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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 :

MECHANICAL BOARD :

7 :

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10 DATE: AUGUST 2, 2006

TIME: 9:00 A.M.

11 PLACE: 1511 PONTIAC AVENUE

BUILDING 70

12 CRANSTON, RI

13

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PRESENT:

15 STANLEY DAVIES, CHAIRMAN

KEN AURECCHIA

16 MICHAEL CARREIRO

RON CRONIN

17 BOBBY JOE HARRIS

PETER LOMBARDI

18 QUINLAN REGAN

CHARLES W. WRIGHT, INVESTIGATOR

19 EDWARD WHITTAKER, INVESTIGATOR

20

21

22

RHODE ISLAND COURT REPORTING

23 25 SEA VIEW AVENUE

EAST PROVIDENCE, RI 02915

24 (401) 437-3366

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1 (COMMENCED AT 9:12 A.M.)

2 MR. DAVIES: It's 9:12 a.m., and

3 we're going to call the Mechanical Board meeting

4 to order. We'll dispense with the minutes until

5 after the hearings. Our first hearing today is

6 Preferred Mechanical Systems, No. 2787. Would

7 those who are going to testify please stand and be

8 sworn in.

9 GLENN DUSABLON, TED WHITTAKER, CHARLES WRIGHT,

10 JOHN MEADE

11 (SWORN)

12 MR. DAVIES: Mr. Whittaker, would

13 you please read 2787?

14 MR. WHITTAKER: Date: June 6,
15 2006. Name of violator: Preferred Mechanical
16 Systems, Incorporated, 223 Center Street,
17 Pembroke, Massachusetts 02359. Location: North
18 Smithfield Ice Arena, North Smithfield, Rhode
19 Island.

20 Violation: On May 21, 2006, Rhode
21 Island Department of Labor & Training Investigator
22 Glenn Dusablon did witness an employee, a Mr. Joe
23 Flynn of 207 Keith Avenue, Brockton, Mass, a
24 Preferred Mechanical Services, Incorporated,
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1 installing refrigeration tubing in North
2 Smithfield, Rhode Island without a valid Rhode
3 Island Mechanical License. This is a violation of
4 Rhode Island General Law 28-27-28, practice for
5 which a license is required.

6 Also, Preferred Mechanical Systems,
7 Incorporated is not licensed as a mechanical
8 contractor in the state of Rhode Island. This is
9 violation of Rhode Island General Law 28-27,
10 section A, practice for which a master or a
11 contractor license is required.

12 Further, no permit was issued by the
13 town of North Smithfield. This is a violation of

14 Rhode Island General Law 28-27-20, state and
15 municipal inspections and installation permits.
16 Signed Charles W. Wright, Investigator.

17 MR. DAVIES: Do any of the board
18 members have any questions of Mr. Whittaker?
19 Glenn.

20 MR. DUSABLON: I stopped by the
21 job. A gentleman was unrolling a coil of tubing
22 going to a compressor unit. I believe the air
23 conditioning unit was feeding the office area
24 inside the arena. The gentleman was cooperative.

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1 He had no license on him. He did roll up the coil
2 of tubing and voluntarily left the job.

3 MR. DAVIES: Do any of the board
4 members have any questions of Mr. Dusablton? Sir,
5 you represent this case?

6 MR. MEADE: Yes, sir, I do.

7 MR. DAVIES: Would you like to
8 make a statement to the board?

9 MR. MEADE: Yes, sir.

10 MR. WRIGHT: Excuse me, she would
11 like your name.

12 MR. MEADE: John Meade, M-E-A-D-E.

13 MR. WRIGHT: Thank you, John.

14 MR. MEADE: No problem.

15 **MR. DAVIES:** What is your position
16 with the company, sir?

17 **MR. MEADE:** I'm general manager
18 and one of the principals with Preferred
19 Mechanical Services.

20 **MR. DAVIES:** Okay. You want to
21 make a statement to the board now?

22 **MR. MEADE:** Yes. Prior to the
23 date in question, we were contracted to oversee
24 refrigeration start-up. What had happened was
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1 that the refrigerated floor at this facility was
2 changed by another contractor. I've done this
3 service on and off for this customer over the
4 years.

5 At the same time, the customer asked us
6 to install an air conditioning system. Knowing
7 that we were not licensed to do such, we also
8 subcontracted to another company called "Cold
9 Master's, Incorporated," to oversee it and have a
10 master on the job to basically do the work.

11 Cold Master's was on-site for the entire
12 installation. I found out subsequent that my
13 mechanic was there with Cold Master's, that Cold
14 Master's mechanic had left for the long weekend,
15 and had left my mechanic there to tidy up. He

16 asked my mechanic what was going on. He was
17 rolling out a piece of tubing. He met the
18 inspector. He knew that he was in violation. He
19 rolled everything up, cleaned up.

20 In checking, the permit had been pulled
21 in North Smithfield. It was in place for both
22 parts of the work, two permits, I believe. And we
23 were unaware at the time -- we were aware that he
24 should not have been working on-site, except for

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1 overseeing what was going on.

2 That's what we basically did, so we're
3 coming back to say yes, we're in error. And
4 second, there was a permit. We did have a master
5 refrigeration, Chris, who employed by Cold
6 Master's on the site the entire time.

7 MR. DAVIES: Board members have
8 any questions?

9 MR. CARREIRO: Are you licensed in
10 the state of Rhode Island?

11 MR. MEADE: Company is not
12 licensed --

13 MR. CARREIRO: So you don't have
14 the ability to pull a permit?

15 MR. MEADE: No, I do not, sir.
16 I've held my license in Rhode Island for over

17 20 years.

18 MR. CARREIRO: You can't pull a
19 permit.

20 MR. MEADE: That's why I
21 contracted Cold Master's.

22 MR. DAVIES: Any other board
23 members have any questions for Mr. Meade? On this
24 case, No. 2787, would the board members have any
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1 questions on the violations? On Violation No.
2 2787, there's the \$1,500 fine involved; is there
3 any other decision by the board on a motion?

4 MR. CRONIN: Can I ask a question?
5 Is there any prior violations of this company?

6 MR. WRIGHT: No, there isn't.

7 MR. DAVIES: Do we have a
8 discussion?

9 MR. CARREIRO: Mr. Chairman, based
10 on the testimony heard today, I make a motion that
11 PMS cease and desist performing any work in the
12 state of Rhode Island until they are properly
13 licensed.

14 And that further, they did violate Rhode
15 Island General Law 28-27-28, practice for which is
16 required. They did further violate Rhode Island
17 General Law 28-27-5 (a), practice for which a

18 master or contractor license is required.

19 And further, no permit was issued to
20 Preferred Mechanical Services, and this is a
21 violation of 28-27-20.

22 MR. WRIGHT: Stop there, first.

23 MR. DAVIES: Any other questions
24 on the violations from any board members? We need
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1 a motion on the violations.

2 THE CLERK: He did.

3 MR. DAVIES: Second.

4 MR. HARRIS: Second.

5 MR. DAVIES: All those in favor?

6 Secondly, the fine on 2787 is \$1,500; do we have a
7 motion on that, please?

8 MR. CARREIRO: A motion to that
9 effect.

10 MR. CRONIN: I second it.

11 MR. DAVIES: We're going to have
12 two now, the violation and then the fine.

13 MR. CARREIRO: Okay. For
14 28-27-20?

15 MR. WRIGHT: On Michael.

16 MR. CARREIRO: It is further
17 requested that the following penalty be imposed on
18 the above violator, 28-27-24, \$1,500.

19 MR. DAVIES: Do I have a second on
20 that?

21 MR. HARRIS: I second that.

22 MR. DAVIES: All those in favor?

23 You will receive a letter from the director of the
24 Department of Labor on our decision, and you will
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1 be hearing from her.

2 MR. MEADE: Thank you very much.

3 (OFF THE RECORD)

4 MR. DAVIES: Our next case is Ryan
5 McShane, No. 2685. Would you stand and be sworn
6 in?

7 RYAN MCSHANE, DONALD SNELL

8 (SWORN)

9 MR. DAVIES: Mr. Whittaker.

10 MR. WHITTAKER: Date: April 25,
11 2006. Name of violator: Mr. Ryan C. McShane, 30
12 Fillion Drive, Smithfield, Rhode Island 02896.
13 Location of violation: 285 Hancock Street,
14 Tiverton, Rhode Island.

15 Violation: On March 27, 2006, a
16 complaint was received by Donald Snell, town of
17 Tiverton's Plumbing and Mechanical Inspector, that
18 Ryan C. McShane contracted to install a heating
19 system at the above-referenced residence without a

20 Rhode Island mechanical license. This is one
21 violation of Rhode Island General Law 28-27-28,
22 practice for which a license is required.

23 Further, Mr. McShane fraudulently
24 obtained a mechanical permit from the town of
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1 Tiverton. This is a violation of Rhode Island
2 General Law 28-27-20, state and municipal
3 inspections and installation permit. Signed,
4 Charles W. Wright, Inspector.

