

0001

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

3

4

PROCEEDINGS AT HEARING :

5 :

IN RE: :

6 :

MECHANICAL BOARD :

7 :

.....

8

9

10 DATE: NOVEMBER 1, 2006

TIME: 9:00 A.M.

11 PLACE: 1511 PONTIAC AVENUE

BUILDING 70

12 CRANSTON, RI

13

14

PRESENT:

15 STANLEY DAVIES, CHAIRMAN

MICHAEL JANUARIO

16 RON CRONIN

CHESTER STEWART

17 JOHN WEBSTER

CHARLES W. WRIGHT, INVESTIGATOR

18 EDWARD WHITTAKER, INVESTIGATOR

VAL LOMBARDI, ESQUIRE

19

20

21

22

RHODE ISLAND COURT REPORTING

23

25 SEA VIEW AVENUE

EAST PROVIDENCE, RI 02915

24

(401) 437-3366

0002

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

2 MR. DAVIES: It's 9:12 a.m. We'll

3 call the Mechanical Board to order. We'll start

4 with -- we're going to dispense with the reading

5 of the minutes and we're going to go right into

6 the cases.

7 The first case we have today is 2823,

8 Lexco Manufacturing & Welding; is there anybody

9 here from that company? No one here.

10 MR. CRONIN: The first case is

11 postponed?

12 MR. WRIGHT: We'll get to that.

13 Let's do Lexco. We have to get Pat rolling.

14 There's nobody here from Lexco. We're going to
15 move that to the last. Thanks, Pat.

16 MR. DAVIES: Someone here from All
17 Weather? Stand and be sworn in. Any other people
18 on this case? Okay.

19 CLIFFORD WHITING, EDWARD WHITTAKER, JOSEPH
20 SCUNGIO, CHARLES WRIGHT, BARBARA CALABRO
21 (SWORN)

22 MR. DAVIES: Mr. Whittaker.

23 MR. WHITTAKER: Date: September 15,
24 2006; Violation 2895; name of violator: Mr. Joseph
0003

1 Scungio, All Weather Heating & Air Conditioning,
2 34 Prudence Avenue, Providence, Rhode Island
3 02909; location of violation, Bradford Street,
4 Johnston, Rhode Island.

5 Violation: A complaint was received by
6 the Department of Labor & Training on August 23,
7 2006 pertaining to an installation done for
8 Ms. Barbara Calabro from Bradford Street,
9 Johnston, Rhode Island. Ms. Calabro was not
10 satisfied with the installation.

11 Upon investigation with the town of
12 Johnston pertaining to the installation, it was
13 found that no mechanical permit was taken out.

14 This is a violation of Rhode Island General Law
15 28-27-20, state and municipal inspections and
16 installation permits, one violation. Signed,
17 Edward J. Whittaker Investigator.

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

20 MR. WHITTAKER: The call came in
21 from Ms. Calabro pertaining to an installation
22 that was done by All Weather Heating & Air
23 Conditioning. The party was not satisfied with
24 the installation and thought there might have been

0004

1 some violations, code violations.

2 The fact of the matter, there could be
3 no inspection because there was no permit taken
4 out at the time. Since then, a permit has been
5 taken out after the fact and an inspection was
6 done. At the time of the complaint, no permit was
7 taken out at that location.

8 MR. JANUARIO: The permit was
9 taken out after the complaint?

10 MR. WHITTAKER: Well after.

11 MR. CRONIN: The complaint was
12 made by the homeowner, to the town she complained?

13 MR. WHITTAKER: The call came in
14 to us.

15 MR. CRONIN: Oh, it came to you.

16 MR. WHITTAKER: Because the work,
17 in their estimation, was unsatisfactory. There
18 was some stains on the ceiling. Some other
19 problems there.

20 MR. CRONIN: You called the town?

21 MR. WHITTAKER: Then I called the
22 town to see if there was a permit. There was no
23 permit at that time.

24 MR. SCUNGIO: You want me to speak

0005

1 now? I started the job in April. I went back on
2 May 16th. I had talked it over, my son with me,
3 we had talked over about getting an electrical
4 upgrade.

5 And looking at the panel, when I went
6 back on May 16th, the panel was not upgraded. I
7 told her I felt it was not -- it was not installed
8 properly. If I was to take out a permit at that
9 time, the electrician would have been sitting here
10 with me because his job was to wire the main panel
11 and he did not wire it properly.

12 And I felt as though if I was -- I could
13 go and take out a permit, it was going to be
14 inspected by Stan, he would have found out and
15 there was going to be a problem right then and

16 there. He didn't take a permit out either.

17 So now I'm in a catch 22 over here. If

18 I take the permit out and then they go and inspect

19 it, they're going to question her who the person

20 was that did the electrical. So I just let it go

21 by.

22 But as of today, I've taken out 207

23 permits since I've been in business, so it's not

24 saying that I don't take permits out. I take

0006

1 permits on every job, but this was a catch 22. It

2 just happened that it was a person that I know and

3 I didn't press the issue.

4 And I started the job May 16th, she

5 called me August 9th. She says she had a water

6 leak. And I says to her, "Well, first of all, you

7 never finished paying me. You still owe me

8 money." I says, "How can I give you service if

9 you don't pay me?" And this is when this all came

10 about.

11 MR. DAVIES: Okay. Board members,

12 do you have any questions of Mr. Scungio?

13 MR. STEWART: I don't understand.

14 You didn't take a permit because another

15 contractor didn't take his permit? What does that

16 have to do with you?

17 **MR. SCUNGIO:** When I went to the
18 town of Johnston and I wanted to file this permit,
19 they told me who did the electrical. And I says I
20 don't know the person's name. And they would not
21 give me -- issue to me a mechanical permit because
22 Charlie called the people up.

23 **MR. DAVIES:** That has nothing to
24 do with it at this time.

0007

1 **MR. WHITTAKER:** Mr. Scungio, what
2 licenses do you hold?

3 **MR. LOMBARDI:** You can't question
4 the witness.

5 **MR. SCUNGIO:** I hold a
6 pipefitter's, refrigeration, and electrical
7 permit, master's.

8 **MR. DAVIES:** Board members --

9 **MR. STEWART:** The job you were
10 doing, can you describe what you were doing there?

11 **MR. SCUNGIO:** Installed the air
12 conditioning in the attic. The house is about
13 1100 square feet. I put a 3-ton 13 air unit
14 outside, with a 3-ton air handler inside. I did
15 two returns, seven supplies. That's basically
16 what I did. Secondary, primary/secondary drain
17 line. I ran the wires of the line voltage to the

18 panel and I left it and her electrician did the
19 wiring.

20 MR. DAVIES: Any other board
21 members?

22 MR. CRONIN: Since this time, you
23 pulled a permit and the job has been inspected?

24 MR. SCUNGIO: No. As far as I
0008

1 know, it hasn't been inspected.

2 MR. CRONIN: You still haven't
3 pulled a permit?

4 MR. SCUNGIO: Yes, I did.

5 MR. CRONIN: It's never been
6 inspected?

7 MR. SCUNGIO: As far as I know, it
8 hasn't been, no.

9 MR. DAVIES: Ms. Calabro and your
10 attorney, would you like to make any comments?

11 MR. WRIGHT: Board members, be
12 aware that in the law it says that you're supposed
13 to have a permit before work starts. Stay with
14 the issue. The issue is the permit.

