to do the right thing. Like I said,

9 we're spending the money on safety and trying to

10 get these operators in place.

11 MR. SHAW: David, how was Mr. Boezi's

12 attitude and Mr. Zapien's?

13 MR. RODRIGUES: Like I said, Oscar

14 Zapien, there is a language barrier, so I had

15 trouble communicating, but once I was able to

16 convey that he needed a license and if he

17 continued, you know, he would receive a violation,

18 a fine every day he did operate without a license.

19 Mr. Boezi, he was dumbfounded. He did not know

20 they were operating.

21 MR. BURNHAM: Okay. Well, the

22 board needs to -- the chair would entertain a

23 motion as to whether the board feels that a

24 violation of Rhode Island General Law 28-26-12

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1 which relate to actions on the violations on Rhode  
2 Island 28-26-5, license required for operation of  
3 hoisting machinery.

4 We need an action or a motion from the  
5 board as to whether they feel a violation has  
6 occurred or not, based on the testimony given. I  
7 think that I could entertain a motion that a  
8 violation has occurred, and I believe we should  
9 take these one at a time. So we're hearing Boezi  
10 Construction first. We'll deal with Mr. Zapien  
11 second. Pleasure of the board?

12 MR. WOOD: I'd like to make a  
13 motion that this violation was in effect on  
14 Mr. Zapien, violating RIGL 28-26-12, I make a  
15 motion that this violation is upheld.

16 MR. BURNHAM: So actually on this  
17 one, just for the record, Woody, I think we should  
18 make sure that we're acting on Boezi Corporation  
19 first, so if that is your motion, rather than just  
20 Oscar Zapien.

21 MR. WOOD: I'm making a motion on  
22 the violation.

23 MR. BURNHAM: Yes. But there are  
24 two violations on our agenda this morning, two

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1 hearings. One is on Boezi Corporation and the  
2 second Oscar Zapien. I think we should keep them  
3 separate.

4 So if your intention is that based on  
5 the testimony given here today, that you felt  
6 there was a violation by Boezi Corporation of  
7 28-26-5 which is the license required, operation  
8 of hoisting machinery.

9 MR. WOOD: Just making a motion on  
10 the violation, not the penalty?

11 MR. BURNHAM: Right. You're  
12 correct.

13 MR. WOOD: So that's what I'm  
14 making the motion on, on the violation.

15 MR. BURNHAM: So is that your  
16 motion?

17 MR. WOOD: Yes.

18 MR. BURNHAM: That a violation  
19 occurred by Boezi Corporation?

20 MR. WOOD: Yes.

21 MR. BURNHAM: Is there a second?

22 MR. ANTHONY: Second.

23 MR. BURNHAM: And a second. Any  
24 discussion? All those in favor say aye? Opposed?

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1 Motion carries.

2           The next action should be regarding the  
3 fine that's been ordered. The fine that has been  
4 imposed on Boezi Corporation is \$1,150. That's a  
5 fine that's in agreement or in line with a willful  
6 violation because Boezi has been warned and is  
7 well aware and by testimony has a licensed  
8 operator on the job. And the board needs to  
9 determine what our recommendation is to the  
10 director.

11           And Mr. Boezi, just for your  
12 information, our vote here as it relates to the  
13 penalty or the fine, is a recommendation to the  
14 Director of the Department of Labor. And then the  
15 decision is made in that office as to whether to  
16 go forward.

17           MR. BOEZI: I just feel as though  
18 with all my knowledge, they weren't working that  
19 day, never mind operating the machine, when I went  
20 away for the long weekend, I thought Boezi  
21 Corporation was closed down. I had no clue they  
22 were working. So why is Boezi being?

23           MR. BURNHAM: As you said earlier,  
24 you're the corporation --

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1           MR. BOEZI: I'm responsible. Very  
2 good.

3 MR. BURNHAM: I certainly know  
4 that as a business operator - owner.

5 MR. BOEZI: Very good.

6 MR. BURNHAM: So, pleasure of the  
7 board? We've heard testimony.

8 MR. SHAW: I'd like to make a  
9 motion. I feel even though Mr. Zapien was warned  
10 before, this is the first time Mr. Boezi is in  
11 front of this board. Seems to be cooperating with  
12 this department, trying to get as many as four or  
13 five people licensed to operate this. My  
14 recommendation would be to suspend this for a  
15 year.

