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1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF LABOR AND TRAINING
2 DIVISION OF PROFESSIONAL REGULATION

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PROCEEDINGS AT HEARING :

5 :

IN RE: :

6 :

BOARD OF EXAMINERS OF :

7 PLUMBERS :

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DATE: SEPTEMBER 19, 2006

10 TIME: 9:00 A.M.

PLACE: 1511 PONTIAC AVENUE

11 BUILDING 70

CRANSTON, RI

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14 PRESENT:

JEFFREY HUTTON, ACTING CHAIRMAN

15 ANTHONY CARDARELLI

LEO CHAMPAGNE

16 MICHAEL NEWMAN

WILLIAM RILEY

17 E. PATRICK LUTHER, INVESTIGATOR

RON CARVALHO, ESQUIRE

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23 RHODE ISLAND COURT REPORTING

25 SEA VIEW AVENUE

24 EAST PROVIDENCE, RI 02915

(401) 437-336

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1 (COMMENCED AT 9:00 A.M.)

2 MR. HUTTON: I would like to call

3 this meeting to order. Has everybody got the

4 minutes in their book of the last meeting?

5 MR. CHAMPAGNE: I do, Mr. Chairman.

6 MR. HUTTON: If you reviewed them,

7 I'll take a motion to accept.

8 MR. NEWMAN: Make a motion to

9 accept the minutes.

10 MR. CARDARELLI: Second.

11 MR. HUTTON: All in favor? All

12 opposed? Okay. First case?

13 MR. LUTHER: That will be George

14 Lopes.

15 GEORGE T. LOPES, E. PATRICK LUTHER

16 (SWORN)

17 MR. HUTTON: Okay. All right. So

18 the name of the violator is PHD Plumbing George

19 Lopes; Violation 2825; address is 1253 Wheaton

20 Avenue, Seekonk, Mass 02771. Location of

21 violation --

22 MR. LUTHER: I'll do that.

23 Mr. Chairman, as you stated, the violation is

24 dated July 19, 2006; Violation 2825; name of the

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1 violator is PHD Plumbing, George Lopes; 253 North

2 Wheaton Avenue, Seekonk, Mass.

3 The location of the violation:

4 Seattle's Best Coffee, 180 Midway Road, Garden

5 City, Cranston, Rhode Island. On June 23, 2006,

6 Rhode Island Department of Labor & Training

7 Investigator E. Patrick Luther did find two

8 employees, Mr. John Nixon, Jr. and Mr. Brian

9 Lafleur of Mr. George Lopes PHD Plumbing,

10 installing plumbing in Cranston, Rhode Island

11 without the plumbing apprentice certificate and

12 without supervision.

13 This is a violation of Rhode Island

14 General Law 5-20-10, work for which apprentice
15 certificate is required, two violations, and Rhode
16 Island General Law 5-20-25, registration of
17 plumbing and irrigation apprentices, also two
18 violations.

19 Basically, board members, on June 23rd,
20 I saw Mr. Lopes' vehicles in front of the Seattle
21 Best Coffee shop that was under construction in
22 the Garden City plaza. When I entered the
23 building, there were two gentlemen working in the
24 kitchen area, underneath a kitchen sink.

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1 Actually, they were cutting some stuff
2 out, so there might have been a change or
3 something. Neither individual had any Rhode
4 Island apprenticeship cards or Rhode Island
5 licensing.

6 Mr. John Nixon, Jr. did have an expired
7 card that he worked for Gem Plumbing, AP 006362,
8 which was not renewed under Mr. Lopes. And
9 Mr. Lafleur had no Rhode Island apprenticeship or
10 journeyman's license.

11 Basically, they ceased working at that
12 particular point in time. And Mr. Nixon and
13 Mr. Lafleur have both been cited for no
14 registration cards also. I haven't heard from

15 them. Mr. Lopes, are you representing them today
16 also?

17 MR. LOPES: Yes.

18 MR. LUTHER: Okay. Should I grab
19 their files and read them? Don't we have to do
20 them afterwards?

21 MR. D'AMBRUOSO: No. He's
22 representing them.

23 MR. LUTHER: We have to get their
24 files and read what it is against them if he's

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1 taking responsibility for them.