15 MR. MARCELLA: My name is Steven
16 Marcella. I'm the attorney for Barbara Calabro,
17 1304 Atwood Avenue, Johnston, Rhode Island.

18 Ms. Calabro, you entered into an

19 agreement with All Seasons; is that correct?

20 MS. CALABRO: All Weather.

21 MR. MARCELLA: I'm sorry. To have
22 air conditioning installed at your home on
23 Bradford Street, correct?

24 MS. CALABRO: Correct.

0009

1 MR. MARCELLA: And as the
2 gentleman just testified, that job began sometime
3 in March or April of this year?

4 MS. CALABRO: I believe it was
5 March.

6 MR. MARCELLA: Now, did he ask you
7 about a permit?

8 MS. CALABRO: He mentioned
9 something that. I said do what you want as long
10 as the job is done right. That's all I care
11 about.

12 MR. MARCELLA: So he asked you --
13 did he ask you whether you wanted to get a permit
14 or not get a permit?

15 MS. CALABRO: He mentioned that.
16 I told him it was totally up to him, because I
17 don't know what a permit's about.

18 MR. MARCELLA: He finished the job
19 at some point?

20 MS. CALABRO: He did the job in
21 March. They cut my phone lines. I had the phone
22 company come and fix it. They had drilled through
23 it.

24 MR. MARCELLA: Was any damages

0010

1 done to your premises and do you have any pictures
2 of that?

3 MS. CALABRO: Yes. I have all the
4 pictures.

5 MR. MARCELLA: I'm going to show
6 you a series of seven pictures and I'm going to
7 ask you if you can identify them and what they
8 depict?

9 MS. CALABRO: This one, this one,
10 these are where they drilled holes in the wrong
11 spots and had to fill them and they leave marks.
12 I had to --

13 MR. MARCELLA: Who filled them?

14 MS. CALABRO: I had my dad fill
15 the holes. And then they were still marked, as
16 you can see. I told him came back and he put
17 solid white paint over that.

18 MR. MARCELLA: Where is that
19 damage done?

20 MS. CALABRO: In three rooms; my

21 bedroom, living room and kitchen. This one here
22 is the living room because that is the one they
23 tried to fix. This is the kitchen.

24 MR. MARCELLA: What are the other
0011

1 pictures?

2 MS. CALABRO: Here's some more.

3 MR. MARCELLA: That's all the
4 ceiling damage?

5 MS. CALABRO: All ceiling damage,
6 and here's another one. These are all where they
7 drilled holes and they all marked the ceiling.
8 This is where all the water came in because it's
9 leaking in the attic. This is all the water
10 stains on the ceilings.

11 MR. MARCELLA: We'll get to that
12 damage. These are drill holes?

13 MS. CALABRO: These are drill
14 holes, and this is water, correct.

15 MR. MARCELLA: Mr. Chairman, can
16 we pass these around?

17 MR. DAVIES: Yes.

18 MR. MARCELLA: Now, there was some
19 other damage done to, I guess an entryway into the
20 attic, which is in your bedroom closet, correct?

21 MS. CALABRO: Correct.

22 MR. MARCELLA: And what happened
23 with that entryway?

24 MS. CALABRO: It was broken.

0012

1 MR. MARCELLA: By?

2 MS. CALABRO: His son. He said he
3 kneeled on it and it broke. So they put something
4 else up there. It was junk. It was crappy
5 material. I complained about that, so he put a
6 piece of plywood which we'll see and left the
7 whole big piece.

8 MR. MARCELLA: And where was that
9 left?

10 MS. CALABRO: In the garage.

11 MR. MARCELLA: And the damage was
12 done to the ceiling seal panel in your closet in
13 your bedroom, correct?

14 MS. CALABRO: Yes.

15 MR. MARCELLA: And by the way, was
16 this piece of plywood that was left in the
17 basement --

18 MS. CALABRO: In the garage.

19 MR. MARCELLA: That was left by
20 the contractor?

21 MS. CALABRO: Yes.

22 MR. MARCELLA: Was it cut to size?

23 MS. CALABRO: No. That's the size
24 he left. The opening is only that big.

0013

1 MR. MARCELLA: Pass that around.

2 MS. CALABRO: And then the other
3 thing is a chip in the walls. There's another
4 one.

5 MR. MARCELLA: During the course
6 of the installation, they also cut the phone
7 lines?

8 MS. CALABRO: Yes, they did.
9 Verizon came out on March 18th.

10 MR. MARCELLA: Did they do
11 anything to repair it?

12 MS. CALABRO: Who?

13 MR. MARCELLA: Not Verizon, but
14 the contractor?

15 MS. CALABRO: No. No.

16 MR. MARCELLA: They just did the
17 damage to it?

18 MS. CALABRO: Yes.

19 MR. MARCELLA: Now, with regards
20 to some other damage that was done by the
21 contractor during the installation, you indicated
22 that they chipped the wall?

23 MS. CALABRO: Yes. Going into my

24 bedroom.

0014

1 MR. MARCELLA: I'm showing you a
2 picture. What does that depict?

3 MS. CALABRO: Yes. This corner is
4 gouged out.

5 MR. MARCELLA: What room is that?

6 MS. CALABRO: My bedroom. They
7 took off the corner of the plaster.

8 MR. MARCELLA: Was that done by
9 the contractor?

10 MS. CALABRO: Yes.

11 MR. MARCELLA: Did he repair it?

12 MS. CALABRO: No.

13 MR. MARCELLA: And this is a
14 series of three more pictures?

15 MS. CALABRO: Yes.

16 MR. MARCELLA: What do they
17 depict?

18 MS. CALABRO: That's when I saw
19 the water on the ceiling.

20 MR. MARCELLA: When did you first
21 see the water on the ceiling?

22 MS. CALABRO: On August 3rd.

23 MR. MARCELLA: August 3rd of 2006?

24 MS. CALABRO: Yes. That's when it

0015

1 got hot out and the unit kept running and I looked
2 up and saw all the water coming out.

3 MR. MARCELLA: And it was
4 determined that the water was coming from the air
5 handler up above?

6 MS. CALABRO: Yes.

7 MR. MARCELLA: That's directly
8 below?

9 MS. CALABRO: That's my bedroom.
10 Then it went into the bathroom area, too.

11 MR. MARCELLA: The handler was
12 placed above, in the attic?

13 MS. CALABRO: Yes, above my
14 bedroom.

15 MR. MARCELLA: You had some other
16 concerns about the work that was done in your
17 attic; is that correct?

18 MS. CALABRO: Yes.

19 MR. MARCELLA: You've been in your
20 attic several times over the course of time you've
21 owned the property?

22 MS. CALABRO: Yes.

23 MR. MARCELLA: And when you went
24 in there after the installation by this

0016

1 contractor, you noticed some things that weren't
2 there initially?

3 MS. CALABRO: Yes, I did.

4 MR. MARCELLA: I'm going to show
5 you a series of 12 pictures. And I'll ask you if
6 you can identify them. Identify what it depicts,
7 not necessarily the wording.

