

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
HOISTING ENGINEERS EXAMINING BOARD
TUESDAY, NOVEMBER 9, 2004
10:00 A.M.**

In attendance: David Rodrigues

David Burnham

Ellery Wood

Benjamin Anthony

John Shaw

David Rodrigues, Chairperson, called the meeting to order at 10:00 a.m. There is a quorum. The only member not present today is Kathy Serrecchia.

The first order of business is acceptance of the minutes of the previous meeting, held on Tuesday, October 12, 2004. Mr. Rodrigues asked if everyone had an opportunity to review the minutes, and they had. David Burnham stated that there is one change to the minutes that should be made. In the last paragraph on the last page, the date of the next meeting says October 12, 2004. It should say November 9, 2004. Mr. Burnham then made a motion to accept the minutes as amended. Ellery Wood seconded the motion. All members voted in favor.

The next item on the agenda is appeal hearings. There is one (1) appeal hearing on the agenda, for which there is a court reporter.

Mr. Rodrigues turned the Chair of this meeting over to Mr. Burnham, and recused himself from voting on the above hearing since he was the investigator of this violation.

The appeal hearing on the agenda pertains to The Torrey Company. Mr. Glenn Kornichuk and Mr. Michael Farrer were in attendance on behalf of The Torrey Company. Mr. Rodrigues, Mr. Kornichuk and Mr. Farrer were all sworn in by the court reporter.

Mr. Burnham explained the Board's proceedings to Mr. Kornichuk and Mr. Farrer.

Mr. Rodrigues read the violation. On September 30, 2004 Mr. Rodrigues received a complaint about a construction forklift operating without a licensed operator. Mr. Rodrigues proceeded to Shaws Supermarket on Sockanosset Crossing Park, Cranston, RI and witnessed Mr. Wayne C. McPherson of Ajax Construction Company, Inc. operating a construction forklift without a valid Rhode Island Hoisting License as required by RIGL 28-26-5. Ajax Construction Co., Inc. is a sub-contractor to The Torrey Company. The Torrey Company is the general contractor on this project. Mr. McPherson informed Mr. Rodrigues that he had missed the cut-off date to apply to take the exam in October, however, he was going to apply to take

the next exam scheduled for January 10, 2005. Mr. Rodrigues stated that the Department still has not received an application from Mr. McPherson. Mr. Rodrigues informed the Board that both Ajax Construction Co., Inc. and Mr. Wayne C. McPherson both paid their fines.

Mr. Kornichuk stated that he is the Vice-President of Operations for The Torrey Company. He is licensed to operate a forklift, and The Torrey Company is very diligent with regards to safety. They require licenses from all operators. On this particular job, they did ask the crane operator to

see his license, which the crane operator did produce. However, Mr. McPherson, who was the job foreman was not asked if he possessed a forklift license. Somehow that slipped through. Mr. McPherson does have a license in Massachusetts, as well as forklift certification from Federal OSHA. After this incident occurred, a Rhode Island licensed operator was brought in to work on the job.

Mr. Rodrigues informed the Board that there was a second incident, which occurred on October 18, 2004. During a follow-up investigation of the Shaws Supermarket, Sockanosset Crossing Park, Cranston, RI, he witnessed two (2) individuals operating in the back of the building.

One of those individuals, Mr. Peter Marchesseault, was properly licensed. However, the second individual, Mr. Onan Juarez, did not have a valid forklift license. He did have a forklift certification from Federal OSHA. This individual was working for another of the Torrey

Company's sub-contractors, Carriglio Construction Corporation.

Mr. Farrer stated that Carriglio Construction Corporation was notified that he was not to start work at the project until he had a licensed contractor to operate the forklift. Mr. Juarez answered the advertisement put out by Carriglio Construction Corporation for a licensed forklift operator. This incident occurred on the first day of Mr. Juarez's employment with Carriglio Construction Corporation. The foreman was a little late getting to the project that day, and he hadn't had an opportunity to check Mr. Juarez's license status yet. Mr. Rodrigues was at the project before the foreman.

Mr. Ellery Wood made a motion that based on the testimony presented, a recommendation be made to the Director that fines totaling \$1,150 for the violation which occurred on September 30, 2004 be suspended for a 12-month period pending any further violations. Mr. Benjamin Anthony seconded the motion. Under discussion this motion was amended to require that any action taken today on the October 18, 2004 violation, would not activate the suspended fine for the September 30, 2004 violation since they are being acted on at the same time. All members voted in favor.

With regards to the October 18, 2004 violation, Mr. Wood made a motion that based on the testimony presented, a recommendation be made to the Director to uphold the \$1,150 fine. Mr. Anthony seconded the motion. All members voted in favor.

This concluded the appeal hearings. Mr. Burnham turned the Chair of the meeting back over to Mr. Rodrigues.

Mr. Burnham asked Mr. Rodrigues what the status is of his research regarding the possibility of introducing legislation to require a learner's permit for hoisting engineers. Mr. Rodrigues stated that he made a telephone call to Mr. Mark Mooney in the Massachusetts Department of Public Safety and Mr. Elliott Henowitz in the Connecticut Department of Public Safety. Neither of these individuals has called Mr. Rodrigues back yet. Mr. Burnham asked if this item could be kept as an active agenda item.

There was no further business before the Board. Mr. Wood made a motion to adjourn at 10:35 a.m. Mr. Anthony seconded the motion. All members voted in favor.

The next meeting of the Board of Examiners of Hoisting Engineers is scheduled for Tuesday, December 14, 2004 at 10:00 a.m. in Building #70 of the Department of Labor & Training, second floor conference room, 1511 Pontiac Avenue, Cranston, RI 02920.