2 MR. CARVALHO: Have they been
3 noticed?

4 MR. LUTHER: Absolutely.

5 MR. CARVALHO: Are they on the
6 agenda?

7 MR. LUTHER: They are not.

8 MR. CARVALHO: I would recommend
9 that those cases be put on the agenda with formal
10 notice and heard another time.

11 MR. LUTHER: Okay.

12 MR. LOPES: Everything you said is
13 one hundred percent correct. The only thing on my
14 behalf, which I am the owner and I am responsible,
15 my foreman, Paul, sent those guys there because he

16 had a change order, which they were not working on
17 the job.

18 My -- which I am Massachusetts licensed
19 plumber, we do most of our work in Massachusetts.
20 I did not know that Mr. Nixon was not a registered
21 as an apprentice plumber, which I would never put
22 a person on a job that had no idea what he was
23 doing. I mean, he has credentials, just without
24 the paperwork.

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1 So when I guess he was sent there
2 without my prior knowledge of what was going on,
3 he saw the grease trap with the flow restrictor
4 was put on backwards, he was sent there for that
5 purpose, to put it the right way, someone else had
6 put it in the wrong way, and that's when, I guess,
7 they got caught.

8 I've been a licensed plumber in the
9 state of Rhode Island nine or ten years. I've
10 never had any violations or really any problems,
11 so I saw the fine of \$500, and I thought it was
12 very steep.

13 I do take responsibility for my workers,
14 just like when I worked for other companies and
15 then tell you to go there, that's how you make
16 your bread and butter. You're not going to say,

17 "I'm not going to go. I don't have my license."

18 MR. LUTHER: Just for the record,
19 there are four violations at \$500 per violation,
20 so the total is \$2000 in fines assessed to
21 Mr. Lopes at this time.

22 MR. HUTTON: Any questions of
23 board members to Mr. Lopes? Do you have anything
24 else, Mr. Lopes?

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1 MR. LOPES: No. I just hope the
2 board will be lenient on me. Like I said, I've
3 never had any problems. I've been a licensed
4 master pipefitter and master plumber in the state
5 of Rhode Island for many years.

6 I mean, I've worked for companies, we've
7 all done it, but I understand, I agree 100 percent
8 that I'm at fault. I just hope the board will be
9 lenient with me.

10 MR. HUTTON: Well, I'll take a
11 motion if one is in order.

12 MR. GARCIA: On this sheet here, I
13 can't read the top, 5-20-33.

14 MR. LUTHER: Yes. That's the
15 provision of the law that imposes the fine.

16 MR. GARCIA: It's just cut off on
17 the top.

18 MR. LUTHER: I'm sorry.

19 MR. GARCIA: I just wanted to make
20 sure --

21 MR. CARDARELLI: Can I ask you a
22 question, how long have they worked for you?

23 MR. LOPES: Brian is a licensed
24 apprentice in Massachusetts. Nixon, probably six
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1 months, or five months.

2 MR. CARDARELLI: You didn't
3 attempt to get them an apprentice license?

4 MR. LOPES: He's going for his
5 license now in Mass. He didn't want to keep it in
6 Rhode Island. I guess you can't hold two
7 apprenticeships. Says you can only have one
8 license. That's, I guess, the reason why he let
9 it lapse.

10 MR. LUTHER: Counsel, did you have
11 something to add?

12 MR. CARVALHO: I'm new here, I may
13 have missed something. Did the violations get
14 appended a part of the minutes? Do you guys
15 normally do that?

16 MR. LUTHER: What do you mean?

17 MR. CARVALHO: The violation
18 notice and notice of the hearing as part of the

19 record?

20 MR. LUTHER: We read the violation
21 and violation number. I don't know.

22 MR. CARVALHO: Do you normally
23 append that in?

24 THE COURT REPORTER: No.

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1 MR. LUTHER: If we should do that?
2 We have the return receipt mail.

