

**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, September 8, 2015**

**10:00am**

**In attendance: Joseph Graziano**

**John Shaw, Designee**

**James Woloohojian, Chair**

**James White**

**Ellery Wood, Jr.**

**Board member Brian Iannuccillo 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 August 11, 2015 Meeting:**

**Ellery Wood, Jr. made a motion to approve the minutes to the meeting**

**August 11, 2015 as presented; seconded by James White. 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: Witness are sworn in for testimony.**

**Eric C. Terwilliger – Violation 5235: David Rodrigues and Eric Terwilliger were previously sworn. Chair Woloohojian reads Violation 5235.**

**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. This is one (1) violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery".**

**David Rodrigues, Chief Hoisting Engineer Investigator, provides testimony. Eric Terwilliger provides testimony. Both parties are questioned by the Board.**

**James White made a motion that Violation 5235, based on testimony of the witness, did in fact occur; seconded by Joseph Graziano and passed with no opposition.**

**Regarding the penalty, James White made a motion to uphold the fine of \$1,500.00; seconded by Ellery Wood, Jr., and passed with no opposition.**

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

**T. Miozzi, Inc. – Violation 262: There is no representative from T. Miozzi, Inc. present. Notice was sent 7/27/2015 to T. Miozzi, Inc. and the signature card was returned to the department verifying receipt. Hearing continues. Chair Woloohojian reads the violation.**

**LOCATION OF VIOLATION: Roadway resurfacing, Intersection of Waites Corner Rd. & South County Trail, South Kingstown, RI**

**VIOLATION: On Thursday, July 2, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Kevin J. Sweet, an employee of T. Miozzi, Inc., 75 Airport Rd., Coventry, RI 02816,**

**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. Chair Woloohojian reads a letter from T. Miozzi, Inc. that was submitted with the request for appeal. The letter is marked Exhibit B.**

**James White made a motion to continue the matter and hear the matter in conjunction with Mr. Sweet's violation; seconded by Joseph Graziano and passed unanimously by the Board.**

**The matter will be continued to the next meeting.**

**Kevin J. Pelletier – Violation 5229: David Rodrigues and Kevin J. Pelletier were previously sworn in for testimony. Chair Woloohojian reads the violation.**

**LOCATION OF VIOLATION: Residential home (new construction), 187 Warren Rd., Charlestown, RI**

**VIOLATION: On Tuesday, June 23, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Kevin J. Pelletier, of 100 Scapa Flow Rd., Charlestown, RI 02813, 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".**

**David Rodrigues, Chief Hoisting Engineer Investigator, provides testimony. A copy of Kevin Pelletier's Contractor Registration and a photo of Mr. Pelletier operating the fork lift are entered into evidence and marked Exhibit A.**

**Ellery Wood made a motion that Violation 5229 did occur; seconded by James White and passed unanimously with no opposition.**

**Regarding the penalty, James White made a motion to uphold the fine of \$1,500.00; seconded by Joseph Graziano and passed unanimously with no opposition.**

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

**Robert D. Wood Carpentry & Restoration, LLC – Violation 5230: David Rodrigues and Robert Wood were previously sworn in for testimony. Chair Woloohojian reads Violation 5230.**

**LOCATION OF VIOLATION: Residential home (new construction), 187 Warren Rd, Charlestown, RI**

**VIOLATION: On Tuesday, June 23, 2015, Mr. David M. Rodrigues,**

**Chief Hoisting Engineer Investigator, witnessed Kevin J. Pelletier, of 100 Scapa Flow Rd., Charlestown, RI 02813, operating a construction forklift / telehandler without a valid RI Hoisting Engineer's License at the above job location. Robert D. Wood Carpentry & Restoration, LLC, subcontracted with Kevin J. Pelletier 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".**

**David Rodrigues, Chief Hoisting Engineer Investigator, provides testimony. Robert Wood was in full agreement with Mr. Rodrigues' testimony and no longer wished to contest the violation and would like to pay the fine.**

**James White made a motion the Violation 5230 did occur; seconded by Ellery Wood, Jr. and passed unanimously with no opposition.**