16 MR. BURNHAM: Is that a motion,  
17 John?

18 MR. SHAW: Yes.

19 MR. BURNHAM: We have a motion to  
20 suspend; do we have a second?

21 MR. WOOD: Second.

22 MR. BURNHAM: We have a second.

23 Before I ask for the vote, I'll just explain to  
24 you that the recommendation to suspend, Mr. Boezi,

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1 is that if it's bought into by the director, would  
2 be that if there are no violations in the next  
3 12 months from your company or the people that

4 work for your company, then the fine would go  
5 away.

6 If there's any violation, another  
7 incident of violating the Hoisting Engineers' Law  
8 within that 12-month period, then the fine that's  
9 suspended becomes due and payable, and then you  
10 also answer for the fine that got you into this,  
11 for the incident that got you into this.

12 MR. BOEZI: Sure.

13 MR. BURNHAM: So I just wanted you  
14 to understand what that recommendation would mean.  
15 So we have a motion and a second to recommend to  
16 the director the 12-month suspended fine; is there  
17 any comments or questions on the motion? Hearing  
18 none, all those in favor say aye? Opposed?  
19 Motion carries. Thank you.

20 We are going to take the Oscar Zapien  
21 action separately. And the testimony may be the  
22 same, but the next appeal is from the operator,  
23 and he's not here?

24 MR. BOEZI: No.

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1 MR. RODRIGUES: Mr. Chair, I'd  
2 just like to add that we did send mail certified  
3 and regular mail to Mr. Zapien. That was done and  
4 it was never claimed.

5 MR. BOEZI: I can explain that.

6 MR. RODRIGUES: The regular mail  
7 was not returned to us.

8 MR. BURNHAM: Okay. David, is  
9 there anything you want to add to Mr. Zapien's  
10 appeal? It's basically the same?

11 MR. RODRIGUES: Yes. Nothing,  
12 Mr. Chairman.

13 MR. BURNHAM: Mr. Boezi, comments?

14 MR. BOEZI: There's a language  
15 barrier with him. He nods his head. I don't talk  
16 Spanish, he don't talk English. I know in the  
17 spring when he comes in to negotiate his salary,  
18 there's no problem with the language.

19 But anyway, they live five or six  
20 Mexicans together. They all pool their money.  
21 They're hard-working people. And he's been back  
22 three or four seasons. But again, there's  
23 definitely a language barrier. My foreman is  
24 Portuguese.

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1 I'm sure he told him don't use the  
2 machine, you know, because the operator's not  
3 here. Just pile the stuff up on the ground, lean  
4 the staging against the wall, and we'll clean it  
5 up when they come back on Tuesday. They were just

6 supposed to do a New England a favor.

7 Again, I'm responsible. He got on the  
8 machine and even left it up in the air with nobody  
9 on it, which is news to me now. That's all I have  
10 to say.

11 MR. BURNHAM: Any comments or  
12 questions of either David or Mr. Boezi on this?

13 MR. SHAW: David, he took the exam  
14 once?

15 MR. RODRIGUES: Yes.

16 MR. SHAW: But he's already been  
17 warned twice; am I correct?

18 MR. RODRIGUES: Yes.

19 MR. SHAW: He got caught once?

20 MR. RODRIGUES: Twice. Once was a  
21 warning, the second was the violation issued.

22 MR. WOOD: On the same job?

23 MR. RODRIGUES: No.

24 MR. BURNHAM: Would this be the

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1 second?

2 MR. RODRIGUES: Yes. The first  
3 was October 20, '05, and the second one was May  
4 26, '06.

5 MR. ANTHONY: Did he come in to  
6 take the exam in '05 at all?

7 MR. RODRIGUES: No.

8 MR. SHAW: Did he understand that  
9 he was committing a violation?

10 MR. RODRIGUES: I believe I  
11 conveyed that to him.

12 MR. SHAW: How about you, Mr. Boezi,  
13 does he understand that he can't operate?

14 MR. BOEZI: From April when we  
15 started working full-time, we hired the operator,  
16 and he couldn't touch the machine. He knew that  
17 he wasn't supposed to touch the machine.

18 Whether because he took the test at the  
19 beginning of the week, he thought that gave him --  
20 that he was going to pass or the pressure from New  
21 England to get the place cleaned up.

22 Because like I said, they were just  
23 supposed to pile stuff up, from what my foreman  
24 told me. They weren't supposed to operate. They  
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1 actually jumped the machine. They didn't have a  
2 key for it. They actually jumped the machine to  
3 move the stuff out of there. And I'm sure they  
4 wouldn't have done the work if they didn't ask for  
5 it.