8 MS. CALABRO: Okay.

9 MR. MARCELLA: What does it
10 depict?

11 MS. CALABRO: The writing, vulgar
12 sayings on beams in my attic.

13 MR. MARCELLA: Was that there
14 before the contractors went in there?

15 MS. CALABRO: Not at all.

16 MR. MARCELLA: You found that
17 after the point in time when they did the
18 installation?

19 MS. CALABRO: It was done at the
20 installation and I sent my son-in-law upstairs
21 because I wanted to have it checked out. I wanted
22 to know what was going on, make sure everything
23 was done right because he's an engineer. He did
24 it just to check out things, what he could see and

0017

1 he came downstairs -- he looked before that

2 because he wanted to make sure I had insulation
3 before the installation started. And he said they
4 wrote all over the place up there.

5 MR. MARCELLA: I'd like to pass
6 these around, please. Now, the contractors came
7 back in May to start up your system, correct, and
8 get it going?

9 MS. CALABRO: Yes. Put the Freon.

10 MR. MARCELLA: Did you have a
11 discussion with him about the damages at that
12 time?

13 MS. CALABRO: I had it right
14 along. He just thought I was being picky.

15 MR. MARCELLA: Being picky for
16 these things that you just testified to?

17 MS. CALABRO: Yes.

18 MR. MARCELLA: And you paid him
19 everything that was agreed to under the contract,
20 except for \$400, correct?

21 MS. CALABRO: Which was not enough
22 to cover the damages.

23 MR. MARCELLA: And you told him
24 you were holding back \$400?

0018

1 MS. CALABRO: Until when it got
2 fixed.

3 MR. MARCELLA: Whatever the
4 difference was, you were going to give it back to
5 him, correct?

6 MS. CALABRO: Obviously it's going
7 to be more than that.

8 MR. MARCELLA: But you had told
9 him if it's less than that, he'd get the
10 difference, correct?

11 MS. CALABRO: Yes.

12 MR. MARCELLA: You didn't have
13 discussions with him from May to August?

14 MS. CALABRO: No.

15 MR. MARCELLA: How was the air
16 conditioning running during that period of time?

17 MS. CALABRO: I wasn't comfortable
18 with it. I didn't think it was right. It would
19 get cool and then all of a sudden it shuts off and
20 within ten minutes, the house gets very hot. And
21 it continued like that. And I knew there was
22 going to be an issue talking to him. I knew I had
23 to call him and then when I saw the water stain,
24 that's when I called him.

0019

1 MR. MARCELLA: You saw the water
2 stains in August?

3 MS. CALABRO: August 3rd is when I

4 noticed it, yes.

5 MR. MARCELLA: What was the nature
6 of your discussion -- what was your discussion
7 with him when you called him in August?

8 MS. CALABRO: I told him there was
9 water on the ceilings and he said, "Have you had
10 any problems?" And I said, "I don't think it's
11 running right." We discussed that and I says, "It
12 comes on and off every ten minutes." And he said,
13 "Well, that's right." And I said, "But then it
14 gets very hot in here." And he goes, "It's
15 working right."

16 MR. MARCELLA: What did he say
17 about the water?

18 MS. CALABRO: And I said about the
19 water and he said, "Well, you never gave me my
20 money." And I said, "Once it's fixed, you'll get
21 your money." And he says, "Let me tell you what
22 I'm going to do for you," and he starts screaming
23 like an animal, "I'll do nothing for you, do you
24 hear me," he's screaming.

0020

1 I said, "I'm sure you're going to have a
2 heart attack. Calm down." He kept screaming. I
3 said, "I'll call my attorney," an attorney. He
4 kept screaming. I just hung up on him.

5 MR. MARCELLA: Have you had any
6 discussions with him since that time?

7 MS. CALABRO: No.

8 MR. MARCELLA: Now, subsequent to
9 that, on or about August 26th of '06, you
10 contacted Frank Lombardo & Sons Sheet Metal & Air
11 Conditioning?

12 MS. CALABRO: Yes, I did.

13 MR. MARCELLA: Did you know him or
14 his company prior to that time?

15 MS. CALABRO: No.

16 MR. MARCELLA: And he came in and
17 surveyed the work that was done by the contractor
18 here; is that correct?

19 MS. CALABRO: Yes, it is.

20 MR. MARCELLA: Because you felt it
21 wasn't operating correctly?

22 MS. CALABRO: I knew it wasn't.

23 MR. MARCELLA: Because of the
24 water on the ceiling?

0021

1 MS. CALABRO: Right.

2 MR. MARCELLA: I'm going to show
3 you a document, captioned at the top "Frank
4 Lombardo & Sons Sheet Metal & Air Conditioning."
5 I'm going to ask you if this is what Mr. Frank

6 Lombardo himself after his inspection noted on
7 that form in terms of what needed to be done?

8 MS. CALABRO: Yes.

9 MR. MARCELLA: Can you -- well, I
10 guess we don't need to read it. You can pass it
11 around. Specifically with respect to the air
12 conditioning unit, what did Lombardo tell you
13 about a 10-tier and 13-tier and what was needed
14 for that?

15 MS. CALABRO: It was supposed to
16 match up. You never put a 10 with 13. There's a
17 10 in the attic and a 13 compressor.

18 MR. MARCELLA: I have nothing
19 further.

20 MR. DAVIES: Board members have
21 any questions? Mr. Scungio, would you like to
22 reply on that? Do you have any rebuttal,
23 Mr. Scungio?

24 MR. SCUNGIO: I started the job up

0022

1 May 16th, correct?

2 MS. CALABRO: No.

3 MR. SCUNGIO: May 16th, that was
4 the last time I was at your house.

5 MR. LOMBARDI: You can't talk.

6 MR. SCUNGIO: Started the unit up.

7 She had a water leak in her chimney prior to us
8 even coming there. She had -- and that was right
9 next to the return, right where the return grill
10 was, there was a water leak. Because it all
11 bubbled up in her ceiling.

12 In her bathroom there was a water leak.
13 The chimney goes right by between the corridor
14 towards the bedroom and towards the bathroom, it's
15 all stained. So my son went into the attic.
16 Where the flashing was, it was all white with
17 cement. The cement had washed down and he
18 explained to her that the flashing is probably no
19 good.

20 And she called me in August and says
21 that she had a water leak near the return and she
22 says, "The unit's leaking." And I said, "No, it's
23 not the unit leaking, it's probably you never
24 addressed the flashing problem," because it was an
0023

1 existing problem.

2 She said, "No, it's the unit leaking."
3 I says, "It can't be the drain. The drain is on
4 the other side, farther down." And she says,
5 "Well, I think you should come out here and take a
6 look at it." And I says, "I'm not going to come
7 out there. You didn't pay me."

8 I mean, this is a May. "If you had a
9 problem with water, it would have showed up right
10 away." It does have a secondary and a primary
11 pan. The secondary pan would only catch if there
12 was an overflow.

13 Second of all, as far as the writing,
14 whatever was up there, was up there. If I have
15 to, I'll bring my son back. He was up in the
16 attic, him and his helper. We don't do writing
17 like that. We don't do anything like that. I
18 just saw a couple of pictures, it was on the
19 sheathing. Who would write stupid stuff like
20 that? We don't do that. We've been in business
21 too long. Most of the people know me here. I
22 don't do that kind of stuff.

23 MR. DAVIES: Okay, sir. Board
24 members, do you have any questions of Mr. Scungio?

0024

1 The main issue here is the permit and that's what
2 we're here for; do I have a motion?

3 MR. STEWART: I'd like to make a
4 motion. After hearing the testimony, I'd like to
5 uphold the violation RIGL 28-27-20, that no permit
6 was taken before the start of the work.