**Regarding the penalty, James White made a motion to uphold the penalty of \$1,500.00; seconded by Joseph Graziano and passed unanimously with no opposition.**

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

**The Board takes a recess at approximately 10:28am and returns at approximately 10:33am.**

**Brookdale Senior Living – Violation 5243: David Rodrigues and Ben Ricci, Regional Vice President of Operations for Brookdale Senior Living, are present and were previously sworn in for testimony. Chair Woloohojian reads the violation.**

**LOCATION OF VIOLATION: Pocasset Bay Retirement Living, 12 Old Pocasset Lane, Johnston, RI**

**VIOLATION: On Monday, June 29, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Alfonso Angeles-Diaz, an employee of JRC, Inc., 1019 Bradley Drive, Suite 7, Springfield, TN 37172, operating a construction forklift / telehandler without a valid RI Hoisting Engineer's License at the above job location. Brookdale Senior Living subcontracted with JRC, Inc., 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".**

**David Rodrigues, Chief Hoisting Engineer Investigator, provides testimony. Mr. Rodrigues enters verification of JRC, Inc. and Alfonso Angeles-Diaz (JRC, Inc. employee) fine payments; marked Exhibit A.**

**Ben Ricci, Regional Vice President of Operations for Brookdale Senior Living, did not dispute that the violation did occur.**

**James White made a motion that the violation occurred; seconded by Ellery Wood, Jr and passed unanimously with no opposition.**

**Ben Ricci addressed the board regarding the penalty. The board questions Mr. Ricci. David Rodrigues submits a photograph of the equipment being operated, marked Exhibit B. Additional testimony by both parties is given.**

**Regarding the penalty, James White made a motion to uphold the fine of \$1,500.00; seconded by Ellery Wood, Jr. and passed unanimously without opposition.**

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

**\*\*Violations 5288, Jorge Costa Martins, and Violation 5289, Commercial Waterproofing, Inc., are related and testimony is heard concurrently. David Rodrigues, Jorge Costa Martins and Bruce Mello, President of Commercial Waterproofing, Inc., are present and were previously sworn in for testimony. Chair Woloohojian reads Violation 5288 and 5289.**

**David Rodrigues provides testimony. A photograph of the equipment and Jorge Costa Martins driver's license is marked Exhibit A. Bruce Mello, Commercial Waterproofing, Inc. President, provides testimony. Jorge Costa Martins provides testimony.**

**Jorge Costa Martins – Violation 5288:**

**LOCATION OF VIOLATION: Cumberland Farms (new construction),  
2184 Mendon Rd., Woonsocket, RI**

**VIOLATION: On Thursday, July 16, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Jorge Costa Martins, an employee of Commercial Waterproofing, Inc., 418 Pinehill Rd., Westport, MA 02790, 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".**

**Regarding Violation 5288, Ellery Wood, Jr. made a motion that Violation 5288 did occur; seconded by Joseph Graziano and passed unanimously with no opposition.**

**Regarding the penalty, James White made a motion to uphold the fine of \$1,500.00; seconded by Ellery Wood, Jr. and passed unanimously with no opposition.**

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

**Commercial Waterproofing, Inc. – Violation 5289:**

**LOCATION OF VIOLATION: Cumberland Farms (new construction), 2184 Mendon Rd., Woonsocket, RI**

**VIOLATION: On Thursday, July 16, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator and Mr. E. Patrick Luther, Chief Investigator, witnessed Jorge Costa Martins, an employee of Commercial Waterproofing, Inc., 418 Pinehill Rd., Westport, MA 02790, operating a construction forklift/telehandler 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".**

**Regarding Violation 5289, James White made a motion that Violation 5289 did occur; seconded by Ellery Wood, Jr. and passed unanimously with no opposition.**

**Regarding the penalty, James White made a motion to uphold the fine of \$1,500.00; seconded by Joseph Graziano and passed unanimously with no opposition.**

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

**End of hearings**

**5.) - Adjournment:**

**Ellery Wood, Jr. made a motion to adjourn; seconded by James White. There being no objection, the meeting adjourned at 11:12am.**