5 MR. WRIGHT: Board members, this
6 is a continuation from last month. There was a
7 letter presented to the board which is in your
8 file in the second part from Mr. Cahill.

9 We made a request at that time to
10 continue it and have Mr. Snell and Mr. Cahill
11 here. Mr. Cahill couldn't make it, but Mr. Snell
12 is here, the inspector from Tiverton, who is going
13 to provide testimony to you. We'll just continue
14 where you left off on this one.

15 MR. DAVIES: Any questions of
16 Mr. Whittaker or Mr. Wright in regards to their
17 part of the testimony? Okay. We'll go on to Don
18 Snell.

19 MR. SNELL: I went to the site
20 with the building inspector to meet Mr. Cahill

21 regarding a letter that was signed by him. I
22 said, "Who, in fact, did the work? Did you do the
23 work there?" He said, "No, I did not." He said,
24 "The letter was presented to me, and I was asked
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1 to sign the letter."

2 Apparently the contact for this project
3 was Mr. Michardo, I don't know if this gentleman
4 was involved in it at all. Mr. Michardo doesn't
5 even have a Rhode Island apprentice ticket. So
6 Mr. Cahill informed the building inspector and I
7 that, again, his contact was Randy Michardo. He
8 coached soccer with him or whatever.

9 But the whole list of violations, again,
10 whether this guy did any of the work at all, I
11 don't know, but Mr. Cahill admitted to us that he
12 did not do any of that work.

13 MR. WRIGHT: I know you're going
14 to ask the next question about Mr. Michardo.
15 Mr. Michardo was cited and has already paid his
16 fine.

17 MR. DAVIES: Any board members
18 have any questions?

19 MR. CRONIN: This letter is
20 meaningless. You give a letter from the owner
21 saying he did it, but he didn't do it.

22 MR. WRIGHT: Basically, yes.

23 MR. LOMBARDI: Can I ask a

24 question of the inspector? Did the owner tell you

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1 who did the work? Did Mr. McShane do the work?

2 MR. SNELL: No. He said

3 Mr. Michardo did the work.

4 MR. LOMBARDI: He's already been

5 fined and this McShane is not involved in this at

6 all then? Where is he involved in here if he

7 didn't do the work?

8 MR. SNELL: He took the permit.

9 MR. CRONIN: I thought it said

10 there was no permit.

11 MR. SNELL: He did not have the

12 proper license.

13 MR. LOMBARDI: Okay.

14 MR. DAVIES: Any other questions

15 of Inspector Snell? Sir, do you want to address

16 the board?

17 MR. McSHANE: When I was here last

18 time and I gave my statement, a few board members

19 weren't here, I don't know if they understand what

20 I had said at the last meeting.

21 MR. DAVIES: Would you want to

22 repeat that?

23 MR. CRONIN: I wasn't here.

24 MR. McSHANE: I did the plumbing

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1 work at this house. And when I was at the town
2 hall pulling the permit, I was asked by Mr. Michardo,
3 who was friends with Mr. Cahill, Mr. Cahill asked
4 him if he could ask me if I could get the permit
5 for him as the homeowner.

6 Then, when I was at the town hall, I
7 asked the girl who was there if it was okay that I
8 filled out the permit for the homeowner and paid
9 for it while I was here, to save him a trip. She
10 said she didn't have a problem with that.

11 I filled it out and paid for it and then
12 I never got contacted that this was an issue at
13 all until well after the job was done. I was only
14 trying to do this man a favor. I wasn't trying --
15 I had no part in any of this, besides the
16 plumbing. I didn't touch any of the mechanical,
17 nothing.

18 MR. SNELL: This property was
19 built for resale. It is not a house that he built
20 for himself. That violated the law.

21 MR. McSHANE: I was under the
22 impression -- I don't know Mr. Cahill, so I don't
23 know, I was under the assumption that he was

24 building the house for himself.

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1 MR. SNELL: There's a for sale

2 sign on it right now.

3 MR. McSHANE: I don't know that.

4 I did my plumbing and left.

5 MR. CARREIRO: Did you pull the

6 proper plumbing permit?

7 MR. McSHANE: Yes.

8 MR. DAVIES: Any other board

9 members have any questions of Mr. McShane?

10 Hearing testimony on case number 2685, on the

11 violations 28-27-24 of a \$1,000; do I hear any

12 discussion on the violations?

13 MR. CARREIRO: I'd like to make

14 two motions. The first motion being based on the

15 testimony heard, that Mr. Ryan C. McShane did

16 violate Rhode Island General Law 28-27-28.

17 Further, he did violate Rhode Island General Law

18 28-27-20, fraudulently obtain a mechanical permit

19 from the town of Tiverton. That's my first

20 motion.

21 MR. DAVIES: Is there a second on

22 the motion?

23 MR. RYAN: I'll second it.

24 MR. DAVIES: All those in favor?

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1 Against?

2 MR. CARREIRO: The second part of
3 the motion that we impose the fine for Rhode
4 Island General Law 28-27-24 for \$500 for each
5 violation.

6 MR. WRIGHT: Hold on. Let the
7 minutes reflect that Mr. Aurecchia arrived.

8 MR. CARREIRO: And the second part
9 of that motion is that the following penalties
10 imposed on the above violation in the amount of
11 \$1,000 in two violations.

12 MR. DAVIES: Do I have a second on
13 that motion?

14 MR. RYAN: I'll second it.

15 MR. DAVIES: All those in favor?
16 You will hear from the director whether she
17 upholds the board's decision, and you'll receive a
18 letter.

19 MR. McSHANE: Thank you.

20 MR. DAVIES: The next case is case
21 number 2770, American Gunitite Pools; is there
22 someone here representing them?

23 ALFRED PENACHO, JR.

24 (SWORN)

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1 MR. DAVIES: Sir, will you have a
2 seat at the end of the table? Mr. Wright.

3 MR. WRIGHT: On May 22, 2006,
4 Investigator Charles Wright did find Mr. Alfred
5 Penacho Jr., of American Gunitite Pools,
6 Incorporated, did contract and install 400,000 BTU
7 natural gas fired boiler in Middletown, Rhode
8 Island without a valid Rhode Island Mechanical
9 license.

10 This is a violation of Rhode Island
11 General Law 28-27-5, practices for which a master
12 or contractor license is required. Further, no
13 permit was issued by the town of Middletown. This
14 is a violation of 28-27-20, state and municipal
15 inspections and installation permits.

16 This job was at a hotel that was under
17 construction, down in the area of Atlantic Beach,
18 right across from the beach club there. It was
19 installed in a watertight room. They have all
20 kinds of problems with air and everything else. I
21 got wind of it. I checked with the State Boiler
22 Unit.

23 Any time that any boiler is over 200,000
24 in a residence or 400,000 commercial requires a
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1 state boiler permit, even if it's a pool heater

2 because pool heaters are still considered a
3 pressure vessel. That was a ruling right from the
4 boiler unit hearing, the Department of Labor.

5 This is something that goes on. It's
6 very difficult for us to track because we just
7 never catch them. This one here was that
8 flagrant. It was put inside a room and they're
9 having trouble with air and ventilation.

10 What's happened since then, it has been
11 tagged. I had the state boiler unit red tag the
12 boiler also, so that nothing got done until things
13 were straightened out with them.

14 MR. DAVIES: Board members, do you
15 have any questions of Mr. Wright?

16 MR. AURECCHIA: Charlie, when you
17 went there, was the installation completely done?

18 MR. WRIGHT: Everything but, I
19 believe, was hooked up to the pool stall. But the
20 gas piping, because the mechanical contractor on
21 the job didn't want to do it. He didn't want to
22 be involved in it, and I talked to the ventilation
23 guy on the job, and they were very concerned too
24 because they didn't know how -- they were -- this

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1 is in a flood plain.

2 This one has like a battleship door on

3 it, a watertight door. We know in the flood
4 plain, you have problems with air and ventilation
5 for the unit. So everybody was kind of backing
6 off on it. But the boiler itself was in place and
7 I believe it was hooked up onto the swimming pool
8 equipment with nothing else done.

9 MR. CARREIRO: Was this new
10 construction?

11 MR. WRIGHT: Brand new.

12 MR. CARREIRO: So there was an
13 architect and an architect's permit?

14 MR. WRIGHT: Everything was brand
15 new.

16 MR. CARREIRO: Architect involved?

17 MR. WRIGHT: I would assume so.

18 MR. DAVIES: Board members have
19 any questions now of Mr. Wright?

20 MR. AURECCHIA: So has this
21 installation been completed?

22 MR. WRIGHT: Don't know. Haven't
23 heard anything more.

24 MR. DAVIES: Sir, do you want to

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1 address the board?

2 MR. PENACHO: I didn't know that I
3 needed to get a permit to do a pool heater. The

4 installation has not been completed yet. I did
5 have someone apply for a permit for the town of
6 Middletown, but there's going to be a smaller
7 heater, 185,000 instead of the 400,000.