3 MR. CARVALHO: I'm not here to
4 change your procedure. I just questioned whether
5 it went in or not.

6 MR. LUTHER: Well, okay. Thank
7 you.

8 MR. HUTTON: I'm still looking for
9 a motion.

10 MR. GARCIA: So Mr. Nixon hasn't
11 applied for apprenticeship in Rhode Island?

12 MR. LOPES: No. They don't really
13 work in Rhode Island. I'm a Massachusetts based
14 company.

15 MR. NEWMAN: Is that true, that if
16 you hold an apprenticeship in another state, you
17 cannot qualify to apply for an apprenticeship
18 here?

19 MR. LUTHER: There's no provision

20 in our law for that.

21 MR. LOPES: My understanding when
22 I was going for my license and I wanted to get
23 also get a Mass. is until you can't hold two
24 apprenticeships in two different states. Maybe
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1 it's changed. I'm not sure.

2 MR. D'AMBRUOSO: I'll address
3 that. Your people can still hold -- there's only
4 reciprocity with apprenticeships. They can work
5 in Rhode Island as long as they go to school in
6 Rhode Island and follow the criteria set for
7 apprenticeships in Rhode Island.

8 MR. LOPES: Right. Because the
9 thing is he's going for his license within a month
10 and a half in Mass, his journeyman's. I guess
11 once he has that, then he can come to Rhode
12 Island, wait a year and then take his test or
13 something like that.

14 MR. LUTHER: He can take the test
15 as soon as he gets his journeyman's. Just what
16 Mr. D'Ambruso was saying, he would have to
17 receive a reciprocity card from our department in
18 order to work here.

19 MR. D'AMBRUOSO: That's how they
20 follow his hours, that he went to school for Rhode

21 Island.

22 MR. LOPES: He worked for Gem
23 Plumbing for like eight years. I know he has his
24 hours.

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1 MR. LUTHER: But we'd still have
2 to --

3 MR. LOPES: And I worked there.

4 MR. NEWMAN: I have another
5 question. Is it true there are no other
6 violations for Mr. Lopes' company; is this his
7 first one?

8 MR. LUTHER: Mr. Lopes has not
9 been cited by this department before. Mr. Nixon
10 has been.

11 MR. NEWMAN: And so is that
12 something separate?

13 MR. LUTHER: That has no bearing
14 on this case. And we will send them notice to
15 appear, if they so choose. I mean, it's either
16 that, pay for the fine, or go out for collection.

17 It is their decision and Mr. Lopes might
18 want to advise them of their options when he sees
19 them.

20 MR. LOPES: Especially for the
21 younger one. Brian is only 19 years old. He was

22 told to go there and he just went to do what he
23 was told to do. I feel bad that it had to go like
24 that.

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1 Nixon, to tell you the truth, I had no
2 idea he had prior problems. Brian is a year and a
3 half apprentice, so.

4 MR. HUTTON: Any more questions
5 from the board?

6 MR. CHAMPAGNE: I'd like to make a
7 motion on Violation No. 2825, I think we should
8 uphold it the way it is written, based on the
9 facts that we've heard here today.

10 MR. HUTTON: Do we have a second
11 on that?

12 MR. CHAMPAGNE: Based on the
13 violation is Rhode Island General Laws 5-20-10,
14 work for which an apprentice certificate is
15 required; Rhode Island General Laws 5-20-25,
16 registration of plumbing and irrigation
17 apprentices, two violations each.

18 MR. HUTTON: Is there a second on
19 that?

20 MR. GARCIA: I'll second it.

21 MR. HUTTON: All those in favor of
22 upholding the fine, say aye.

23 MR. CARVALHO: Mr. Chairman, the
24 motion right now is on the violation itself, not
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1 on the fines.

2 MR. HUTTON: All those in favor of
3 the violations, say aye? All those opposed?
4 Okay. We need a motion for the fines, 5-20-33,
5 which is \$2,000 total; do we have a motion on
6 that?

7 MR. NEWMAN: I make a motion that
8 we reduce it by half and if he has any more
9 infractions within the year, that it gets
10 reinstated.

11 MR. HUTTON: Do we have a second
12 on that?

13 MR. LUTHER: Just to clarify your
14 motion, Mr. Newman, what you're requesting as a
15 motion is to reduce the \$2,000 to \$1,000,
16 suspending \$1,000 of the original \$2,000 fine for
17 12 months?

