

**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, August 11, 2015**

**10:00am**

**In attendance:**

**Joseph Graziano**

**Brian Iannuccillo**

**John Shaw, Designee**

**James Woloohojian, Chair**

**Ellery Wood, Jr.**

**Board member James White was not in attendance.**

**Also in attendance were David Rodrigues, Chief Hoisting Engineer Investigator and Valentino Lombardi, DLT Legal Counsel.**

**1. - Call to Order:**

**The meeting was called to order at 10:05 am by James Woloohojian.**

**2. – Minutes of July 14, 2015 Meeting:**

**Ellery Wood Jr. made a motion to approve the minutes to the meeting July 14, 2015 as presented; seconded by Joseph Graziano. All were in favor. Motion carries.**

**3. - Conflict of Interest:**

**Valentino Lombardi, Legal Counsel, addressed the Board reminding board members that if they have any issues or conflicts with matters before the board and their obligation to disclose such conflicts and to recuse if necessary. Legal counsel is available for questions.**

**4. - Violation Appeal Hearings: Hearings were conducted out of order to accommodate those respondents that were present at the start of the hearings.**

**Howland C. Eskow – Violation 5231: David M. Rodrigues, Chief Hoisting Engineer Investigator, and Howland Eskow, are sworn in for testimony.**

**Chair Woloohojian reads the violation**

**Violation 5231; Howland C. Eskow**

**Location of Violation: Cumberland Farms (new construction), 1175 Main St. (Rt. 138), Hope Valley, RI 02832**

**Violation: On Tuesday, June 23, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Howland C. Eskow, an employee of J B Lanagan & Co. Inc., 21 East River Dr., North Dartmouth, MA 02747, operating a construction forklift / telehandler 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".**

**Chief Hoisting Engineer Investigator, David Rodrigues, provides testimony. A copy of Mr. Eskow's Driver's License and Hoisting Engineer License with the Excavation Equipment endorsement is submitted as Exhibit A. Mr. Rodrigues is questioned by the Board.**

**The Board questions Mr. Eskow.**

**Regarding Violation 5231, Ellery Wood Jr, made a motion that Violation 5231 did occur on 6/23/2015; seconded by Joseph Graziano. All were in favor. Motion carried.**

**Regarding the penalty for Violation 5231, Ellery Wood Jr made a motion to table the penalty for a year pending no further contact; seconded by Brian Iannuccillo. All were in favor. Motion carried.**

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

**\*\*The Board takes a five minute recess at approximately 10:23am.**

**Newbury New England, LLC – Violation 5234 & 5236: Testimony for Violations 5234 and 5236 is heard concurrently as they are a result of the same investigation. Richard Liguori, for Newbury New England LLC, is sworn in for testimony. David Rodrigues was previously sworn. Chair Woloohojian reads Violation 5234 and 5236.**

**Newbury New England, LLC – Violation 5234:**

**LOCATION OF VIOLATION: Champlin Woods Condominiums, 128 Shore Rd. Westerly, RI**

**VIOLATION: On Tuesday, June 23, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Antonio Marcuccio Jr., the owner of A & E Construction, LLC, 2 Shady Lane, Thompson, CT 06277, operating a hydraulic excavator without a valid RI Hoisting Engineer's License at the above job location. Newbury New England, LLC, subcontracted with A & E Construction, LLC, to perform said work. According to RIGL 28-26-12 "Investigation and Prosecution of Violations", this is one (1) violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery".**

**Newbury New England, LLC – Violation 5236:**

**LOCATION OF VIOLATION: Champlin Woods Condominiums, 128 Shore Rd., Westerly, RI**

**VIOLATION: On Tuesday, June 23, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Eric C. Terwilliger, an employee of A & E Construction, LLC, 2 Shady Lane, Thompson, CT 06277, operating a construction forklift / telehandler without a valid RI Hoisting Engineer's License at the above job location. Newbury New England, LLC, subcontracted with A & E Construction, LLC, to perform said work. According to RIGL 28-26-12 "Investigation and Prosecution of Violations", this is one (1) violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery".**