8 And I did apply for a permit. They have
9 not issued the permit. They said put the pool
10 plumbing up to the heater, because they're in the
11 computer system, and they haven't issued permits
12 for it yet, the town of Middletown.

13 MR. AURECCHIA: So you're changing
14 it from a 400,000 to 180,000?

15 MR. PENACHO: 185.

16 MR. DAVIES: Any other board
17 members have any questions of Mr. Penacho?

18 MR. REGAN: Are you a plumber?

19 MR. PENACHO: No.

20 MR. REGAN: You said they could
21 hook --

22 MR. PENACHO: Well, my people that
23 work for me do the piping to the heater.

24 MR. REGAN: Doing pipe fitting

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1 without a license.

2 MR. PENACHO: It's just regular

3 PVC pipes.

4 MR. REGAN: What goes through

5 that, water?

6 MR. PENACHO: Water. Filtered

7 pool water.

8 MR. LOMBARDI: I was just going to

9 ask the same thing. It's all PVC and it's hooked

10 up to the pool filters.

11 MR. DAVIES: Through the filters

12 to the heater, back to the pool.

13 MR. LOMBARDI: Okay.

14 MR. CARREIRO: In a public

15 building, Pete.

16 MR. CRONIN: Who did the gas

17 piping, you?

18 MR. PENACHO: No.

19 MR. AURECCHIA: He's trying to get

20 somebody to do it now. That's what I want to

21 know, who did the gas piping?

22 MR. LOMBARDI: What about the

23 electrical, has that been done by you guys?

24 MR. PENACHO: No. We don't do any

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1 of that.

2 MR. DAVIES: Now, who is supplying

3 the boiler?

4 MR. PENACHO: We sold them the

5 heater, yes.

6 MR. DAVIES: At this point, no
7 permits have been taken; is that correct?

8 MR. PENACHO: Well, I had someone
9 apply for the permit for me, but he doesn't work
10 for my company.

11 MR. DAVIES: Is he licensed in
12 Rhode Island?

13 MR. PENACHO: Yes.

14 MR. DAVIES: You're subcontracting
15 it to him?

16 MR. PENACHO: To put the heater up
17 for me, yes.

18 MR. CARREIRO: Only because you
19 got this far?

20 MR. PENACHO: I never knew that at
21 the time that you had to do it, otherwise I would
22 have done it from the beginning.

23 MR. CRONIN: Gas piping?

24 MR. PENACHO: No.

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1 MR. CRONIN: Contract it out?

2 MR. PENACHO: If we do a pool, the
3 owner usually has them do the baseline and the
4 venting, we don't do that.

5 MR. WHITTAKER: I just want you to
6 realize after you come out of the filter that no

7 matter what kind it is, once you get into the
8 heating device, it could be or could not be a
9 pressure vessel.

10 A mechanical licensed contractor would
11 do that part for you. Any of the gas piping would
12 have to be done by that contractor too, with a
13 minimum of a pipe fitter master two license to
14 pull out the permit and a minimum of a pipe fitter
15 journeyman man class two to do the installation
16 for the gas piping and the heating part of that
17 unit.

18 MR. DAVIES: Any questions by the
19 board members? Case No. 2770, Alfred Penacho,
20 American Gunitite Pools on the violations.

21 MR. AURECCHIA: As a motion is so
22 moved.

23 MR. DAVIES: Is there any
24 discussion on the violations? No questions?

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1 Hearing none, we'll go into number 28-27-24, on
2 this case 2770, on the violations and the fines.
3 Do I have a motion?

4 MR. AURECCHIA: Motion to uphold.

5 MR. CARREIRO: Second.

6 MR. WRIGHT: Hold on. Off the
7 record.

8 (OFF THE RECORD)

9 MR. DAVIES: We need a motion on
10 the violation.

11 MR. AURECCHIA: So moved, motion
12 on the violation.

13 MR. DAVIES: Do I have a second on
14 that?

15 MR. LOMBARDI: Second.

16 MR. DAVIES: We need a motion on
17 the violations.

18 MR. AURECCHIA: Make a motion that
19 this is a violation of Rhode Island 28-27-5,
20 practices for which a master or contractor license
21 is required. And this is a violation of Rhode
22 Island General Law 28-27-20, state and municipal
23 inspection and installation permits.

24 MR. DAVIES: Any discussion on
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1 this at all?

2 MR. CARREIRO: Second.

3 MR. DAVIES: All those in favor?

4 Opposed? Now on 27-70 and 28-27-24, a \$1,500
5 fine; do I have a motion on that?

6 MR. CARREIRO: A motion that the
7 following penalties be imposed on the above
8 violator, the violator being American Gunitite

9 Pools, in the amount of \$1,500.

10 MR. DAVIES: Do I have a second?

11 MR. HARRIS: Second.

12 MR. DAVIES: All those that are in
13 favor? Opposed? All right, sir, you'll be
14 hearing from the labor director of our board's
15 decision and whether she will uphold that. You'll
16 receive a letter.

17 Our next case is Comfort Zone, No. 2746.

18 Is someone here to represent them? Sir, would you
19 be sworn in, please.

20 DENNIS PELLETIER

21 (SWORN)

22 MR. DAVIES: Mr. Whittaker, would
23 you read case number 2746, Comfort Zone, please.

24 MR. WHITTAKER: Date: May 16,

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1 2006. Name of violator: Dennis Pelletier,
2 Comfort Zone, Incorporated, 28 Lawton Foster Road,
3 South Hopkinton, Rhode Island 02833. Location of
4 violation: Mastuxet Terrace Condos, Airport Road,
5 Westerly, Rhode Island.

6 On May 8, 2006, Rhode Island Department
7 of Labor Investigator Mr. Charles Wright did find
8 three employees, a Christopher Fyfe of 8 Gold
9 Street, Stonington, Connecticut; Anthony Blancharo

10 of 8 Poinciana, Ft. Lauderdale, Florida; and Aaron
11 Marketos of 208 Main Street, Ashaway, Rhode Island
12 of Mr. Dennis M. Pelletier, Comfort Zone,
13 installing warm air ducting in Westerly, Rhode
14 Island without a Rhode Island Mechanical license.

15 This is a violation of Rhode Island
16 General Law 28-27-28, practice for which a license
17 is required. Signed Charles W. Wright, Investigator.

18 MR. DAVIES: Mr. Wright.

19 MR. WRIGHT: Board members, on May
20 8th, I stopped by this project. There was a lot
21 of trucks outside. I figured I'd stop in and take
22 a look at it.

23 When I was there, I found three
24 employees of Mr. Pelletier's Comfort Zone that
0026

1 didn't have anything, no license, apprenticeship
2 cards, anything.

3 Since that time, I've had discussions
4 with Mr. Pelletier and I think we have everything
5 straightened out, but on the job, there were three
6 people with no licenses, working.

7 MR. DAVIES: Board members have
8 any questions of Mr. Wright?

9 MR. CARREIRO: Was the company
10 truck displaying Comfort Zone?

11 MR. WRIGHT: Yes.

12 MR. CARREIRO: With the proper
13 decals?

14 MR. WRIGHT: Yes. Everything else
15 was in order. They had permits.

16 MR. CRONIN: All three people were
17 installing ductwork?

18 MR. WRIGHT: Yes.

19 MR. DAVIES: Any other questions
20 of Mr. Wright? Sir, would you want to make a
21 statement to the board?

22 MR. PELLETIER: Yes, I did have
23 three people on the job. Actually, I had four
24 people. One was licensed. Christopher Fyfe since
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1 has got his apprenticeship. The other two guys
2 that were working there were actually just
3 delivering some flex piping to these other two
4 guys.

5 Actually, one of them has his own
6 business, Aaron Marketos, Air Graphics. He was
7 just helping me on another building that I have.
8 Him and this other guy from Ft. Lauderdale, they
9 were actually just working on another building
10 that I have. And his crew just called in and
11 asked for some ductwork. They were delivering it.

12 They weren't actually working.

13 Matter of fact, one of them came in
14 while Charlie was there just to bring the stuff
15 in, but Chris did not have a license, but he was
16 with another licensed person.

17 MR. DAVIES: Board members, any
18 questions?

19 MR. AURECCHIA: Did you actually
20 see these people installing duct on the job site?

21 MR. WRIGHT: Actually moving duct
22 on the job site. And I actually asked each one
23 what they were doing working there. They said
24 they were working there, bringing the ductwork in.

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1 And under our law, the handling -- and I'm sure
2 Mr. Whittaker will jump in -- and the installation
3 is entitled under that. We don't have a helpers
4 category, as you know.

5 MR. WHITTAKER: Just for the
6 record, I'll read the definition of installation.
7 "Installation: Shall be defined to mean the
8 handling, moving or locating of any device
9 equipment or material referring to the heating,
10 cooling, process piping, sheet metal or sprinkler
11 fitter industry. This does not mean to refer to
12 the final resting place for hook up, but refers to

13 any stage of the handling of said above equipment
14 or material to where the final location may be for
15 the piping of the equipment."

