

RHODE ISLAND DEPARTMENT OF LABOR & TRAINING

DIVISION OF PROFESSIONAL REGULATION

BOARD OF EXAMINERS OF HOISTING ENGINEERS

1511 Pontiac Avenue, Bldg 70, 2nd Floor Conference Room

Cranston, RI 02920

TUESDAY, April 8, 2014

10:00am

In attendance:

Brian Iannuccillo

John Shaw

James White

James Woloohojian, Chair

Ellery Wood, Jr.

Joseph Graziano was not in attendance.

Also in attendance were David Rodrigues, Chief Hoisting Engineer Investigator; and Mary Ellen McQueeney-Lally, Legal Counsel.

1. - Call to Order:

The meeting was called to order at 10:04 am by James Woloohojian.

2. - Conflict of Interest:

Mary Ellen McQueeney-Lally, Legal Counsel, addressed the Board

reminding board members that they are subject to the code of ethics and if they have any issues or conflicts with matters before the board and their obligation to disclose such conflicts and to recuse if necessary.

3. – Minutes of February 11, 2014 Meeting:

James White made a motion to accept the minutes to the meeting February 11, 2014 as presented; seconded by Ellery Wood, Jr. There was no opposition. Motion carries.

4. - Violation Appeal Hearings:

David Rodrigues, Chief Hoisting Engineer Investigator; Nelson M. Costa; and Paul Valiquette, of New England Steel, Inc., are sworn in for testimony.

Nelson M. Costa – Violation 4774: James Woloohojian, Chair, reads the violation into the record.

NAME OF VIOLATOR: Nelson M. Costa, 85 Williams St, Fall River, MA 02721

LOCATION OF VIOLATION: Cumberland Farms (new construction), 2643 Hartford Ave. Johnston, RI

VIOLATION: On Friday, January 31, 2014, Mr. David M. Rodrigues,

Chief Hoisting Engineer Investigator, witnessed Nelson M. Costa, a foreman for New England Steel, Inc., 1655 Elmwood Ave., Unit 43, Cranston, RI, 02910, operating a construction forklift 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".

NOTE: Mr. Costa had a prior RI Hoisting Engineer violation issued on 10/20/2009 that was forwarded to collections and closed. Mr. Costa was unsuccessful in obtaining a RI Hoisting Engineer License after taking the exam on two separate occasions (10-5-2000 / 2-10-2001).

David Rodrigues, Chief Hoisting Engineer Investigator; and Nelson M. Costa, respondent, provide testimony and are questioned by the Board.

Mr. Rodrigues enters the following into evidence: Exhibit A, photograph of Mr. Costa operating; Exhibit B, photograph; Exhibit C: copy of Nelson Costa's Massachusetts' Driver's License; Exhibit D: test results from 02/10/2001 test; and Exhibit E: test results from 10/05/200.

Regarding Violation 4774, Ellery Wood made a motion that Violation 4774 did occur; seconded by Brian Iannuccillo and passed unanimously by the Board.

Regarding the penalty, James White, based on testimony presented, that Mr. Costa was a foreman for the company, had tested twice for a hoisting license and was aware that a license was required and was issued a violation once before for operating without a license; made a motion that the fine stand at \$1,150.00. The motion was seconded by Ellery Wood, Jr. and passed with no opposition.

The recommendation will be forwarded to the Director's office.

New England Steel, Inc. – Violation 4775: James Woloohojian, Chair, reads the violation into the record.

NAME OF VIOLATOR: New England Steel, Inc, 1655 Elmwood Ave, Unit 43, Cranston, RI 02910

LOCATION OF VIOLATION: Cumberland Farms (new construction), 2643 Hartford Ave. Johnston, RI

VIOLATION: On Friday, January 31, 2014, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Nelson M. Costa, a foreman for New England Steel, Inc., 1655 Elmwood Ave., Unit 43, Cranston, RI, 02910, operating a construction forklift 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".

NOTE: Mr. Costa had a prior RI Hoisting Engineer violation issued on 10/20/2009 that was forwarded to collections and closed.

Mr. Costa was unsuccessful in obtaining a RI Hoisting Engineer License after taking the exam on two separate occasions (10-5-2000 / 2-10-2001).

David Rodrigues, Chief Hoisting Engineer Investigator; and Paul Valiquette, of New England Steel, Inc., provide testimony and are questioned by the Board.

Ellery Wood made a motion that Violation 4775 did occur; seconded Brian Iannuccillo and passed unanimously by the Board.

Regarding the penalty, James White, based on the testimony given that the contractor was aware that there was a statute requiring licenses for people operating equipment based on Mr. Valiquette's testimony, made a motion to uphold the recommended fine of \$1,150.00. The motion was seconded by Ellery Wood, Jr. and passed unanimously by the Board.

The recommendation will be forwarded to the Director's office.

End of hearings

***** James White inquires of the status of the recommended legislative change to increase penalties. David Rodrigues could not provide any information at this time.**

5. - Adjournment:

Ellery Wood, Jr. made a motion to adjourn. James White seconded the motion. All were in favor. The meeting adjourned at 10:37am.