7 MR. DAVIES: Do I have a second?

8 MR. JANUARIO: Second.

9 MR. WEBSTER: Second.

10 MR. DAVIES: All those in favor?

11 Now, a motion on the fine.

12 MR. JANUARIO: I'd like to make a
13 motion per RIGL 28-27-24 that we recommend a \$500
14 fine be upheld for Violation No. 2895.

15 MR. CRONIN: Second.

16 MR. DAVIES: All those in favor?

17 All right. Mr. Scungio, you'll hear from the
18 Labor Director and she will make a decision based
19 on our recommendation.

20 MR. SCUNGIO: Can I make one more
21 statement before I leave?

22 MR. DAVIES: No. The hearing is
23 closed. Thank you. All right.

24 Our next case is Gas Pro, Incorporated,
0025

1 Dale Joubert, Sr., No. 2941; is someone here?

2 MR. JOUBERT: Yes.

3 MR. DAVIES: Sir, have you been
4 sworn in?

5 MR. JOUBERT: No.

6 DALE MICHAEL JOUBERT, SR.

7 (SWORN)

8 MR. DAVIES: Mr. Whittaker.

9 MR. WHITTAKER: 10/2/06; Violation

10 No. 2941; name of violator: Dale Joubert, Sr.,
11 Gas Pro, Incorporated, 99 South Bend Street,
12 Pawtucket, Rhode Island 02860; location of
13 violation: 52 Valley Street, Providence.

14 Violation: September 25, 2006, the
15 chief mechanical inspector for the city of
16 Providence observed an alleged employee of Gas
17 Pro, Incorporated, Michael Santos, working alone.

18 Mr. Santos is a registered apprentice,
19 pipefitter apprentice, AP No. 18422, and an
20 apprentice is not allowed to work without direct
21 supervision. This is a violation of Rhode Island
22 General Law 28-27-4.3, section A, Pipefitter
23 Apprentices. Signed, Charles W. Wright,
24 Investigator, one violation \$500.

0026

1 MR. WRIGHT: Board members, this
2 was forwarded to me by Mr. Whiting, Mr. Cliff
3 Whiting, city of Providence. He's the chief
4 mechanical inspector there. Which in his
5 violation, in his report to me, he said there was
6 an apprentice working alone, which is a violation
7 of law. As you well know, the law states that any
8 apprentice has to be under direct supervision at
9 all times under of either a pipefitter, master or
10 journeyman.

11 MR. DAVIES: Any questions of
12 Mr. Wright, Mr. Whittaker's reading of it?

13 MR. JANUARIO: What was the
14 apprentice doing at the time?

15 MR. WHITING: I happened to be on
16 the job and I was checking everybody's license.
17 And I asked him what he was doing and he said he
18 was doing a punch list. I said, "You know you're
19 not allowed to be on the job alone." He says, "I
20 know, but my company sent me here." I says,
21 "Well, you're going to have to leave." He said,
22 "Okay."

23 He was polite. He told me he was
24 working on a punch list. I mean, I didn't

0027

1 actually see him working. I seen him in the
2 corridor and I seen Gas Pro and I asked him if I
3 could see his license and that's when he told me
4 he was working on a punch list.

5 MR. DAVIES: Thank you. Any
6 questions of Cliff? Okay. Sir, do you want to
7 address the board?

8 MR. JOUBERT: My defense is just
9 I'm hoping I'll get a little consideration. It's
10 a first time thing for me. I'm a small company,
11 just starting out. I understand the situation

12 with the master has to always be on site.

13 What happened is the master, which was
14 my brother, is a diabetic and he stepped off the
15 site for ten minutes to go to the store. And what
16 Larry did, which was the master, he put him on the
17 punch list so he wasn't physically doing any work
18 at the time. And he was back within ten minutes.

19 I mean, at no time was this guy sent out
20 from the beginning of the day's start to work by
21 himself. We don't do that. He's not experienced
22 enough to do it. So, like I said, it was only ten
23 minutes that he did leave. I'm sure you hear it a
24 lot of times, but it's the truth.

0028

1 MR. DAVIES: Board members have
2 any questions of Mr. Joubert?

3 MR. STEWART: What was on the
4 punch list, what kind of items?

5 MR. JOUBERT: Basically it was
6 just stuff that he was going over that we have to
7 do down the road and putting together a punch list
8 of this isn't completely done in this unit and
9 that unit, and making like a checklist of that.

10 Had the inspector waited maybe ten
11 minutes, he would have seen Larry was right back
12 on the job site, but I mean, that consideration

13 wasn't given at the time and it doesn't

14 necessarily --

15 MR. WHITING: He never said that.

16 MR. JOUBERT: The apprentice

17 didn't say that --

18 MR. LOMBARDI: Gentlemen, one

19 person can talk at a time. The stenographer is

20 taking it. If you have something to say, you will

21 wait until you're questioned by the board. Do you

22 understand?

23 MR. WHITING: I understand.

24 MR. LOMBARDI: Thank you.

0029

1 MR. JOUBERT: But, in any event,

2 the apprentice didn't mention that to Cliff. He

3 should have said Larry went out for 10 minutes,

4 blah-blah-blah-blah, and to be very honest with

5 you, Larry told him about the punch list and

6 that's what he should have passed along to him,

7 that's what he was doing. He did pass that along,

8 but he didn't say where he had gone.

9 MR. STEWART: Was he correcting

10 items on the punch list that your brother gave

11 him?

12 MR. JOUBERT: He wasn't doing the

13 work itself. He was writing down and putting

14 together a punch list for the work that needed to
15 be done. It's not like he was running electrical,
16 it's not like he was piping.

17 MR. DAVIES: Board members, any
18 questions? Would you like to testify, sir?

19 LARRY J. JOUBERT
20 (SWORN)

21 MR. DAVIES: Yes, sir.

22 MR. LARRY JOUBERT: I just want to
23 state that I was on that job that whole day. I
24 did leave for maybe a half hour, 45 minutes

0030

1 because I wasn't feeling well, but like I was
2 stating, I was on the job that day. I did need to
3 go to the store. I'm diabetic. I had to get some
4 orange juice.

5 And I came back and Michael Santos told
6 me that the inspector was here and I said, you
7 know, "Why didn't you tell him I was on the job
8 site?" And he had no response so. But I was on
9 the site. I've been on the site. And Mr. Whittaker
10 came up one day, I was there. And he checked our
11 licenses, so it's not like we're trying to do --

12 MR. JOUBERT: He was on the job,
13 on the job site.

14 MR. LARRY JOUBERT: Not like we're

15 trying to hide anything --

16 MR. LOMBARDI: Sir, I said one
17 person at a time. Respond to the question.

18 That's all.

19 MR. LARRY JOUBERT: I thought I
20 was.

21 MR. DAVIES: Okay, sir.
22 Mr. Whiting, was this gentleman working with tools
23 or just --

24 MR. WHITING: No. He was walking

0031

1 from room to room. I asked him what he was doing.
2 He said he was working on a punch list. He was
3 very polite. And I said, "Can I see your
4 license?" And I said, "You're not supposed to be
5 working alone." He says, "I know, but they sent
6 me here." Maybe he didn't use the word "sent."
7 He says, "I know, but I'm here."