16 MR. DAVIES: Gentlemen on the
17 board, do you have any questions of Mr. Pelletier,
18 Mr. Whittaker, or Mr. Wright?

19 MR. AURECCHIA: So, Mr. Pelletier,
20 you understand now you can only take the truck and
21 back it up, you have to have the licensed people,
22 sheet metal workers, have to unload the piping,
23 okay?

24 MR. PELLETIER: Yes.

0029

1 MR. AURECCHIA: You understand the
2 truck driver can't touch it?

3 MR. PELLETIER: So if I have
4 someone deliver it, a supply company deliver the
5 same stuff, they have to be licensed?

6 MR. AURECCHIA: No. They don't
7 have to be licensed. They just can't handle the
8 material. Your sheet metal guys need to go out to
9 the truck and take the sheet metal off the truck.

10 The law says that they have to handle
11 the sheet metal. You can have anybody you want
12 deliver it, as long as they don't move the sheet
13 metal, fabrication unit or whatever you have. If

14 you do that, you're in violation of state law.

15 MR. PELLETIER: I'm not in
16 violation, it would be the violation of the supply
17 company.

18 MR. AURECCHIA: You hired it, so
19 ultimately you're responsible. It's up to you to
20 make sure that your men, properly licensed, handle
21 the sheet metal and not the truck driver. That's
22 your responsibility. You need to understand that.

23 MR. PELLETIER: So if I have my
24 wife, which she is part owner of the business,

0030

1 bring some stuff to the guys when they need it,
2 she has to be licensed?

3 MR. AURECCHIA: I didn't say that.
4 You're not understanding what I'm saying. Anybody
5 can drive the truck. Anybody you want can back
6 the truck up, go in and tell your licensed
7 mechanics to unload the truck. She can't unload
8 the truck. That's all I'm telling you.

9 MR. PELLETIER: You're talking the
10 truck itself?

11 MR. WRIGHT: Let me clarify
12 something for the board. Our general feeling on
13 this is when the delivery comes, we call it a
14 curbside delivery. That's the truck driver can

15 unload the truck, leave it right there, but any
16 further handling of the material has to be done by
17 properly licensed people. Such as, if a section
18 of boiler arrived, the truck driver could drop it
19 and leave it there. And then the properly
20 licensed person could handle it from that point
21 in; does that clarify it?

22 MR. PELLETIER: That does it.

23 MR. CRONIN: You only had one
24 licensed guy on the job?

0031

1 MR. PELLETIER: At the time, but
2 if you could see where these guys are, one of
3 them --

4 MR. CRONIN: One guy installing it
5 by himself?

6 MR. PELLETIER: No. The other guy
7 was in another part of the building. I think
8 Charlie talked to him, the licensed person, that
9 day.

10 MR. CRONIN: He's the only guy
11 installing ductwork?

12 MR. PELLETIER: That's correct.

13 MR. CRONIN: Must have had help
14 somewhere.

15 MR. PELLETIER: I'm saying Chris

16 was there helping the other guy, but the other two
17 just happened to be pulling in.

18 MR. CRONIN: Chris was unlicensed?

19 MR. PELLETIER: He was unlicensed,
20 yes.

21 MR. DAVIES: Gentlemen, you've
22 heard the testimony and we'd like to get a motion
23 on the violations, just a discussion on the
24 violations.

0032

1 MR. AURECCHIA: I'd make a motion
2 on Rhode Island General Law 28-27-28, practices
3 for which a license is required.

4 MR. DAVIES: Do I have a second?
5 Hold on. Repeat that.

6 MR. CARREIRO: With regards to
7 Violation No. 2746 dealing with Comfort Zone,
8 Incorporated, based on the testimony heard,
9 Comfort Zone, Incorporated, Mr. Dennis Pelletier,
10 did violate General Law 28-27-28 in three
11 instances. I make that in the form of a motion.

12 MR. DAVIES: Second?

13 MR. CRONIN: Second.

14 MR. DAVIES: All those in favor?
15 No discussion? Opposed?

16 MR. CARREIRO: Further, I'd like

17 to make a motion that the following penalties be
18 imposed on this violator with regard to 2746 in
19 the amount of \$1,500, per Rhode Island General Law
20 28-27-24.

21 MR. DAVIES: Do I have a second on
22 that?

23 MR. AURECCHIA: Second.

24 MR. DAVIES: Any discussion on
0033

1 that motion? All those opposed? All those in
2 favor? Again, you will get a letter from the
3 Department of Labor Director and she will make a
4 determination on our findings.

5 MR. WRIGHT: The next one on our
6 agenda, Pevco Systems, asked to be continued to
7 September.

8 MR. DAVIES: Pevco is continued.

9 MR. CARREIRO: Just a question on
10 this 2826 we're continuing; is that violations for
11 the whole project or just the units listed?

12 MR. WRIGHT: Which one are you
13 talking about, Pevco?

14 MR. DAVIES: Architectural
15 Fireplaces.

16 MR. WRIGHT: No. That's coming.
17 It's Pevco that's continued. Hold on. I have to

18 get Mr. Gaj. He's the investigator.

19 MR. DAVIES: Next case, No. 2688,
20 Mr. John Greeley, Architectural Fireplaces of New
21 England, Incorporated; is someone representing the
22 company?

23 MR. WRIGHT: Nobody here for
24 Architectural Fireplaces. We still have to do

0034

1 this for the record.

2 ROBERT GAJ
3 (SWORN)

4 MR. WRIGHT: For the record,
5 Architectural Fireplaces of New England has been
6 sent notices. They're actually dated back to
7 April 25th -- July 12th. The violation occurred
8 April 25th, and he was told to be here on August
9 2, 2006. The bottom of the notice says, "If you
10 fail to appear at this hearing, it will be
11 conducted in your absence." Certified mail is
12 700316800000508665865. He has been notified and
13 the mail was delivered. Now we can move forward
14 from there.

15 MR. DAVIES: Mr. Whittaker,
16 please.

17 MR. WHITTAKER: Date: June 5,
18 2006. Name of violator: Mr. John E. Greeley,

19 Architectural Fireplaces of New England,
20 Incorporated, 4 Washington Street, Auburn, Mass
21 01501. Location of violation: Old Port Homes,
22 Ferry Landing Circle, Portsmouth, Rhode Island.
23 Violation: On March 24, 2006,
24 Mr. Robert Gaj, Rhode Island Department of Labor &
0035

1 Training Investigator, did find three employees; a
2 Mr. Carlos A. Hernandez of 12 Park Place,
3 Woonsocket; a Mr. Scott J. Wray of 7 Nottingham
4 Road, Oxford, Mass; and Jonathan Hawkins of 77
5 Purchase Street, South Easton, Mass, of
6 Architectural Fireplaces of New England,
7 Incorporated, installing fireplaces in Portsmouth,
8 Rhode Island without a valid Rhode Island
9 Mechanical license.

10 This is a violation of Rhode Island
11 General Law 28-27-28, practice for which a license
12 is required, three violations. Signed, Charles W.
13 Wright, Investigator.

14 MR. DAVIES: You didn't go there?

15 MR. WRIGHT: No.

16 MR. DAVIES: Any questions of what
17 Mr. Whittaker is reading? Mr. Gaj, would you make
18 a statement?

19 MR. GAJ: Sure. Upon entering the

20 address, I found three individuals installing a
21 fireplace unit. Actually, two were on top of the
22 fireplace, building a chimney stack on it.
23 Another one was on the ground right next to it,
24 helping out as well.

0036

1 I asked them for their identification
2 and license. They provided me with driver
3 licenses only. They had no license from the
4 Department of Labor at all. I notified
5 Mr. Wright, and he wrote the violation.

6 MR. DAVIES: Mr. Wright, do you
7 have anything to add to that?

8 MR. WRIGHT: I took the
9 description of the people from Mr. Gaj and we
10 checked, there was a permit. The reason you see
11 the amount on the violation is because this is not
12 the first offense.

13 MR. DAVIES: Board members?

14 MR. CRONIN: This was a gas fired
15 fireplace, right?

16 MR. GAJ: Yes.

17 MR. CRONIN: Was the gas piping
18 done?

19 MR. GAJ: I don't believe so at
20 the time. Just studs, I don't think they got to

21 that point yet.

22 MR. LOMBARDI: Is this a complex
23 where they were putting in more than one, or just
24 the one home?

0037

1 MR. GAJ: Condominium complex.

2 MR. LOMBARDI: More than one?

3 MR. GAJ: Probably 50 or 60 of
4 them.

5 MR. CARREIRO: It's brand new.
6 They're on the market right now. Question, there
7 were permits pulled?

8 MR. WRIGHT: Yes.

9 MR. DAVIES: I have a question,
10 who pulled the permit?

11 MR. WRIGHT: After the first
12 violation, three people got licensed. The
13 principal of the company got licensed so they
14 could pull a permit, but then this one here, they
15 had three guys there that weren't licensed.

