

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, January 13, 2016

10:00am

In attendance:

Brian Iannuccillo

John Shaw, Designee

James White

Edward Zambrano

James Grundy and James Woloohojian (Chair) were not in attendance

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

1. - Call to Order: The meeting was called to order at 10:16 am by James White in the absence of Chair James Woloohojian.

2. – Minutes of December 8, 2015 Meeting: Edward Zambarano made

a motion to approve the minutes to the meeting December 8, 2015 as presented; seconded by Brian Iannuccillo. All were in favor. Motion carries.

3. - Conflict of Interest: Valentino Lombardi, DLT Senior 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: All parties participating in hearings were sworn in for testimony: David Rodrigues, Chief Hoisting Engineer Investigator; Mark Horan (owner of Horan Building Company), Lou Martinez and Joe DaLomba.

Horan Building Company – Violation 5188: Peter Regan, Esq. represents Horan Building Company. James White reads Violation 5188 into the record.

LOCATION OF VIOLATION: Residential home (new construction), 578 Walcott Ave., Middletown, RI

VIOLATION: On Monday, June 8, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Louis J. Martinez, an employee of Horan Building Company, 174 Bellevue Ave., Newport, RI

02840, operated a construction forklift / telehandler in unsafe manner 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. Martinez had two (2) RI Hoisting Engineer Licenses that expired in 2003 and 2007.

David Rodrigues, Chief Hoisting Engineer Investigator, provides testimony.

Verification of Mr. Louis Martinez Hoisting Engineer license with Construction Forklift and Hydraulic Crane endorsements that expired in 2003 is entered as State's Exhibit 1 & 2.

Verification of Mr. Louis Martinez Hoisting Engineer license with Construction Forklift and Excavation Equipment endorsements that expired in 2007 is entered as State's Exhibit 3 & 4.

Photographs (4) taken at the site are entered as State's Exhibit 5.

Attorney Peter Regan, representing Horan Building Company, crossed regarding one of the photos. Attorney Regan presents his case. Mark Horan provides testimony. Mr. Horan is questioned by the Board.

David Rodrigues provides additional testimony.

Louis Martinez provides testimony and is questioned by the Board and Attorney Regan.

Regarding Violation 5188, Edward Zambarano made a motion that on the 8th of June Violation 5188 did occur; seconded by Brian Iannuccillo and passed unanimously by the Board. Motion carries.

Attorney Regan addressed the Board requesting the fine be reduced.

Regarding the fine, Edward Zambarano made a motion to uphold the fine of Violation 5188 in the amount of \$1,150.00; seconded by Brian Iannuccillo and passed unanimously by the Board. Motion carries.

The recommendation will be forwarded to the Department.

T. Fuoco JR. Paving & Excavating, Inc. -- Violation 5368: Not heard. Fine was paid prior to hearing.

Violation 5387 – Ricardo N. Correia and Violation 5389 – Hyde Paving, Inc. are related and testimony is heard concurrently. Ricardo N. Correia and Hyde Paving, Inc. did not appear.

David Rodrigues, Chief Hoisting Engineer Investigator, confirms that Ricardo N. Correia (Violation 5387) and Hyde Paving, Inc. (Violation 5389) were notified of today's hearing. Ricardo N. Correia and Hyde Paving, Inc. did not appear. Certified Mail receipts are entered as State Exhibit 1.

James White reads Violation 5387 and Violation 5389 into the record.

David Rodrigues, Chief Hoisting Engineer Investigator, having previously been sworn, and provides testimony and is questioned by the Board. The following is entered as evidence:

State's Exhibit 2: Photographs (3) – Mr. Correia's identification, the site and equipment operated.

State's Exhibit 3: Massachusetts Secretary of State, Corporations Division, website printout showing Joaquim Gaspar as President

Ricardo N. Correia - Violation 5387:

LOCATION OF VIOLATION: Okonite Company, 5 Industrial Rd, Cumberland, RI

VIOLATION: On Wednesday, November 18, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Ricardo N. Correia, an employee of Hyde Paving Inc., 396 Berkley St., Taunton, MA 02780, operating a skid steer loader 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 5387, Edward Zambarano, based on the Chief Hoisting Engineer Investigator's testimony, made a motion that Violation 5387 did occur on November 18, 2015; seconded by Brian Iannuccillo and passed unanimously by the Board. Motion carries.