8 MR. DAVIES: Okay.

9 MR. WHITING: And he says, "I'll
10 leave."

11 MR. DAVIES: Board members have
12 any questions of either Mr. Joubert or
13 Mr. Whiting? Can I have a motion on Case No.
14 2941, if there's a violation.

15 MR. CRONIN: I'll make a motion

16 that upholds the fine violation of Rhode Island
17 General Law 28-27-24.3, that a pipefitter
18 apprentice is not allowed to work without direct
19 supervision.

20 MR. DAVIES: Do I have a second?

21 MR. WEBSTER: Second.

22 MR. DAVIES: All those in favor?

23 Now, in regards to the fine on 2941; do I have a
24 motion?

0032

1 MR. WEBSTER: I make a motion to
2 uphold the fine of \$500 per Rhode Island General
3 Law 28-27-24 for Violation No. 2941.

4 MR. DAVIES: Second on that?

5 MR. CRONIN: I'll second it.

6 MR. DAVIES: All those in favor?

7 This will go to the Director of Labor and the
8 board's findings and she'll make the final
9 decisions.

10 MR. JOUBERT: Okay. Thanks a lot.

11 MR. DAVIES: The next case is Case
12 No. 2824, DeCesare Building Company, Incorporated;
13 is someone here representing them?

14 MR. WRIGHT: Board members, this
15 particular case was forwarded from last meeting
16 because at the request of Mr. Michael DeCesare of

17 DeCesare Building, requested that all the parties
18 be brought in, and Mr. Tasso was in, Mrs. DeCesare
19 couldn't be here because she wasn't able to come
20 to this meeting. She has other problems. She
21 just couldn't do it.

22 So Mr. Tasso is here. Mr. DeCesare is
23 not here from the Michael DeCesare from the
24 DeCesare Building. He's the one that requested
0033

1 this, forwarded this to this meeting. So we
2 probably should take Mr. Tasso's testimony.

3 MICHAEL C. TASSO, JR.

4 (SWORN)

5 MR. WRIGHT: This violation, board
6 members, was read at the last meeting, but
7 Mr. Tasso is the West Warwick Plumbing and
8 Mechanical Inspector and he was asked to be here.

9 MR. DAVIES: Sir, would you like
10 to address the board?

11 MR. TASSO: I was called to 12
12 Capron Street by my building official, Steve
13 Murray, for some possible violations. When I went
14 there, we found out there were no permits pulled
15 for either the boiler and/or the HVAC system.

16 And so, at that time, we just started to
17 follow up and I found out who the contractor was.

18 We looked at the contract and I notified the
19 contractor there was an issue, I got no response,
20 so I forwarded everything to Mr. Wright.

21 MR. DAVIES: Board members, do we
22 have the Violation No. 2824, any questions?

23 MR. STEWART: Did you see anybody
24 working on the mechanical system?

0034

1 MR. TASSO: No. The building
2 official went there for other complaints and at
3 that time, once he gets in there, he saw
4 violations on the mechanical system. He called
5 me. At that time, I went there and I found
6 numerous violations on the system.

7 MR. DAVIES: Any other questions
8 of Mr. Tasso?

9 MR. JANUARIO: This was the case
10 where Mr. DeCesare is a contractor and he put the
11 mechanical in?

12 MR. WRIGHT: He's a building
13 contractor.

14 MR. JANUARIO: He's a building
15 contractor who gave this woman a quote for the
16 mechanical system. Okay, I remember the case now.
17 And then there were no permits pulled and he does
18 not have a license.

19 MR. WRIGHT: And at the last board
20 meeting, board members, I showed you the two
21 invoices from his company indicating that he put
22 these systems in.

23 MR. DAVIES: Mr. Tasso, has there
24 been a permit pulled on this?

0035

1 MR. TASSO: Yes, sir.

2 MR. DAVIES: It has been done by a
3 licensed person?

4 MR. TASSO: Yes, sir.

5 MR. DAVIES: Thank you.

6 Gentlemen, do you have a motion on 2824 violation?

7 MR. JANUARIO: Yes. I'd like to
8 make a motion that we uphold the Violation 2824
9 under RIGL 28-27-20.

10 MR. DAVIES: Do I have a second?

11 MR. WEBSTER: Second.

12 MR. DAVIES: All those in favor?
13 Now, do we have a motion on the fine on 2824?

14 MR. JANUARIO: I'd like to make a
15 motion that upholds the fine for Violation No. 2824
16 under RIGL 28-27-24 of \$1,000.

17 MR. WEBSTER: Second.

18 MR. DAVIES: All those in favor?

19 So moved. Thank you very much, Mr. Tasso.

20 Our next case is No. 2858, Unique Metal
21 Works, Incorporated; is there somebody here
22 representing them?

23 MR. WILD: I am.

24 MR. DAVIES: Okay.

0036

1 RICHARD WILD

2 (SWORN)

3 MR. WHITTAKER: Date:

4 September 22, 2006; Violation 2858; name of
5 violator, Unique Metal Works, Incorporated, 489
6 Narragansett Park Drive, Pawtucket, Rhode Island
7 02861; location of violation: Masonic Temple
8 renovation job, Providence, Rhode Island.

9 On Wednesday, September 6, 2006, Rhode
10 Island Department of Labor & Training Investigator
11 Charles Wright found six alleged employees of
12 Unique Metal Works that were not licensed in Rhode
13 Island to do sheet metal work.

14 They were the following: Shawn Correia
15 of 102 Pawtuxet Terrace in, West Warwick, Rhode
16 Island; Chris F. Joyce of 109 Union Street, West
17 Bridgewater, Mass; Peter Medeiros of 1060 Wood
18 Street, Swansea, Mass; Jarrod J. Riccio of 75
19 DeWolf Avenue, Bristol, Rhode Island; Glenn J.
20 King of 28 Wachusett Road in Brockton, Mass; and a

21 Phillip E. Hurley, 104 Endicott Street, Weymouth,
22 Massachusetts.

23 This is six violations of Rhode Island
24 General Law 28-27-28, practice for which a license
0037

1 is required. Six violations total \$3,000, per
2 Rhode Island General Law 28-27-24. Signed Charles
3 W. Wright, Investigator.

4 MR. WRIGHT: Board members, on
5 that date, I went there and I got a hold of the
6 foreman on the job and requested that all the
7 sheet metal people on the job be brought out so we
8 could check licenses.

9 The office had sent me over there to
10 make sure that everybody was properly licensed. I
11 found these six people. By the way, everybody was
12 very cooperative, but these six people were not
13 properly licensed in Rhode Island to do sheet
14 metal work.

15 MR. JANUARIO: Did they have any
16 licenses at all?

17 MR. WRIGHT: No. Not with us.

18 MR. JANUARIO: Were they licensed
19 in another state?

20 MR. WRIGHT: A lot of them are
21 from Massachusetts.

22 MR. CRONIN: A license isn't

23 required.

24 MR. DAVIES: Board members have

0038

1 any more questions of Mr. Wright? Sir, would you
2 like to address the board?

3 MR. WILD: Yes. One of the six,
4 Shawn Correia, is a registered apprentice in the
5 state of Rhode Island. Other than that, I really
6 don't have any excuse for what happened.