16 MR. DAVIES: Board members have
17 any questions of Mr. Wright and Mr. Gaj?

18 MR. CRONIN: I'm somewhat familiar
19 with the project, the job is still going on, so
20 are they still on the site, Architectural
21 Fireplaces of New England?

22 MR. WRIGHT: I don't know. I'll
23 check it for you though, Ron, if you want.

24 MR. CRONIN: I'm wondering if

0038

1 these three guys are still installing fireplaces.

2 MR. WRIGHT: I will put it on my
3 list of things to do for you, sir.

4 MR. DAVIES: Board members have
5 any questions? We need a motion on the violations
6 of case number 2688, discussion.

7 MR. LOMBARDI: I make a motion
8 that we uphold the violations on number 2688
9 against Mr. John Greeley, Architectural Fireplaces
10 of New England.

11 MR. CARREIRO: Second.

12 MR. DAVIES: All those in favor?
13 Opposed? Okay. Now, I need a motion on the
14 fines.

15 MR. LOMBARDI: I'll make a motion
16 we uphold the fine to Mr. John Greeley,
17 Architectural Fireplaces of New England, Violation
18 No. 2688.

19 MR. CARREIRO: Second.

20 MR. DAVIES: Wait a minute, the
21 amount on that?

22 MR. LOMBARDI: \$2,850, per Rhode

23 Island General Law 28-27-24.

**24 MR. DAVIES: Do I have a second on
0039**

1 that?

2 MR. CRONIN: Second it.

3 MR. DAVIES: All those in favor?

4 Opposed? Next case, Steven Tortorelli, number

5 2721; is someone here to represent them?

6 Mr. Tortorelli, please be sworn in.

7 STEVEN TORTORELLI

8 (SWORN)

9 MR. DAVIES: Mr. Whittaker.

10 MR. WHITTAKER: Date: May 4,

11 2006. Name of violator: Mr. Steven Tortorelli of

12 15 Westview Drive, Webster, Mass 01570. Location:

13 Lincoln School, Lincoln, Rhode Island.

14 Violation: On May 1, 2006, Mr. Michael

15 Carreiro, Rhode Island Department of Labor &

16 Training Mechanical Board member did witness

17 Mr. Steven Tortorelli of 15 Westview Drive,

18 Webster, Mass performing pipefitting work in the

19 state of Rhode Island without a valid mechanical

20 license.

21 This is a violation of Rhode Island

22 General Law 28-27-5, practice for which a

23 journeyman license or apprentice certificate is

24 required. Signed, Edward J. Whittaker, Investigator.

0040

1 MR. DAVIES: Michael, I guess you

2 have to be sworn in.

3 MICHAEL CARREIRO

4 (SWORN)

5 MR. DAVIES: Michael, would you

6 address the board?

7 MR. CARREIRO: Yes. On May 1st, I

8 was visiting the school in Lincoln to see the

9 science labs, but upon entering the building, I

10 did witness a contractor's truck outside. There

11 were two trucks. I followed the welder lead into

12 the building and I encountered Mr. Steve

13 Tortorelli and I asked for his license, which he

14 did not have. And I reported it to the inspector,

15 to report the violation.

16 MR. DAVIES: Any of the board

17 members have any questions of Michael Carreiro?

18 MR. CRONIN: Is this a

19 continuation?

20 MR. WRIGHT: Yes.

21 MR. DAVIES: Any other questions

22 of Mike?

23 MR. AURECCHIA: Mike, on the truck

24 that he had, was it properly labeled?

0041

1 **MR. CARREIRO:** No. There were no
2 Rhode Island Mechanical license stickers on the
3 truck.

4 **MR. AURECCHIA:** Thank you.

5 **MR. CARREIRO:** And I did follow
6 the leads into the building.

7 **MR. CRONIN:** What was the company
8 name on the truck?

9 **MR. CARREIRO:** Central Mechanical,
10 I think. They were before the board last month.

11 **MR. DAVIES:** Steve Tortorelli,
12 want to address the board?

13 **MR. TORTORELLI:** On the day that
14 these two gentlemen showed up, they were at the
15 end of the project. My job title on the job is
16 project manager/general foreman. We had myself,
17 one individual which is the owner of the company,
18 and we were basically cleaning up the job.

19 My truck was backed up to the door,
20 which is a company vehicle, just bringing material
21 in. I walked into the boiler room. There were
22 two gentlemen in the pump room. They asked for
23 the pipefitters license. I said I was in charge
24 of the project. They asked for identification. I

0042

1 gave them identification and that was it.

2 MR. DAVIES: Board members have
3 any questions of Mr. Tortorelli?

4 MR. AURECCHIA: Steve, were you
5 working on the job?

6 MR. TORTORELLI: No, I was not.

7 MR. AURECCHIA: So the truck was
8 backed up to the door, the welding leads were
9 inside the boiler room and when we arrived there,
10 you were bent over a toolbox, either putting
11 something in or taking it out, I don't know which.

12 And I asked you how many welders were on
13 the job, and you said, "Just me." So I'm guessing
14 that you don't just take the leads out in the
15 morning and string them out and then at 3:30 just
16 put them back, without using them. Your truck did
17 have the welding machine on it, yes or no?

18 MR. TORTORELLI: Let me clarify
19 that. The welding machine on that truck, it's a
20 mobile job, we move around the site. I think
21 you're assuming that the machine was connected to
22 the welding, which it wasn't. I did not have
23 tools in my hands because I walked into the boiler
24 room and saw two gentlemen --

0043

1 MR. AURECCHIA: I was one of the

2 gentleman. You were in the tool box when I got
3 there.

4 MR. TORTORELLI: That's a false
5 statement.

6 MR. WRIGHT: Stop. Off the
7 record.

8 (OFF THE RECORD)

9 KENNETH AURECCHIA

10 (SWORN)

11 MR. DAVIES: Do board members have
12 any questions now of Mr. Aurecchia or Mr. Carreiro?
13 Any questions of them? Okay, did either one of
14 you gentlemen view anybody carrying material?

15 MR. AURECCHIA: Carrying material
16 in, no. I didn't see anybody carrying material
17 in.

18 MR. REGAN: I have a question. So
19 you were in charge of this job, you were in charge
20 of the mechanical portion of the job?

21 MR. TORTORELLI: Yes, sir.

22 MR. REGAN: But you have no
23 licenses?

24 MR. TORTORELLI: No.

0044

1 MR. REGAN: No Rhode Island
2 license?

3 MR. TORTORELLI: No.

4 MR. REGAN: How about the company
5 that you work for?

6 MR. TORTORELLI: Yes.

7 MR. REGAN: He does?

8 MR. TORTORELLI: Yes.

9 MR. REGAN: You don't even know
10 what they were doing?

11 MR. TORTORELLI: My main job was
12 project manager. I spent most of my time in the
13 trailer.

14 MR. REGAN: What was the job?

15 MR. TORTORELLI: Doing what?

16 MR. REGAN: What were you doing?

17 MR. TORTORELLI: Mechanical
18 heating system.

19 MR. REGAN: Did you have all
20 licensed people?

21 MR. TORTORELLI: All people on
22 site were licensed people.

23 MR. DAVIES: Now, were you
24 carrying material in?

0045

1 MR. TORTORELLI: No, sir.

2 MR. DAVIES: Do any board members
3 have any questions of Mr. Aurecchia, Mr. Carreiro,

4 or Mr. Tortorelli?

5 MR. HARRIS: Were you just the
6 cleanup man?

7 MR. TORTORELLI: No.

8 MR. HARRIS: Were you pulling a
9 lead out?

10 MR. TORTORELLI: Basically
11 Mr. McLaughlin, his guys, were in the process of
12 taking material out.

13 MR. HARRIS: Who was doing the
14 welding before?

15 MR. TORTORELLI: We had licensed
16 welders on site before.

17 MR. RYAN: Were they there at the
18 time?

19 MR. TORTORELLI: There was no
20 welding going on at the time. Leads were all in
21 the process of being rolled up and out the door.

22 MR. DAVIES: Gentlemen, we have
23 had a discussion. You have a right to continue
24 your testimony, if you want.

0046

1 MR. AURECCHIA: All right. When
2 we arrived there, like I said, the leads were out.
3 Most people in the construction, nobody runs the
4 leads out unless you have to. So obviously there

5 was welding going on, some kind of mechanical.

6 When we got there, he was bent over into
7 the box, whether taking it out, putting in it, I
8 didn't see that, but he was in there with the
9 tools. And if he was just there to remove the
10 tools, whatever he was doing, he was still in
11 violation of the law. He needed to have a
12 license.

13 Why would you have three guys on the
14 job? One guy was doing a punch list and there was
15 another guy working in the boiler room. There's
16 no doubt in my mind what was going on there.