6 MR. BURNHAM: Well, we need to  
7 again act, entertain a motion from the board as to

8 whether the board feels a violation, in fact, or  
9 not occurred regarding his appeal. So I would  
10 entertain a motion.

11 MR. SHAW: I make a motion that  
12 the violation, license required for operation of a  
13 hoisting machine, RIGL 28-26-5, was committed by  
14 Mr. Zapien.

15 MR. BURNHAM: We have a motion.  
16 Do we have a second?

17 MR. WOOD: Second.

18 MR. BURNHAM: And a second. Is  
19 there any discussion? Hearing none, all those in  
20 favor say aye? Opposed? Motion carries.

21 As to the facts, both testimony from  
22 Mr. Rodrigues and Mr. Boezi, although he wasn't  
23 present on that day, I understand that the action  
24 based on his testimony, that the action did, in

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1 fact, happen.

2 There's a penalty that's imposed on  
3 Mr. Zapien in the amount of \$600, which, David,  
4 just for clarification, I think you're in the  
5 willful section on the lower end; is what you are?  
6 Because, unfortunately, there is a language  
7 barrier. I hope that it has been conveyed that he  
8 cannot operate the machine.

9 MR. BOEZI: Don't go near it.

10 MR. ANTHONY: Trouble being, this  
11 was the second time. He had a warning once and he  
12 just doesn't seem to understand. And I guess you  
13 already spoke to him to not run the machine; did  
14 you tell him prior to this?

15 MR. BOEZI: Well, he thought he  
16 was doing good by getting on a machine and moving  
17 that stuff out of there while, you know, there was  
18 no supervision around. And he thought that we'd  
19 be happy about it when we got back, you know what  
20 I mean? He was making the contractor happy. He  
21 didn't make me happy.

22 MR. SHAW: The fine normally would  
23 have been \$300 for the first offense, David, and  
24 because this is the second; that's why it's at

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1 \$600.

2 MR. BURNHAM: If I can just jump  
3 in there. The \$300 to \$600 is an unwillful  
4 violation. That would be where somebody didn't  
5 know, but yet had committed a violation. David,  
6 don't let me put words in your mouth, but it looks  
7 like because you issued a warning, that this is a  
8 willful violation, and that range is \$600 to  
9 \$1,150; so is that it where you are?

10 MR. RODRIGUES: Yes.

11 MR. BURNHAM: Because he is an  
12 individual; is that why you recommended a fine in  
13 the lower end of the spectrum?

14 MR. RODRIGUES: Also that he did  
15 not operate after I informed him. If he continued  
16 to operate.

17 MR. BURNHAM: He would have gone  
18 to the high end?

19 MR. RODRIGUES: Yes. The  
20 recommendation would have been made.

21 MR. BURNHAM: Does that answer  
22 your question, John?

23 MR. SHAW: Let me just ask the  
24 board, can we reduce this to \$300 if we want, as a  
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1 board?

2 MR. BURNHAM: Yes. We can make a  
3 recommendation to the director to reduce. So,  
4 based on the testimony and the discussion of the  
5 board, I would entertain a motion as to the  
6 disposition of the penalty phase of the hearing.

7 MR. ANTHONY: This is the second  
8 time. The first time, he has a warning. The  
9 second time, he's -- the fine ought to be imposed.  
10 I really believe that we shouldn't be reducing the

11 fine on this gentleman. He knew under 28-26-5  
12 that a license is required. And I just -- I don't  
13 think it should be reduced to \$300. I believe the  
14 \$600 should stand, but if you want to discuss it.

15 MR. BURNHAM: We can certainly  
16 discuss it.

17 MR. WOOD: I agree with Ben. I  
18 mean, in October, he violated the law and didn't  
19 do nothing about it. And come here in May, he  
20 does it again.

21 MR. SHAW: I wasn't trying to say  
22 to reduce the fine. I was just saying we have the  
23 ability, if we wanted, to reduce it.

24 MR. WOOD: We have the ability to

0026

1 raise it, too.

2 MR. SHAW: We have the ability to  
3 raise this also, I believe.

4 MR. BURNHAM: Right.

5 MR. ANTHONY: So I'd like to make  
6 a motion that the fine against Oscar Zapien for  
7 violating 28-26-5 Rhode Island Laws stand as  
8 stated.