7 We're a licensed contractor. We employ
8 all licensed sheet metal people. I think right
9 now we have 90 to 95 people working for us. We
10 have a bargaining understanding agreement with
11 Local 17. That's where we get our help from. I
12 don't know how it happened. I'm sure it wasn't
13 intentional on their part and it certainly wasn't
14 intentional on our part.

15 They sent us some people. These five
16 didn't have licenses. Shame on us for not
17 checking our licenses. My foreman just didn't
18 check the licenses. I'm not sure Local 17
19 understood it. There's no excuse.

20 I think that it's a first time
21 violation. Been licensed sheet metal contractors
22 in the state ever since the licenses came about

23 '77. So there was no intent here. There was, I
24 guess stupidity is the only word I can think of.

0039

1 MR. WRIGHT: Board members, in
2 response to the one statement he did make about
3 the apprentice. After I came back here and I
4 checked, he was registered.

5 MR. JANUARIO: What are you doing
6 now so that this won't happen again?

7 MR. WILD: We're making sure that
8 our job foreman, where the people are sent, check
9 licenses. It's something that should have been
10 done. Probably in the haste of keeping people
11 down there, we have a lot of people down there.
12 That was something that just slipped there. So it
13 wasn't intentional on his part.

14 MR. DAVIES: Any other board
15 members have any questions?

16 MR. CRONIN: All your people come
17 from this signed bargaining agreement. When you
18 called, were you expecting to get licensed sheet
19 metal workers?

20 MR. WILD: Yes.

21 MR. CRONIN: In the past, they've
22 always sent you the licensed sheet metal workers?

23 MR. WILD: They always have sent

24 me the licensed sheet metal people, yes.

0040

1 MR. CRONIN: So you had no reason
2 to doubt that the five they sent you didn't have
3 licenses?

4 MR. WILD: No reason to question,
5 no.

6 MR. DAVIES: Any other questions
7 from board members? Hearing none, Case No. 2858,
8 violation, do we have a violation?

9 MR. JANUARIO: I'd like to make a
10 motion that under Violation 2858, RIGL 28-27-28,
11 practices for which a license is required, that we
12 suspend the sentence for 12 months.

13 MR. DAVIES: We're considering the
14 violation right now.

15 MR. WRIGHT: You have to do the
16 violation first.

17 MR. JANUARIO: For the violation,
18 he did violate, Violation No. 2858, RIGL 28-27-28.

19 MR. DAVIES: Thank you. Do I have
20 a second?

21 MR. WEBSTER: Second that.

22 MR. DAVIES: All those in favor?
23 Discussion?

24 MR. CRONIN: Is Shawn Correia --

0041

1 other than these five people, there were other
2 people on this job?

3 MR. WILD: Yes, quite a few.

4 MR. CRONIN: Shawn Correia was a
5 supervised licensed person?

6 MR. WILD: Yes.

7 MR. DAVIES: Now, do I have a --

8 MR. CRONIN: I would move to
9 strike Shawn Correia's name from this list.

10 MR. DAVIES: Do I have a second?

11 MR. JANUARIO: Second.

12 MR. WEBSTER: Second.

13 MR. DAVIES: Discussion? So
14 voted. Now, in regards to the fine on 2858.

15 MR. JANUARIO: I'd like to make a
16 motion that we suspend the fine, further no
17 violations, on Violation No. 2858, RIGL 28-27-24.
18 Now, the amount would be \$2,500.

19 MR. DAVIES: We'll suspend that.

20 MR. CRONIN: I second that motion.

21 MR. DAVIES: All those in favor?
22 Sir, this will go to the Department of Labor
23 Director and if she agrees with us, as long as you
24 stay out of trouble for a year, it will be

0042

1 suspended if she decides. Thank you.

2 Lexco Company, anybody here? Case No.
3 2823, no one is here at this time on this
4 violation, so we're going to hear it and then take
5 a decision on it, postpone it.

6 MR. WHITTAKER: Date: July 13,
7 2006; Violation No. 2823; name of violator: Lexco
8 Manufacturing & Welding, 101 Commercial Way, East
9 Providence, Rhode Island 02910; location of
10 violation: General Cable, 3 Carol Drive, Lincoln
11 Rhode Island.

12 Violation: On July 5, 2006, Rhode
13 Island Department of Labor & Training Investigator
14 E. Patrick Luther did find two employees, Thomas
15 C. Geving, 303 Third Avenue, Woonsocket, and a
16 Carlos Cordova of 41 Ponagansett Avenue,
17 Providence, Rhode Island performing mechanical
18 work in Lincoln, Rhode Island without valid Rhode
19 Island mechanical licenses.

20 This is a violation of Rhode Island
21 General Law 28-27-28, practices for which a
22 license is required. Total, \$1,000 per Rhode
23 Island General Law 28-27-24. Signed, Charles W.
24 Wright, Investigator.

0043

1 MR. DAVIES: Mr. Whittaker, did

2 you sign a form sending notice to be at this
3 meeting? And did you get a return receipt
4 requested?

5 MR. LOMBARDI: Off the record.

6 (OFF THE RECORD)

7 MR. WRIGHT: Board members, into
8 the record, on October 20th, Lexco Manufacturing
9 was sent a registered mail by us that said, "Your
10 request for an appeal hearing regarding a notice
11 of violation dated July 13, 2006 which was issued,
12 has been granted. Please appear before the
13 Mechanical Board at its meeting on Wednesday,
14 November 1, 2006 at 9:00 a.m. at the Rhode Island
15 Department of Labor & Training, Division of
16 Professional Regulations. If you fail to appear
17 at this hearing, it will be conducted in your
18 absence. Sincerely Ron D'Ambruoso,
19 Administrator."

20 MR. CRONIN: It looks to me like
21 you do have a return receipt right there.

22 MR. WRIGHT: I do.

23 MR. CRONIN: For the record --

24 MR. WRIGHT: Just so you know,

0044

1 I'll read Pat's violation, what he wrote to me.

2 It was back on July 5, '06. Lexco, he found those

3 two persons that were mentioned in the violation,
4 Thomas Geving and Carlos Cordova, working at
5 General Cable, 3 Carol Drive in Lincoln. Neither
6 of them had licenses when he checked it.

7 And they were piping off water feeders
8 to the boilers, three-inch water feeders going to
9 boilers there. We just wanted to read it into the
10 record.

11 MR. WEBSTER: Just to get it
12 straight, did they ask for a continuance or a
13 postponement?

14 MR. WRIGHT: I don't have
15 anything, no.

16 MR. JANUARIO: These two people
17 had no licenses at all?

18 MR. WRIGHT: None at all.

19 MR. JANUARIO: No mechanical
20 license at all?

21 MR. WRIGHT: No.

22 MR. DAVIES: All right, gentlemen,
23 hearing the reports and reading from Mr. Luther
24 and Mr. Whittaker and Mr. Wright, do we have a

0045

1 violation on 2823?

2 MR. JANUARIO: I'd like to make a
3 motion on Violation 2823, RIGL 28-27-28, that they

4 did violate the RIGL 28-27-28.

5 MR. WEBSTER: Second.

6 MR. DAVIES: All those in favor?

7 Now, on the fine, do we have a violation on 2823,
8 upholding the fine?

9 MR. JANUARIO: I'd like to make a
10 motion for Violation 2823 that we uphold the fine
11 of \$1,000 per RIGL 28-27-24.

12 MR. DAVIES: Do I have a second?

13 MR. WEBSTER: Second.

14 MR. DAVIES: All those in favor?

15 We'll close the hearings at this point.

16 (HEARINGS ADJOURNED)

17

18

19

20

21

22

23

24

0046

1 CERTIFICATE

2

3

4

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 18th day of November, 2006.