17 MR. DAVIES: Any other questions
18 of the board, Mr. Aurecchia, Mr. Carreiro, or
19 Mr. Tortorelli?

20 MR. CRONIN: When you asked him
21 who was doing the welding, he said he was?

22 MR. AURECCHIA: He said there was
23 no welding.

24 MR. CRONIN: He was the welder.

0047

1 Said he wasn't doing any welding.

2 MR. AURECCHIA: My question was
3 why was the leads out? Probably just missed it.
4 It was near the end of the day. The other
5 gentleman that did have a license, he was doing

6 the punch list which was way down the other end of
7 the building. He did come down, show us his
8 license. And none of the trucks were properly
9 marked, neither one of them.

10 MR. CARREIRO: No.

11 MR. DAVIES: Are you a certified
12 welder, Mr. Tortorelli?

13 MR. TORTORELLI: Massachusetts.

14 MR. DAVIES: Not in Rhode Island?

15 MR. TORTORELLI: No.

16 MR. CARREIRO: Massachusetts
17 doesn't have a welder's license.

18 MR. TORTORELLI: Certification.

19 MR. CARREIRO: Not with the state.

20 Not a state license. Massachusetts doesn't have a
21 state license.

22 MR. TORTORELLI: Not like it is in
23 Rhode Island.

24 MR. DAVIES: Gentlemen, do we have

0048

1 a discussion on the violations of case number
2 2721?

3 MR. REGAN: I'll make a motion
4 that Mr. Tortorelli did, in fact, violate Rhode
5 Island General Law 28-27-5, practices for which
6 journeyperson's license or apprentice certificate

7 is required.

8 MR. DAVIES: Do we have any
9 discussion on that violation? I need a second on
10 that.

11 MR. CRONIN: Second.

12 MR. DAVIES: All those in favor?
13 Opposed? Now, I need a motion that --

14 MR. REGAN: I'd also make a motion
15 that the fine of \$500 per Rhode Island General Law
16 28-27-24 be upheld on the case against Mr. Steven
17 Tortorelli, case number 2721.

18 MR. DAVIES: Do I have a second?

19 MR. RYAN: Second.

20 MR. DAVIES: All those in favor?
21 You'll be hearing -- opposed? Okay.

22 MR. CARREIRO: Mr. Chairman, I'd
23 like the minutes to reflect that I recused myself
24 from voting on that violation.

0049

1 MR. AURECCHIA: I recuse myself on
2 the voting of this violation.

3 MR. DAVIES: You'll hear from the
4 director of labor. You'll see that in the mail as
5 far as the board's findings. Thank you.

6 Next we have two cases, Ultimate Chimney
7 Sweep, 2552 and 2780. Is anyone here for them?

8 JULIE MULRY

9 (SWORN)

10 MR. DAVIES: The first case would

11 be 2552. Mr. Whittaker.

12 MR. WHITTAKER: Violation No. 2552.

13 Date: June 5, 2006; name of violator: Mr. Thomas

14 Mulry, Ultimate Chimney Sweep, 90 Mendon Street,

15 Bellingham, Mass 02019. Location of violation:

16 14 Brown Street, Wickford, North Kingstown, Rhode

17 Island.

18 Violation: On November 10, 2005, Rhode

19 Island Department of Labor Investigator Charles

20 Wright received a complaint from Irene Romanelli

21 that Ultimate Chimney Sweep did install a

22 defective top mounted damper in North Kingstown,

23 Rhode Island without a valid Rhode Island

24 Mechanical license.

0050

1 This is a violation of Rhode Island

2 General Law 28-27-5, practice for which a master

3 or contractor license is required. Further, no

4 permit was issued by the town of North Kingstown.

5 This is a violation of 28-27-20, state and

6 municipal inspection and installation permits.

7 Signed, Charles W. Wright, Investigator.

8 MR. WRIGHT: On this one, board

9 members, I went and I met Ms. Romanelli at the job
10 and I got a description of everything that they
11 did there. Then I went to the town and also
12 confirmed that there was no inspection or
13 installation permit on this job.

14 As you know, we have a license that's
15 been in place for a few years, which covers
16 installation of dampers, anything that's related
17 to the chimney other than the masonry. It's to
18 cover the flue liners and installation of the
19 different fireplace inserts with the stoves, the
20 pellet stoves. That license was set up. That's
21 what this was under that, that particular license.

22 MR. DAVIES: Any questions for
23 Mr. Wright?

24 MR. CRONIN: Were you responding

0051

1 from a complaint from Irene Romanelli, the
2 homeowner?

3 MR. WRIGHT: Yes. She called and
4 I believe I met her at the property.

5 MR. CRONIN: That's why you were
6 there?

7 MR. WRIGHT: Yes.

8 MR. DAVIES: Any other board
9 members have any questions of Mr. Whittaker or

10 Mr. Whittaker's reading?

11 MS. MULRY: The only thing on this
12 was I had never known that we had to pull a
13 permit. We install them all the time. And on a
14 regular damper on the fireplace, we've never had
15 to pull a permit on it.

16 And then when you and I had discussed
17 this, it was something that you were like it was a
18 damper on the top, and we had discussed this back
19 and forth with that license which I was still
20 waiting for the information to get the proper
21 licensing done.

22 MR. WRIGHT: Board members, any
23 time there's installation, a liner was put in --

24 MS. MULRY: No.

0052

1 MR. WRIGHT: I was led to believe
2 there was a liner put in.

3 MS. MULRY: No. What we installed
4 was a lock-top damper.

5 MR. WRIGHT: If it's a mechanical
6 device that's in relation to the chimney, other
7 than being part of the masonry chimney, like the
8 damper, that's outside of it. This is outside of
9 it. Actually, Mr. Cronin could be a help on this
10 one.

11 MS. MULRY: That's glued on and
12 then you have the chain that runs into the
13 firebox, install the bracket into the firebox and
14 hook it.

15 MR. CRONIN: It's really not a
16 mechanical device.

17 MR. WRIGHT: How about part of the
18 industry trade?

19 MR. CRONIN: It gets installed on
20 top of the masonry chimney liner. It didn't get
21 installed on a sheet metal liner.

22 MS. MULRY: Yes.

23 MR. CRONIN: I don't think that
24 would be called for under our licensing to install
0053

1 that damper. I wouldn't even call it a damper.

2 MS. MULRY: They're a cap and
3 damper in one, basically, is what it is.

4 MR. CRONIN: More on, I guess you
5 would say.

6 MR. WRIGHT: Would you still think
7 that a permit should be had from the town to
8 install that?

9 MR. CRONIN: To install that
10 damper? My gut feeling would be no. I don't
11 think that would be required.

12 MR. WRIGHT: Doesn't have any
13 effect?

14 MR. CRONIN: It's almost like a
15 heat sensor. Just kind of how hot the fire is,
16 but I don't think it could even be defective. I
17 don't think it could close all the way.

18 MS. MULRY: Not really.

19 MR. CRONIN: It can only expand.

20 MS. MULRY: They will close all
21 the way.

22 MR. CRONIN: They will?

23 MS. MULRY: They will.

24 MR. CRONIN: What would tell that?

0054

1 How would you know if you lit a fire and that was
2 closed?

3 MS. MULRY: All the smoke would
4 come back in.

5 MR. CRONIN: So it could be
6 defective.

7 MR. AURECCHIA: It's not a fusible
8 link, I'm assuming?

9 MS. MULRY: I don't know that.
10 It's on a string.

11 MR. WRIGHT: Notice I had the word
12 "effective" in there? That was why.

13 MR. CARREIRO: So it was put over
14 an oil burner or a gas burner?

15 MR. DAVIES: No.

16 MS. MULRY: No. Only on a
17 fireplace.

18 MR. AURECCHIA: Strictly a wood
19 stove?

20 MR. CRONIN: Clay chimney liner.

21 MS. MULRY: It's made for a
22 fireplace.

23 MR. CRONIN: You buy it through a
24 masonry supplier. They don't come from sheet
0055

1 metal.

2 MS. MULRY: To install the
3 bracket, you have to have a fire box to install
4 the bracket.

5 MR. DAVIES: Have you rectified
6 the problem with this address?

7 MS. MULRY: I have no idea, to be
8 honest. She called me and told me that it didn't
9 work very well. I told her we would send somebody
10 out. She said she just wanted her money back. I
11 said we'd send somebody to take it off. She said
12 that she didn't want us to come back out.

13 So, I sent her money back and just left

14 it at that. She didn't want us back on the
15 property, so it was one of those that if you
16 don't, what can I do? It's \$275. There you go.

17 MR. CRONIN: What I wanted to say,
18 I thought it was made that it could never close
19 all the way.

20 MR. WRIGHT: Mr. Cronin, would it
21 be proper for an inspector to look at this to make
22 sure it's installed correctly? An inspector can
23 look at it without a permit. What's your feeling
24 in that area?

0056

1 MR. CRONIN: I don't think it's
2 anything the installer could do that could make
3 this defective. I think the only place it's
4 defective is from the factory.

