

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
BOARD OF EXAMINERS OF HOISTING ENGINEERS
TUESDAY, FEBRUARY 8, 2011**

In attendance: Ronald D'Ambruoso

James White

James Woloohojian

Ellery Wood, Jr.

David Rodrigues, Chief Investigator

Benjamin Copple, Legal Counsel

The meeting was called to order at 10:08 am by James Woloohojian.

There were no previous minutes.

Hearings:

1.) Kevin Paquet – Viol # 3946: David Rodrigues informed the Board that the case has settled. No action was taken by the Board.

2.) R. A. Franchi Corp – Viol # 3950: James Woloohojian read the violation. Violator: R. A. Franchi Corp, 37 Verndale Ave, Newton, MA. Location of Violation: Phillips Memorial Library, Providence College, One Cunningham Square, Providence, RI. On Friday, July 9, 2010, Mr.

David M. Rodrigues, Chief Hoisting Engineer Investigator witnessed Kevin P. Capello, an employee of R. A. Franchi Corp., 37 Riverdale Ave., Newton, MA 02458, operating a compact hydraulic excavator without a valid RI Hoisting Engineer's License at the above location. According to RIGL 28-26-12 "Investigation and Prosecution of Violation", this is (1) one violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery". David Rodrigues, Chief Hoisting Engineer Investigator, and Robert Franchi, President of R. A. Franchi Corp, are sworn in. Mr. Rodrigues addressed the Board. The Board questions Mr. Rodrigues. Mr. Rodrigues presents two photographs of the site entered into the record as exhibit A and B. The Board continues questioning Mr. Rodrigues. Mr. Rodrigues addressed the Board. Robert Franchi addressed the Board. The Board questioned Mr. Franchi. James White made a motion that Viol 3950 did occur, seconded by Ellery Wood, passed unanimously by the Board. James White made a motion that the fine of \$600.00 be upheld, seconded by Ellery Wood, passed unanimously by the Board. Ron D'Ambruoso, as "ex officio" did not vote on this matter.

3.) Kevin P. Capello – Viol # 3949: Kevin P. Capello was not present. Mr. Robert Franch, Mr. Capello's employer, stated he would be representing Mr. Capello. James Woloohojian read the violation. Violator: Kevin P. Capello, 50 Oak Ave, Newton, MA. Location of Violation: Phillips Memorial Library, Providence College, One Cunningham Square, Providence, RI. On Friday, July 9, 2010, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator witnessed

Kevin P. Capello, an employee of R.A. Franchi Corp., 37 Riverdale Ave., Newton, MA 02458, operating a compact hydraulic excavator without a valid RI Hoisting Engineer's License at the above job location. This is one (1) violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery". Benjamin Copple, Legal Counsel, expressed his concern of Mr. Franchi representing Mr. Capello as Mr. Franchi is not an attorney and not representing his own company. Mr. Copple stated that the Board can hear Mr. Franchi's testimony to the extent it is relevant but objects to Mr. Franchi actually representing Mr. Capello. Mr. Franchi was informed and reminded that he has already been sworn in. David Rodrigues addressed the Board. The Board questioned Mr. Rodrigues. Mr. Franchi addressed the Board. James White made a motion that Viol # 3949 did occur, seconded by Ellery Wood and passed by the Board. Ellery Wood made a motion that the fine of \$300.00 be upheld, seconded by James White and passed by the Board. Ron D'Ambruoso, as "ex officio" did not vote on this matter.

End of hearings.

Other Business:

1.) Kenneth McCarthy, Division of Public Utilities and Carriers, and Karen Lyons, Legal Counsel for Public Utilities addressed the Board. Mr. McCarthy addressed the Board. The Division of Public Utilities and Carriers would like to inquire as to the possibility of having

hoisting licenses delayed or suspended for anyone who has not paid their fines for violating the Dig Safe law. Karen Lyons addressed the Board stating they are referencing RIGL 28-26-8 for their request. After discussion, Benjamin Copple, Legal Counsel, recommended Legal will review their request with Ron D'Ambruso and the Director and will prepare a memorandum for the next meeting.

2.) Nominations for Chair and Vice Chair of the Board of Examiners of Hoisting Engineers. Ron D'Ambruso, as "ex officio" did not vote on this matter. James White made a motion to nominate David Burnham as Chair, seconded by Ellery Wood, passed by the Board. Ellery Wood made a motion to nominate James Woloohojian as Vice Chair, seconded by James White, passed by the Board. Benjamin Copple wanted to clarify that if Mr. Burnham and Mr. Woloohojian are both absent then there would be no quorum. Confirmed by the Board. Mr. Copple also asked if there were vacancies on the Board. Confirmed by the Board.

A motion to adjourn was made by Ellery Wood, seconded by James White and passed unanimously by the Board

The meeting adjourned at 10:50 am.

The next meeting is scheduled for Tuesday, March 8, 2011.