9 MR. BURNHAM: We have a motion; do  
10 we have a second?

11 MR. ANTHONY: Second.

12 MR. BURNHAM: We have a second.  
13 Any discussion? Hearing none, all those in favor  
14 say aye? Opposed? Motion carries. As far as,  
15 David, the status of Mr. Zapien taking an exam  
16 with a fine due and payable?

17 MR. RODRIGUES: He has to pay the  
18 fine first. He'll be able to take the exam, but  
19 the results will be held until it's settled.

20 MR. BURNHAM: With any penalties  
21 that are on his record. Okay. I think that  
22 concludes our hearing.

23 MR. BOEZI: Thank you, gentlemen,  
24 for your kindness because I'm feeling that you  
0027

1 were kind today. You're trying any way. Very  
2 fair. Thank you. Have a good day.

3 MR. BURNHAM: David, did we leave  
4 an action on New England to be decided later or  
5 you were just in case there was any questions? I  
6 think that we didn't hear testimony about a need  
7 to clean up an area, I don't remember that. I was  
8 just taking a fast look.

9 MR. WOOD: I think that was from  
10 this here, for Boezi. He was working for New  
11 England --

12 MR. RODRIGUES: I think you are

13 correct, Mr. Chairman. New England Construction  
14 did not provide us more information that he wanted  
15 the area cleaned.

16 MR. BURNHAM: Their testimony was  
17 they were behind the building and they didn't even  
18 know they were there. Okay. I couldn't recall  
19 that discussion. So if that concludes the  
20 hearings?

21 MR. RODRIGUES: Give the chair  
22 back to me.

23 MR. BURNHAM: I'll give the chair  
24 back to Mr. Rodrigues.

0028

1 MR. RODRIGUES: Next order of  
2 business is election of officers. As you all  
3 know, Bill 26-512 became effective July 7, '06  
4 without the governor's signature. The amendment  
5 to that 28-26-1 requires that we elect a  
6 chairperson and a secretary annually every  
7 February. So we will fill this position now, and  
8 in February we will have another election.

9 MR. BURNHAM: So vote early and  
10 often.

11 MR. RODRIGUES: So at this time,  
12 I'm going to open nominations.

13 MR. BURNHAM: Just as a refresher,

14 we need a chairman and a secretary?

15 MR. RODRIGUES: Yes.

16 MR. BURNHAM: Now, the secretary  
17 would be one of the board members?

18 MR. RODRIGUES: That is correct.

19 MR. BURNHAM: Will we still have  
20 secretarial help?

21 MR. RODRIGUES: Yes.

22 MR. BURNHAM: Because I know none  
23 of us is going to leap up and say, "I'll take the  
24 secretary's position."

0029

1 MR. RODRIGUES: That will be  
2 provided.

3 MR. BURNHAM: Thank you.

4 MR. RODRIGUES: So at this time,  
5 I'm going to open nominations for chairman. Do I  
6 have any nominations?

7 MR. ANTHONY: I'd like to make a  
8 nomination of David Burnham.

9 MR. RODRIGUES: Any other  
10 nominations? I'm going to close nominations.  
11 Running unopposed; the chair casts one vote.

12 MR. BURNHAM: This chair.

13 MR. RODRIGUES: Open nominations  
14 for secretary. Any nominations?

15 MR. SHAW: I'd like to nominate

16 Ben Anthony for secretary.

17 (OFF THE RECORD)

18 MR. RODRIGUES: Any other

19 nominations for secretary? Close the nominations.

20 The chair casts one vote for Mr. Benjamin Anthony

21 for secretary. Any other new business? We're

22 still working on the training program. Okay, a

23 motion to adjourn is in order.

24 MR. WOOD: Motion to adjourn.

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1 MR. ANTHONY: Second.

2 MR. RODRIGUES: All in favor?

3 Adjourned.

4 (ADJOURNED AT 10:42 A.M.)

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**C E R T I F I C A T E**

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4

5 I, Claudia J. Read, Notary Public, do hereby  
6 certify that I reported in shorthand the foregoing  
7 proceedings, and that the foregoing transcript  
8 contains a true, accurate, and complete record of  
9 the proceedings at the above-entitled hearing.

10

11 IN WITNESS WHEREOF, I have hereunto set my  
12 hand this 28th day of August, 2006.

13  
14  
15  
16

**17 CLAUDIA J. READ, NOTARY PUBLIC/CERTIFIED COURT  
REPORTER**

**18 MY COMMISSION EXPIRES NOVEMBER 2, 2008.**

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