18 MR. NEWMAN: Correct.

19 MR. GARCIA: I'll second that one,
20 too.

21 MR. HUTTON: All those in favor?

22 MR. NEWMAN: Aye.

23 MR. GARCIA: Aye.

24 MR. HUTTON: All those opposed?

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1 MR. CHAMPAGNE: Opposed.

2 MR. CARDARELLI: Opposed.

3 MR. HUTTON: That's two and two.

4 I have to vote.

5 MR. LUTHER: I would say that the

6 chairman breaks the tie.

7 MR. HUTTON: I say no.

8 MR. LUTHER: So three no's and two

9 for the motion to reduce the motion by \$1,000.

10 MR. HUTTON: Do we have another

11 motion on the fines?

12 MR. CHAMPAGNE: Make the motion

13 that -- is it a \$1,000 or 950?

14 MR. LUTHER: The fines as they

15 stand right now are four violations at \$500 per

16 violation for a total of \$2,000.

17 MR. CHAMPAGNE: I'd like to make a

18 motion to make that fine upheld.

19 MR. HUTTON: Can I get a second on

20 that?

21 MR. CARDARELLI: Second.

22 MR. HUTTON: All right. All of

23 those in favor?

24 MR. CHAMPAGNE: Aye.

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1 MR. CARDARELLI: Aye.

2 MR. GARCIA: Aye.

3 MR. HUTTON: All those that are
4 opposed?

5 MR. NEWMAN: Nay.

6 MR. HUTTON: So it's 3-to-1.

7 That's the way it is. Then the fine is upheld at
8 \$2,000.

9 MR. LUTHER: Mr. Lopes, this is
10 just a recommendation to the Director of the
11 Department of Labor. She'll review the
12 recommendation of the Plumbing Board of Examiners
13 and you'll be notified by certified mail of her
14 decision. Their recommendation at this time is to
15 uphold the fines, \$2,000 for the four violations.

16 MR. LOPES: Now, am I allowed to
17 appeal this?

18 MR. LUTHER: Yes. You can contact
19 the Director of the Department of Labor.

20 MR. CARVALHO: You'll get a
21 decision from the director. That decision will
22 explain to you the appeals process. It is
23 appealable.

24 MR. LOPES: Okay. Thank you very

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1 much.

2 MR. LUTHER: The next hearing is
3 Water Works, Mr. Chris Pecchia. We have counsel
4 to represent Mr. Pecchia?

5 MR. POTTER: Yes. Christian
6 Potter for Mr. Pecchia. I apologize for being
7 late, but I've running around this building. As
8 you can see, I am bathed in sweat. I couldn't
9 figure out how to get in. Mr. Pecchia is in
10 Florida. I'm here to ask for a continuance.

11 MR. LUTHER: This is the second
12 continuance of this hearing. It's up to the legal
13 counsel to advise the board on whether to grant
14 the continuance or to hear the violation.

15 MR. CARVALHO: It's always within
16 your discretion whether to do that or not. Are
17 you entering your appearance?

18 MR. POTTER: Yes. We will be
19 entering our appearance.

20 MR. CARVALHO: He's entering
21 appearance for the case. He's indicating that his
22 client is in Florida. There's a practical issue
23 to having the person here or not.

24 I understand it has been continued

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1 before, and it's up to the board as to whether you

2 want to grant this attorney's request. Mindful
3 that if should you go forward, I'm sure that
4 counsel is going to have it remanded back due to
5 his client was out of town and you may be back at
6 square one again. It's your discretion as to how
7 you want to proceed.

8 MR. HUTTON: I'll accept a motion.

9 MR. CARDARELLI: I would like to
10 make a motion that this case be heard today.

11 MR. CHAMPAGNE: I'll second that
12 motion.

13 MR. HUTTON: Okay. All those in
14 favor?

15 MR. LUTHER: Okay.

16 MR. POTTER: Is that a unanimous
17 vote? I didn't hear everyone vote. I don't
18 understand why we can't have two weeks. I don't
19 see what the emergency is with respect to a
20 continuance. It's not like it's an ongoing
21 violation. It's not like it's harmful to the
22 environment. I don't see what hearing this will
23 do. I will appeal this.