Regarding the penalty, Brian Iannuccillo made a motion that the fine for Violation 5387 in the amount of \$1,500.00 be assessed; seconded by Edward Zambarano and passed unanimously by the Board. Motion carries.

The recommendation will be forwarded to the Department.

Hyde Paving, Inc. – Violation 5389: Does not appear

LOCATION OF VIOLATION: Okonite Company, 5 Industrial Rd., Cumberland, RI

VIOLATION: On Wednesday, November 18, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Ricardo N. Correia, an employee of Hyde Paving Inc., 396 Berkley St., Taunton, MA 02780, 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".

Regarding Violation 5389, Brian Iannuccillo made a motion that Violation 5389 did in fact occur; seconded by Edward Zambarano and passed unanimously by the Board. Motion carries.

Regarding the penalty, Edward Zambarano made a motion to uphold the fine of \$1,500.00 for Violation 5389; seconded by Brian Iannuccillo and passed unanimously by the Board. Motion carries.

The recommendation will be forwarded to the Department.

Violations 5393, High Tech Construction of RI, Inc., and Violation 5394, Joe M. DaLomba are related and testimony is heard concurrently. Joe DaLomba is sworn in for testimony. James White reads the Violation 5393 and Violation 5394 into the record.

David Rodrigues, Chief Hoisting Engineer Investigator, having previously been sworn, provides testimony and submits the following as evidence for Violation 5393 and Violation 5394:

State Exhibit 1: Record of Joe DaLomba applying for the excavation license in September 2001. Mr. DaLomba sat for the exam and did not

pass.

State Exhibit 2: Record showing Joe DaLomba was scheduled for the excavation license exam in 1/26/2002 and did not appear for the exam.

State Exhibit 3: Record showing Joe DaLomba was scheduled for the excavation license exam in 4/16/2002 and did not appear for the exam.

State Exhibit 4: Photographs (5) of Mr. DaLomba operating the equipment, the site and Mr. DaLomba's photo ID.

State Exhibit 5: 2015 amended Annual Report obtained for the Secretary of State's Website showing Joe DaLomba as Vice President of High Tech Construction.

David Rodrigues is questioned by the Board.

Joe DaLomba provides testimony. And is questioned by the Board.

David Rodrigues provides additional testimony.

High Tech Construction of RI, Inc. – Violation 5393:

LOCATION OF VIOLATION: New residential home construction site, 208 Nate Whipple Highway, Cumberland, RI 02864

VIOLATION: On Wednesday, November 18, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Joe M. Dalomba, an employee of High Tech Construction of RI, Inc., 888 Lonsdale Ave., Central Falls, RI 02863, 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".

Regarding Violation 5393 High Tech Construction of RI, Inc., Edward Zambarano made a motion that on 11/18/2015 Violation 5393 did occur; seconded by Brian Iannuccillo and passed unanimously by the Board. Motion carries.

Edward Zambarano made a motion to uphold the \$1,500.00 fine for Violation 5393; seconded by Brian Iannuccillo and passed unanimously by the Board. Motion carries.

The recommendation will be forwarded to the Department.

Joe M. DaLomba – Violation 5394:

LOCATION OF VIOLATION: New residential home construction site, 208 Nate Whipple Highway, Cumberland, RI 02864

VIOLATION: On Wednesday, November 18, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Joe M. Dalomba, an employee of High Tech Construction of RI, Inc., 888 Lonsdale Ave., Central Falls, RI 02863, operating a loader backhoe 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".

Brian Iannuccillo made a motion that Violation 5394 did occur; seconded by Edward Zambarano and passed unanimously by the Board. Motion carries.

Regarding the fine for Violation 5394, Brian Iannuccillo made a motion the penalty for Violation 5394 be assessed as recommended in the amount of \$2,000.00; seconded by Edward Zambarano and passed unanimously by the Board. Motion carries.

The recommendation will be forwarded to the Department.

End of hearings.

5.) Public Comments: None

6.) Adjournment: Motion to adjourn made by Brian Iannuccillo; seconded by Edward Zambarano. All were in favor. The meeting adjourned at 11:40am.