

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, December 11, 2012

10:00am

In attendance: Ronald R. D'Ambruoso

Brian Iannuccillo

James White

Ellery Wood, Jr.

Joseph Graziano and James Woloohojian were not in attendance.

Also in attendance were David Rodrigues, Chief Hoisting Engineer Investigator; and Benjamin Copple, Legal Counsel.

1. - Call to Order:

The meeting was called to order at 10:07 am by James White.

2. - Conflict of Interest:

This agenda item was addressed after the hearing. Benjamin Copple, Legal Counsel, reminded board members that they are subject to the RI Code of Ethics. If any member has a personal or business

relationship with any of the parties appearing before the Board, members may have an obligation to recuse.

3. - Approval of Minutes:

An error was made on the October 9, 2012 agenda item regarding the Approval of Minutes from September 11, 2012 meeting. The meeting scheduled for September 11, 2012 was cancelled therefore there were no minutes for that meeting and the minutes for the August 14, 2012 meeting were given to the Board. However, at the October 9, 2012 meeting the Board voted to accept the minutes of September 11, 2012 (as indicated on the agenda). The Board is presented today with the August 2012 and the October 2012 minutes.

Ellery Wood made a motion to accept the minutes of the August 2012 meeting; seconded by Brian Iannuccillo. There being no opposition the motion passed.

Ellery Wood made a motion to accept the minutes of the October 2012 meeting; seconded by Brian Iannuccillo. There being no opposition the motion passed.

4. - Violation Appeal Hearings:

Marcio Batista Silverio (Violation 4308): Marcio Batista Silverio does not appear for today's hearing. Sean Nolan is sworn in for testimony.

Benjamin Cople, Legal Counsel, questions Mr. Nolan regarding notice sent to Marcio Batista Silverio for today's hearing. The hearing

notice dated November 20, 2012 was sent both by certified mail and regular mail. As of today's hearing the certified mail was not claimed and the regular mail has not been returned. Mr. Cople enters the following as evidence: A copy of the hearing notice dated November 20, 2012, marked Exhibit A; and a copy of the Track & Confirm statement from the post office website, marked Exhibit B.

Brian Iannuccillo made a motion that Marcio Batista Silverio has received adequate notice of today's hearing; seconded by Ellery Wood. There being no opposition the motion passed.

Ellery Wood made a motion to proceed with the hearing of the violation; seconded by Brian Iannuccillo. There being no opposition the motion passed. The hearing proceeds.

David Rodrigues, Investigator, is sworn in for testimony by Benjamin Cople, Legal Counsel.

James White reads Violation 4308.

Violation Date; 7/16/2012

Name of Violator: Marcio Batista Silverio, 70 Kane St Apt B4, West Hartford, CT 06119

Location of Violation: University of RI, Hillside Residence Hall, Baird Hill Rd., South Kingstown, RI

Violation: On Tuesday, July 3, 2012, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Marcio Batista Silverio, an employee of Acranom Masonry, Inc., 80 Industrial Park Access Rd., Middlefield, CT 06455, operating a construction forklift 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 provides testimony. The Board questions Mr. Rodrigues and Mr. Nolan.

Ellery Wood mad a motion that Violation 4308 did occur; seconded by Brian Iannuccillo. There being no opposition the motion carries.

Ellery Wood made a motion to uphold the requested fine of \$600.00; seconded by Brian Iannuccillo. There being no opposition the motion carries.

The recommendation of the Board will be forwarded to the Director.

End of hearings.

NEW BUSINESS:

Ron D'Ambruoso addressed the Board suggesting a subcommittee,

in conjunction with Legal Counsel, be formed to review the Board's Rules and Regulations. The subcommittee will be Brian Iannuccillo, Ron D'Ambruoso, Ellery Wood, David Rodrigues and James White. The subcommittee will convene after the holidays. Discussion continues.

5. - Adjournment:

The next meeting is scheduled for January 8, 2013. A motion to adjourn was made by Ellery Wood; seconded by Brian Iannuccillo. There being no objection, the meeting adjourned at 10:38am.