13

14

15

16

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

18 MY COMMISSION EXPIRES NOVEMBER 2, 2008.

19

20

21

22

23

24

0047

1 (REGULAR MEETING COMMENCED AT 10:05 A.M.)

2 MR. DAVIES: And we'll open the

3 meeting. Has everyone here had a chance to read

4 the minutes of the last meeting?

5 **MR. WRIGHT:** What you have in
6 there is the note I gave to Lisa about what was to
7 go on for the next meeting. We do have, and I
8 just got it from the stenographer, from them, so
9 if you do want to review the minutes, you can do
10 so. I didn't have time to get those out, copied
11 and get them in your packets. But the items that
12 I give to Lisa, that's generally what occurred.

13 **MR. DAVIES:** Can I have a motion?

14 **MR. JANUARIO:** Motion to accept
15 the minutes from the last month's meeting.

16 **MR. DAVIES:** Second.

17 **MR. WEBSTER:** Second.

18 **MR. DAVIES:** All those in favor?

19 **MR. WRIGHT:** Board members, go
20 into your packet now. The next page after Lisa,
21 my note to Lisa, the first one; is anybody here
22 from Kessler Sheet Metal?

23 These first two that I want to make you
24 aware of, are people asking the board, which I've

0048

1 notified them to be here, asking for the board's
2 assistance under the law that says if you have
3 past experience. Mr. Kessler is not here. So I
4 don't -- both these people were told to be here.
5 They're not here. Cliff Whiting from Providence

6 has other information on the Kessler one, but if
7 Mr. Kessler is not here, there's no sense in us
8 moving forward and we'll just take that under
9 advisement. If you would like to take and address
10 the board on that?

11 MR. WHITING: Can I say something?
12 I have something personal. First of all, I really
13 didn't appreciate being yelled at. Excuse me one
14 second. One, I thought the board -- I just have
15 to say it, because I'm very respectful, I made a
16 mistake and gave a one word answer and just the
17 fact that somebody said, "do you understand," that
18 bothered me, that being said. That and I don't
19 think it was called for.

20 MR. LOMBARDI: It wasn't addressed
21 to you.

22 MR. WHITING: I just have to say
23 it. I'd rather say it than keep it inside me.

24 MR. LOMBARDI: It wasn't addressed

0049

1 to you, it was just addressed to everyone.

2 MR. WHITING: Because that's the
3 first time I've ever said something that was a
4 mistake. I don't understand the procedure. It
5 won't happen again, but I really don't appreciate
6 when somebody yells.

7 MR. LOMBARDI: It wasn't intended
8 to you.

9 MR. WHITING: That being said.

10 Kessler, I have compassion that his father died.
11 It's not that I'm trying to get him in trouble,
12 but I was faxed a copy of his father's license
13 yesterday and we're having trouble with people
14 that don't want to sign the permit in my person
15 and I also have a copy of his death in June.

16 So the man died in June and I got a copy
17 of his license and people want to continually come
18 in and have a messenger bring in licenses. So I
19 just want to bring it up and make sure. This is
20 the reason why you can't do it.

21 MR. WRIGHT: Board members, that
22 was why I got a hold of Mr. Kessler, to talk to
23 him about this. Under our law, we do have
24 compassion and we do give a certain amount of time
0050

1 under our law to correct their licensing problems.
2 That's why I informed Steve Gergel to be here,
3 because if he wants to correct his licensing
4 problem, he would have to be in before us to
5 correct it.

6 MR. WHITING: He wasn't asking to
7 do nothing wrong, because he come into my office

8 and I explained that --

9 MR. WRIGHT: See, that's one

10 issue --

11 MR. WHITING: It's the fact that

12 he sent it --

13 MR. WRIGHT: It's two separate

14 issues. One is that he's using his father's

15 license, and that's going to be another issue

16 we'll address as investigators. The thing is that

17 he sent me a letter asking to address the board

18 and he's not here. So there's nothing I can do.

19 We're going to have to address the issue as

20 investigators because he can't be using his

21 father's license.

22 MR. WHITING: I don't think he was

23 trying with me. I just wanted to make --

24 MR. WRIGHT: It's just not going

0051

1 to occur.

2 MR. WHITING: People have to sign

3 the permit in person, and this is why they have to

4 sign in person.

5 MR. WRIGHT: That's another issue

6 that's ongoing with the State Building

7 Commissioner's Office. The second guy is

8 Streamline Plumbing & Heating, and personally

9 after reading his letter, he has the right to
10 address the board, but again, he's not here.

11 So you can read what he put down, I'm
12 sure that you'll find it amusing, mainly because
13 he said he worked in Rhode Island, could be he's
14 under violation if I knew where he worked.

15 The third issue, this one is the more
16 involved one. I would like you to read the next
17 letter that's in there. I know you haven't had
18 time to so you're going to need to read this
19 letter that comes from Joanie Ryan, and Mrs. Ryan
20 is here to address the board also. This is
21 talking about problems ongoing.

22 (OFF THE RECORD)

23 MR. WRIGHT: When you're ready,
24 board members, let me know. Mrs. Ryan is here and
0052

1 she would like to address the board.

2 MS. RYAN: It's regarding Peter
3 Bibby, who has been a licensed contractor. I had
4 originally hired him to do my heating and plumbing
5 portion of my job. And come to find out, he had
6 no plumbing license at the time. And I was under
7 the representation that he had a plumbing license.

8 He started the work and then decided to
9 do the construction portion and I agreed based on

10 his figures and numbers. Besides him doing very
11 poor workmanship, he decided about two months
12 before my house was supposed to be turned over to
13 me and everything was just roughed out, that he
14 needed \$20,000 more dollars before he could
15 continue on with my job.

16 He tried to get me to sign a lien for my
17 house, to ask me to take a second mortgage, asked
18 me to sign a promissory note. He could come up
19 with no figures, and since then he's stopped doing
20 the work, he would come back to my house and would
21 take property off of my house. He stole equipment
22 that I had purchased and continued to harass me.

23 I had to put a restraining order on him.

24 He continues to drive by, follows me in my car and
0053

1 because it's a Superior Court matter, it's not a
2 domestic, I keep requesting something be done
3 about it. Finally, he was fined.

4 I went before the Contractor's Board.

5 He was found in negligence of his workmanship. He
6 was also fined for his contract and he's since
7 lost his license. The only license he holds right
8 now is a heating and cooling license.

9 I've spoken to numerous people that he
10 has had contracts with and they too have been

11 taken for money, various amounts and I've gone
12 through the Attorney General's Office, they keep
13 saying that it's the Department of Labor.

14 I've been down here twice to see Charlie
15 and a few other people to get to the bottom. He
16 continuously violates the order and when I found
17 out, when I did my restraining order that this
18 gentleman has felonies for various things of
19 taking money under false pretense, bad check
20 writing, domestic assault, possession; I
21 questioned myself, homeowners are bringing these
22 people into our homes, trusting them being
23 licensed, and they're felons.