5 MR. WRIGHT: Okay.

6 MR. CRONIN: I think they both --

7 MR. WRIGHT: Works for me.

8 MR. CRONIN: I don't know. The
9 liability would be with the manufacturer because
10 it's not -- can I have this?

11 MS. MULRY: I paid for those, but
12 yes, you can.

13 MR. DAVIES: Any other questions
14 of Mr. Cronin, or Mr. Aurecchia, or the young

15 lady?

16 MR. LOMBARDI: I don't have a
17 question, but I would like to make a motion.

18 MR. DAVIES: Make a motion on the
19 violation.

20 MR. LOMBARDI: I make a motion
21 that we table this for a year.

22 MR. DAVIES: Let's go on the
23 violation first.

24 MR. LOMBARDI: On the violation if
0057

1 anything else comes up with regard to --

2 MR. WRIGHT: You need two -- off
3 the record for a minute.

4 (OFF THE RECORD)

5 MR. CRONIN: I'll make a motion
6 that I'm not convinced a violation took place, and
7 so I make a motion that we dismiss the violation.

8 MR. AURECCHIA: I'll second it.

9 MR. DAVIES: All those in favor?

10 So voted. Now, on violation 2552 --

11 MR. CARREIRO: No action
12 necessary.

13 MR. DAVIES: Since there is no
14 violation, there is no fine.

15 CLIFFORD L. WHITING

16 (SWORN)

17 MR. WHITTAKER: June 5, 2006.

18 Violation 2780. Name of violator: Mr. Thomas D.
19 Mulry, Ultimate Chimney Sweep, Incorporated, 90
20 Mendon Street, Bellingham, Mass 02019. Location
21 of violation: 1039 Broad Street, Providence,
22 Rhode Island.

23 June 2, 2006, Rhode Island Department of
24 Labor & Training Investigator Charles Wright
0058

1 received a complaint from Clifford Whiting, city
2 of Providence, Chief Mechanical Inspector, that a
3 flue liner was installed in Providence by Ultimate
4 Chimney Sweep, Incorporated without a valid Rhode
5 Island mechanical license.

6 This is a violation of Rhode Island
7 General Law 28-27-5, practice for which master or
8 contractor license is required. Further, no
9 permit was issued by the city of Providence. This
10 is a violation of Rhode Island General Law
11 28-27-20, state and municipal inspection and
12 installation permits. Signed, Charles W. Wright,
13 Investigator.

14 MR. WRIGHT: Board members, I have
15 received this complaint from Mr. Whiting, who is
16 the chief mechanical inspector, who is here, that

17 a flue liner was installed in Providence, Rhode
18 Island by Ultimate Chimney Sweep.

19 They did not have a permit or properly
20 licensed at the time. I'm sorry, I forgot to put
21 this one in your packet. The second part of this
22 violation is I have a violation of \$1,900, that's
23 because we had a violation before, it pops to the
24 \$950, so it actually, it would be \$500 on each

0059

1 violation be recommended to the director, and set
2 up the \$950, so that would be the second part of
3 the violation, just so that you'd be aware of
4 that.

5 MR. DAVIES: Would you want to
6 take testimony on it, please.

7 MR. WHITING: I just went to
8 inspect the job. The customer told me there was a
9 chimney liner done by these people. I went back
10 and checked, and there was no permit.

11 MR. DAVIES: Is it the same as the
12 other case?

13 MR. WHITING: No.

14 MR. DAVIES: This is a different
15 one.

16 MR. WHITING: This is the liner
17 itself.

18 MR. DAVIES: The liner itself.

19 All right. Any questions of Mr. Whiting, board
20 members? All right. Would you want to address
21 the board?

22 MS. MULRY: This is just still
23 again the same thing, I'm waiting for the
24 information for the license to get done because I
0060

1 didn't realize that we did have to have a license
2 even if we don't do the connections. I know you
3 had to have plumbing if you do the connections,
4 but to do an actual liner, I don't know we needed
5 this license, which I'm still waiting for the info
6 for three months.

7 MR. WRIGHT: Not from me.

8 MS. MULRY: Yes. You said you'd
9 send me the book.

10 MR. WRIGHT: I told you it's all
11 available on line.

12 MS. MULRY: You told me where to
13 go on line. Which I did that on line and then you
14 said when I sent out that stuff, you would send me
15 the booklet for that one heating and decorating
16 license.

17 MR. WRIGHT: This is not germane
18 to what's going on.

19 MS. MULRY: Have I even seen this?

20 MR. DAVIES: Discuss that with
21 Mr. Wright afterwards. Let's go on with
22 violation. Have you done other resident
23 installations?

24 MS. MULRY: Yes. Even for the
0061

1 city of Providence. We've pulled a permit.

2 MR. WRIGHT: Actually, there is no
3 first violation because we just dismissed it.

4 MR. CRONIN: I thought it was
5 prior.

6 MR. REGAN: Sheet metal liner.

7 MR. WRIGHT: Either that or
8 decorative heating appliance license.

9 MR. DAVIES: Board members, do you
10 have any questions of Mr. Whiting, Mr. Wright, or
11 the young lady? Any questions?

12 MR. REGAN: You put in a sheet
13 metal liner?

14 MS. MULRY: It was a stainless
15 liner. We put the liner. We did pay a fine for
16 not pulling a permit. Plumber made the
17 connections. This was the only -- I know the
18 plumber had gone down and got this and had us
19 write the check for the 244 on it. As far as I

20 know, there was a permit was finally signed off on
21 that.

22 MR. WHITING: It was a late fee,
23 not a fine.

24 MS. MULRY: The plumber had told
0062

1 me it was all set.

2 MR. WHITING: This is wrong, too.
3 Because he took out a permit saying he did it.
4 This is a pipefitter. He shouldn't have taken
5 out -- he should have stated on the permit that
6 he's legalizing work by others. He's saying that
7 he put the liner in. He didn't come in and tell
8 me that he was doing it for you.

9 MS. MULRY: Ultimate Chimney Sweep
10 installed it.

11 MR. WHITING: I don't have my
12 glasses. You're right. And he paid \$150.

13 MS. MULRY: Yes. Which I still
14 don't know what this license. I still don't know
15 any of the codes.

16 MR. WRIGHT: Stop talking about
17 this issue. Stay on track.

18 MR. DAVIES: This is the case
19 we're discussing right now. Any other questions,
20 gentlemen?

21 MR. LOMBARDI: I just like to say
22 one thing, I think that whether this office gave
23 you the information in regards to this license or
24 didn't, it is your responsibility to make sure

0063

1 that you do get the proper license to do the work.

2 If you don't have the license, you've
3 been aware of it for a period of time now, I would
4 assume, so that you've got to get this thing
5 resolved.

6 MS. MULRY: My point on that is
7 once I was told what it was, I did do every single
8 thing I was supposed to. Now I'm waiting for the
9 info to find out where to take the test, when to
10 take the test, and what to study for.

11 MR. LOMBARDI: Had it been me, I
12 would have been standing at the door over hear,
13 instead of waiting for something to come through.
14 It's letter form. I would have immediately tried
15 to get this resolved.

16 MR. WRIGHT: Has anybody from your
17 company taken the test?

18 MS. MULRY: No. I priority mailed
19 everything to you with the test and all of the
20 information that you requested. And I have emails
21 from you where you said once you got, that you

22 would help me know where I'm supposed to be going
23 and what to do.

24 MR. CARREIRO: Point of order,
0064

1 Mr. Chairman, we're acting on Violation 2780?

2 MR. DAVIES: Yes. Is there any
3 other questions with regard to the violations? We
4 must have a vote on the violations. It's 2780.

5 MR. CRONIN: I'll make a motion on
6 Violation 2780 that, in fact, Ultimate Chimney
7 Sweep was in violation of Rhode Island General Law
8 28-27-5, practices for which a master or
9 contractor license is required, regardless of
10 whether she has the information or not, that she
11 is in violation of the general law.

12 MR. CARREIRO: Second.

13 MR. WRIGHT: 28-27-20?

14 MR. CRONIN: 28-27-20, municipal
15 inspection and installation permits required.

16 MR. CARREIRO: Second.

17 MR. DAVIES: Discussion on the
18 violation; do I have a second? Okay, you seconded
19 it. All in favor? Opposed?

20 Okay. Now, we need one on the violation
21 itself. It's \$500 because of the change. We need
22 a vote on 2780.

23 MR. CRONIN: I make a motion that
24 the \$1,000 fine be upheld.

0065

1 MR. CARREIRO: It's \$500 per
2 violation.

3 MR. CRONIN: 28-27-24 --

4 MR. LOMBARDI: That's for 2552.

5 MR. WRIGHT: He's doing it right.

6 I did mention to the board members in my comments
7 that the violation amount would be changed to \$500
8 per. I did mention that to you. So it would be
9 \$1,000.