**Chief Hoisting Engineer Investigator, David Rodrigues, provides testimony and submits three (3) photos of the location and the equipment being operated in to evidence (Exhibit A) for Violations 5234 and 5236.**

**Richard Liguori provides testimony.**

**The Board questions Mr. Rodrigues and Mr. Liguori.**

**Ellery Wood, Jr. made a motion that Violations 5234 and 5236 on June 23, 2015 at Champlin Woods did occur; seconded by Joseph Graziano. All were in favor. Motion carried.**

**Regarding the penalty for Violation 5234 and 5236, Ellery Wood Jr motioned that the fine for Violation 5234 be waived and the fine for Violation 5236 be upheld for a total of \$1,500.00; seconded by Brian Iannuccillo. All were in favor. Motion carried.**

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

**East Coast Construction LLC – Violation 5184: No representative from East Coast Construction LLC was present. David Rodrigues addressed the board confirming notice of today's hearing. Chair Woloohojian reads the violation.**

**LOCATION OF VIOLATION: Sakonnet River Outfitters (new construction), Main Rd. & Haskins Ave, Tiverton, RI**

**VIOLATION: On Monday, June 8, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Ronald L. Patenaude Jr., an employee of East Coast Construction, LLC, 202 Chase Rd., Portsmouth, RI 02871, operating a loader backhoe 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 provides testimony and is questioned by the Board.**

**Mr. Rodrigues submits photos of the Mr. Patenaude's identification, the work that was being conducted, the equipment and a copy of Mr. Patenaude's Massachusetts Hoisting license information indicating it is "Null and Void". The packet is marked Exhibit A.**

**Brian Iannuccillo made a motion that Violation 5184 did occur; seconded by Ellery Wood, Jr. All were in favor. Motion carried.**

**Regarding the penalty for Violation 5184, Ellery Wood, Jr. made a motion to uphold the fine of \$600.00; seconded by Joseph Graziano. All were in favor. Motion carried.**

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

**Bairos Construction, Inc. – Violation 5193 & Violation 5196:  
Violations 5193 and 5196 are both for Bairos Construction, Inc.  
Testimony for both violations will be heard concurrently. Chair  
Woloohojian reads Violation 5193 and 5196.**

**Bairos Construction, Inc. – Violation 5193:**

**LOCATION OF VIOLATION: Dunkin Donuts (parking lot improvements), 2677 West Shore Rd., Warwick, RI**

**VIOLATION: On Tuesday, June 9, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Michael Vieira, an**

**employee of Bairos Construction, Inc., 813 County St., Seekonk, MA 02771, operating a skid steer loader 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. Vieira possessed a R.I. Hoisting Engineer License which expired in 11/2000.**

**Bairos Construction, Inc. – Violation 5196:**

**LOCATION OF VIOLATION: Dunkin Donuts (parking lot improvements), 2677 West Shore Rd., Warwick, RI**

**VIOLATION: On Tuesday, June 9, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed John Kielczewski, an employee of Bairos Construction, Inc., 813 County St., Seekonk, MA 02771, 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".**

**Chief Hoisting Engineer Investigator, David Rodrigues, provides testimony and submits photographs of the equipment on site and the location where individuals were operating marked Exhibit A. A copy**

**of Michael Vieira's license history and a copy of the photo ID and Hoisting license of the owner of Bairos Construction is submitted and Marked Exhibit B. The Board questions Mr. Rodrigues.**

**Brian Iannuccillo made a motion that Violation 5193 and Violation 5196 did, in fact, occur; seconded by Joseph Graziano. All were in favor. Motion carried.**

**Regarding the penalty for Violation 5193, Ellery Wood, Jr. made a motion to uphold the fine of \$1,150.00; seconded by Joseph Graziano. There being no opposition, motion carried.**

**Regarding the penalty for Violation 5196, Ellery Wood, Jr. made a motion to uphold the fine of \$600.00; seconded by Joseph Graziano. There being no opposition, motion carried.**

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

**End of hearings**

**5.) - Adjournment:**

**Ellery Wood, Jr. made a motion to adjourn. There being no objection, the meeting adjourned at approximately 11:12am.**