24 MR. CARVALHO: The board must

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1 consider the practicality of this. If you're
2 going to go forward today, one side testimony.

3 He's going to appeal it and say that his client
4 didn't have his constitutional right to refute it.
5 You may end up doing this again.

6 So I don't -- it's clearly within your
7 discretion to grant it or not, but the counsel
8 makes a point that he showed up here today, there
9 is counsel entering on the case, so you may be
10 making a point here that this gentleman has
11 requested continuances and is dragging it on, but
12 there is another point. You may do something,
13 he's saying he's going to appeal it and you're
14 going to get a remand order perhaps and then you
15 have to do it all over again anyway.

16 So I think that's something the board
17 should consider, in that you now have an attorney
18 entering on the case. He's going to be part of
19 it. He's going to be presenting stuff.

20 MR. LUTHER: Just for board
21 member's information, in the past history,
22 Mr. Pecchia hasn't answered any of the violations
23 that have been given to him.

24 With legal counsel here, he is making an

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1 attempt to clear up the fines and violations that
2 he has. My personal opinion is that the board
3 should grant the continuance so that we don't have

4 to go through this two or three times.

5 MR. CARVALHO: Counsel will not be
6 able to raise this defense a second time.

7 MR. POTTER: I'll put on the
8 record there will be no further continuances. If
9 he doesn't show up for the next hearing, you can
10 go forward. I'm just here. I'm not very involved
11 in this case. I just got it this morning. They
12 asked me to come down here and get a continuance.

13 MR. HUTTON: Do I need an
14 amendment to the motion or a new motion? Is there
15 a new motion?

16 MR. CARDARELLI: I'd like to make
17 a motion what the counselor just said, that if he
18 doesn't appear at the next meeting, that the case
19 will go forward. And I withdraw my motion in
20 regards to continuing this case.

21 MR. NEWMAN: Second that.

22 MR. HUTTON: All those in favor?

23 MR. POTTER: Thank you very much.

24 MR. CARVALHO: Counsel, submit a

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1 letter of appearance, please, for the board.

2 MR. POTTER: You'll notify me of
3 the next date?

4 MR. LUTHER: I'd like to talk to

5 you in the office if we could, after the meeting.

6 That concludes the hearings. We'll continue with
7 the record though.

8 MR. HUTTON: Okay. The apprentice
9 registrations, 8/15 through 9/18 that are in front
10 of you, can I get a motion to accept them?

11 MR. CARDARELLI: I'd like to make
12 that motion.

13 MR. NEWMAN: I second it.

14 MR. HUTTON: All those in favor,
15 aye? Opposed? Any other business before the
16 board?

17 MR. LUTHER: We do have two
18 reviews at 10:00 if someone would be willing to
19 stay. Jeff will stay and Anthony will stay,
20 right?

21 MR. CARDARELLI: I'll stay. I
22 would like to ask Pat a question. A couple of
23 months ago, you talked about if a journeyman is
24 tied to a landscaping company.

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1 MR. LUTHER: A journeyman
2 irrigator -- do you want this on the record?

3 MR. CARDARELLI: No.

4 MR. HUTTON: I'd like to make a
5 motion to close the meeting.

6 MR. NEWMAN: I'll second that.

7 MR. HUTTON: All those in favor?

8 Okay.

9 (CONCLUDED AT 9:28 A.M.)

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1 CERTIFICATE

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5 I, Claudia J. Read, Notary Public, do hereby

6 certify that I reported in shorthand the foregoing

7 proceedings, and that the foregoing transcript
8 contains a true, accurate, and complete record of
9 the proceedings at the above-entitled hearing.

10

11 IN WITNESS WHEREOF, I have hereunto set my
12 hand this 2nd day of October, 2006.

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17 CLAUDIA J. READ, NOTARY PUBLIC/CERTIFIED COURT
REPORTER

18 MY COMMISSION EXPIRES NOVEMBER 2, 2008.

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