10 MR. DAVIES: Restate that and then
11 we'll have a second on that.

12 MR. CRONIN: I make a motion that
13 we uphold the violation of \$1,000 for Rhode Island
14 General Law 28-27-24.

15 MR. DAVIES: In case number?

16 MR. CRONIN: Case number 2780,
17 Violation 2780.

18 MR. DAVIES: Do we have a second?

19 MR. CARREIRO: Second.

20 MR. DAVIES: All those in favor?
21 Opposed?

22 MR. WRIGHT: Off the record.

23 (OFF THE RECORD)

24 MR. DAVIES: The next case is

0066

1 Energy Efficiency Services, number 2789; is
2 someone here representing them, please?

3 DONALD ATKINSON

4 (SWORN)

5 MR. DAVIES: Mr. Whittaker.

6 MR. WHITTAKER: Date: June 13,

7 2006; violation number 2789; name of violator:

8 Energy Efficiency Services, Incorporated;

9 attention: Mr. Donald Atkinson, 131 Main Street,

10 PO Box 435, South Lancaster, Mass 01561. Location

11 of violation, Johnson & Wales University, Dorrance

12 Street, Providence, Rhode Island.

13 Violation: On June 7, 2006, Rhode

14 Island Department of Labor & Training

15 Investigator, Edward Whittaker did find three

16 employees; a Mr. Joseph Atkinson of 11 Walnut

17 Street, Berlin, Mass; Anthony Harmon of 962 Main

18 Street, Clinton, Mass, and Mr. John Robichaud of

19 174 Winchendon Road, Royalston, Mass of Energy

20 Efficiency Services, Incorporated, servicing a

21 boiler in Providence, Rhode Island without valid

22 Rhode Island Mechanical licenses. This is a

23 violation of Rhode Island General Law 28-27-28.

24 Signed, Edward J. Whittaker.

0067

1 **MR. DAVIES:** You were there. You
2 want to make a statement on that?

3 **MR. WHITTAKER:** Yes. On that day,
4 June 7, 2006, myself and Mr. Wright were doing
5 inspections in the city of Providence, again, with
6 a Mr. Clifford Whiting, city inspector for the
7 city of Providence, on a couple of projects.

8 Upon entering the Johnson & Wales
9 University building on Dorrance Street and going
10 to the roof to check a job on the roof and did
11 notice three individuals working doing maintenance
12 work on one of the boilers in that facility.

13 I asked the gentlemen if they had any
14 licenses, they did not. And took the information
15 down and commenced to send a violation to Energy
16 Efficiency Services, Incorporated.

17 **MR. DAVIES:** Any board members
18 have any questions of Mr. Whittaker or Mr. Whiting?
19 Okay. Do you want to address the board?

20 **MR. ATKINSON:** Sure. May I have
21 your name, please, counsel?

22 **MR. V. LOMBARDI:** Mr. Lombardi.

23 **MR. ATKINSON:** Based on what I've
24 heard listening to your other cases, one of the

0068

1 guys was a helper. We're licensed in the state.

2 I'm a licensed master fitter. I've been doing

3 this for almost 40 years.

4 I was having dental work done, which

5 still somewhat inhibits my ability to speak. My

6 son Joe was covering for me. I didn't realize we

7 were violating anything. I come in, I thought it

8 was only a few months ago, but it was actually

9 September 6th of last year, to see Mr. Buddy Ekno

10 to get licenses for my people and to get them into

11 an apprentice program because they all are

12 experienced close to ten years for all of the

13 guys, literally, except the young fellow, who is a

14 helper.

15 He advised me that because my business

16 is not in the state of Rhode Island, I can't get

17 the apprentice licenses. He did advise me also

18 that we have an exchange program with the state of

19 Massachusetts, and that apparently is also

20 incorrect.

21 Ignorance is no excuse, I understand

22 that. I'd appreciate a little relief from the

23 fine. We've got two guys coming in for tests this

24 month, but I need to get pipefitter tests for

0069

1 them, and you're telling me basically I can't do

2 that in this state.

3 We do real good work. I mean, we're
4 real respectable, knowledgeable people. And
5 you're excluding us and I think that's really
6 unfair. I know that's the not issue here, but
7 after what I've heard this morning, I can't argue
8 with anything that you've accused us of. It's
9 accurate.

10 I can only say that I really think
11 you're doing something wrong here. I have no
12 complaints with the fine. It's obvious that we
13 made a mistake, but I would like there to be some
14 way to address our problem. We're good people.
15 It's really a shame to exclude us from working in
16 your state.

17 I'm too damn old to carry this shit up
18 to the third floor of the University of Johnson &
19 Wales. So I really need help. What do I do?

20 MR. WHITTAKER: Got to get
21 licensed people.

22 MR. ATKINSON: We're working on
23 it, but you're telling me I can't because I'm out
24 of state, I can't apprentice --

0070

1 MR. WHITTAKER: Excuse me. I
2 never said that to you.

3 MR. CARREIRO: Point of order.

4 MR. WHITTAKER: Make that --
5 actually it was never -- I never said that to you.

6 MR. ATKINSON: No, you didn't.
7 Buddy Ekno.

8 MR. WHITTAKER: Buddy Ekno has
9 nothing to do except for the apprenticeship
10 training program. I think you're misstating that
11 factor, too.

12 MR. ATKINSON: Supervisor of
13 Apprentices, Buddy Ekno.

14 MR. WHITTAKER: Excuse me. Let me
15 speak. Mr. Ekno is in charge of apprenticeship
16 training. We're in charge of the licensing of the
17 journeypersons in the state of Rhode Island and
18 apprentices in the state of Rhode Island.

19 There is reciprocity with the state of
20 Massachusetts that, in fact, if there is an
21 apprentice registered in the state of
22 Massachusetts, they can get reciprocity here for
23 six months. What you would have to do is the
24 program in the state of Massachusetts for that

0071

1 young man and lady that may be in your company are
2 registered in a program there, then you get a hold
3 of Mr. Ekno and say I do have a properly

4 registered apprentice in the state of
5 Massachusetts, what do I need to be able to work
6 in the state of Rhode Island?

7 There is reciprocation in that manner,
8 but you have to be in a program recognized by the
9 state of Massachusetts. Understand what I'm
10 saying?

11 MR. ATKINSON: Yes. I have a
12 problem with that.

13 MR. WHITTAKER: That's your
14 problem.

15 MR. ATKINSON: I'm not arguing.

16 MR. WHITTAKER: I'm just telling
17 you what has to be done to try to help you get the
18 proper licensed people.

19 MR. ATKINSON: I appreciate what
20 you said. Please don't misunderstand me. I don't
21 have my master license in Massachusetts anymore.
22 Stupid, I know. So what do I do now?

23 MR. WHITTAKER: I would strongly
24 recommend that you get your master license

0072

1 reinstated in the state of Mass.

2 MR. ATKINSON: And then proceed
3 from there?

4 MR. WHITTAKER: Exactly right.

5 MR. CARREIRO: Point of order.

6 We're here to act on Violation 2789. I'd like to
7 make a motion.

8 MR. DAVIES: First let me ask if
9 there's any other questions.

10 MR. AURECCHIA: Point of
11 information. He feels as though he can't operate
12 in the state of Rhode Island? Last week there was
13 a contractor from New Jersey, just for point of
14 information, had bid a job, got a job, couldn't
15 meet what you're doing, and he had to give up the
16 bid and move on. So it's not just you. It
17 happens all the time.

18 You need to get your ducks in order
19 before you can do any work in the state of Rhode
20 Island, which at this point in time, you can't do
21 any work in the state of Rhode Island, just like
22 the New Jersey contractor.

23 MR. ATKINSON: You understand, I
24 have a master fitter one license. I can do work

0073

1 in the state of Rhode Island. What you're telling
2 me is I can't have a helper help me?

3 MR. AURECCHIA: Right.

4 MR. LOMBARDI: All I want to say
5 is maybe you can wait after this meeting and then

6 maybe a little discussion can resolve or tell you
7 some of the things you need to do and get on with
8 this issue.

9 MR. CARREIRO: With regard to
10 Violation No. 2789, that the Energy Efficiency
11 Services did violate Rhode Island General Law
12 28-27-28 in three instances, which was a practice
13 for which a license is required. That's the form
14 of a motion.

15 MR. DAVIES: Any discussion on it?
16 Do I have a second on it?

17 MR. AURECCHIA: Second.

18 MR. DAVIES: All those in favor?
19 Opposed?

20 MR. CARREIRO: I'd like to make a
21 motion that the following penalty, based on Rhode
22 Island General Law 28-27-24, be imposed.

23 MR. DAVIES: On case number?

24 MR. CARREIRO: For case number

0074

1 2789.

2 MR. DAVIES: Do I have a second?

3 MR. AURECCHIA: Second.

4 MR. DAVIES: All those in favor?

5 Opposed? You will receive a letter from the
6 director of labor and she will take the board's

7 findings into consideration. Let's close the
8 meeting at 10:42 a.m.

9 (MEETING CLOSED AT 10:42 A.M.)

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0075

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 19th day of August, 2006.

13

14

15

16

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

18 MY COMMISSION EXPIRES NOVEMBER 2, 2008.

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