24 He's a continuing felon. He

0054

1 continuously goes wrong. Citizens Bank has an
2 issue with him right now. I have an attorney that
3 I've had to hire. But will I ever recoup my
4 money? No. If anybody can be saved from this
5 heartache that my family has gone through, this
6 supposed licensed contractor, I hope you would
7 consider taking his license away.

8 MR. WRIGHT: That's Mrs. Ryan.

9 Board members, I want you next to listen to
10 Mr. Whiting from Providence.

11 MR. WHITING: I have a hard time

12 with this because I'm a code official and
13 inspector. So I have to keep my feelings separate
14 and make sure I'm not being vindictive. I'm
15 getting numerous complaints. I personally know
16 because he gave a building official a bad check.

17 And what happened was, I was with them,
18 the Cranston Police, bluffed and called up and
19 said, "There's a felony warrant out for your
20 arrest." And he goes, "I didn't receive the
21 letter." He knew instantly that he needs a
22 letter. He wrote it on an account that didn't
23 exist.

24 My brother is a police officer. There's

0055

1 currently a felony arrest warrant for him from
2 Plainville for a bad check.

3 I have a job here on Broad Street which
4 I visited. The lady give him \$39,000. I have
5 copies of the cancelled check. He never took a
6 permit out. She's going to the attorney general
7 today. She called me last night. And like
8 Mrs. Ryan, they're all doing the same thing.
9 They're hoping upon hope that they didn't get
10 taken and they keep giving more money.

11 And this guy has been harassing this
12 lady on Broad Street too. I have her, and she

13 said she'd be willing to go before the board.
14 Just in the last week, he's taken out three
15 permits after the fact. I have a copy of -- not
16 only that, he's gone downhill. I mean, I don't
17 know what to do.

18 I, myself, have called the attorney
19 general. I, myself, have talked to the board. I
20 don't know what else to do. I'm thinking -- it's
21 none of my business in a way, but he's using his
22 license to steal.

23 I just want to give just an example, and
24 I realize there's a fine line between being civil,
0056

1 that's why I have to be careful, but he's asking
2 me to go on a job. I go on the job, there's an
3 apartment in the basement, which he knows you
4 can't. He's got a flue pipe from here to here,
5 he's got thread protected couplings, he's got the
6 old gas valves, he's got warm air fittings on the
7 flue, he's got sheet rock screws in the flue, hold
8 in the flue, the draft diverter's cut, and he's
9 asking for an inspection.

10 And I know this doesn't matter, but he
11 charged them \$1,200 and did nothing. This is an
12 ongoing thing. Every single day we get permits
13 from him for the gas, to turn them back on. It's

14 just an embarrassment. He's using his license to
15 steal. I realize this is civil, but it gets to a
16 point where -- I mean, I got nine complaints from
17 \$5,000, \$45,000, bad checks.

18 MR. WRIGHT: Let me jump back in
19 now. This has been ongoing with myself also with
20 him. He has outstanding violations with this
21 department right now. We've got on 1542 Broad
22 Street for \$950, we've got one at 108 Althea for
23 \$2850, we've got another one here. We've got
24 Sassafras Street for \$950, we've got Dexter Street
0057

1 for \$1,000. These are still outstanding fines,
2 without getting the rest of these that he's about
3 to hand me.

4 MR. CRONIN: Outstanding fines
5 from where?

6 MR. WRIGHT: For no permit,
7 unlicensed people.

8 MR. CRONIN: Outstanding?

9 MR. WRIGHT: Mostly for no permit,
10 unlicensed people.

11 MR. CRONIN: From us?

12 MR. WRIGHT: Yes, from us.

13 MR. RYAN: He was also supposed to
14 be fined with plumbing.

15 **MR. WRIGHT:** There's other
16 violations with plumbing, but that doesn't pertain
17 to this board. You can make the board aware of
18 it, there are other violations.

19 Board members, if you would open up your
20 book, I'm going to have you -- bring you up to
21 date on the law. In particular, go to page 16 and
22 17. Go to page 16 first. Going to have to bear
23 with me a couple of minutes with this.

24 Under 28-27-21, entitled "Grounds for
0058

1 revocation of license," in particular I want you
2 to go to the next page, page 5, No. 5 under that
3 law, "Being convicted of a felony as provided in
4 this chapter." It's a very short sentence,
5 addresses what's going on.

6 Just so you'll know, I've received from
7 the Attorney General's Office his BCI. I have the
8 BCI. There's numerous felony convictions that's
9 outstanding here. He's been in jail a few times
10 for felony. There is an outstanding felony
11 warrant for him in Massachusetts at this moment.
12 Ted's been around with this with me too, and it's
13 been an ongoing thing. We have to help these
14 people somehow.

15 **MR. JANUARIO:** How long has he

16 held a license for?

17 MR. WRIGHT: He lost it for a
18 while because he was incarcerated.

19 MR. WEBSTER: He had a license and
20 then he was convicted of a felony?

21 MR. WRIGHT: He appealed that to
22 the director at the time, who informed us that we
23 gave him his license back. This was quite a few
24 years ago, wasn't it, Ted?

0059

1 MR. WHITTAKER: The determination
2 at the time was that the gentleman served his
3 sentence and as far as the state was concerned, he
4 was eligible to go back into the trade. Even
5 though the statute does say if you're a convicted
6 felon, you cannot hold a license.

7 The situation with Mr. Bibby does go
8 back 10 or 15 years. It's just gotten worse
9 lately. He has the ability to speak Spanish
10 fluently, so within the inner city, he's doing
11 installations on people that speak Spanish and
12 he's somewhat intimidating, he can be.

13 So unfortunately the track record has
14 not been good the last couple of years where he's
15 been taking payments for installations and not
16 following through. There's a number of cases

17 we're involved in, but there's a young lady in the
18 Providence area that he put a boiler in and
19 refused the final hookup, he was looking for more
20 money.

21 This young lady had a young son at
22 Hasbro Hospital. They would not release that
23 young man to go home until the heat was on. He
24 was hanging that over this lady's head. "I need
0060

1 more money before I put the heat on. I know you
2 can't get the kid home."

3 We did meet with Mr. Bibby on that job,
4 along with a Providence inspector, and before the
5 afternoon was over, the heat was on. So this is
6 the type of character you're dealing with.

7 MR. JANUARIO: Which license does
8 he hold?

9 MR. WRIGHT: He holds a pipefitter
10 master one and refrigeration master one. Now,
11 going to the next section, 28-27-22, is the
12 "Procedure for revocation."

13 Because he has outstanding violations
14 that aren't paid, and because we have a written
15 request and because of the fact that we now know
16 of felony convictions, we have enough to take and
17 have him come in here for a hearing.

18 So under the law, we have to "Upon the
19 filing of a verified complaint, the department
20 shall promptly set a date for the hearing of the
21 charges, which shall be held in the city of
22 Providence," but in this case it will be held
23 here, "the department shall forward promptly by
24 registered certified mail to the licensee charged
0061

1 in the complaint, a true and honest copy of the
2 complaint and notification of the time and place."

3 That will be our first thing to do.

4 Then we're just going to -- what I think we might
5 want to do is have a special meeting of the board
6 for this because I want to do the full board
7 quorum.

8 MR. LOMBARDI: As long as you give
9 him notice to attend the meeting, regular or
10 special meeting date, to have this, to hear this
11 matter. And then the board can give him the
12 opportunity to be heard, that's due process, and
13 then the board can make a ruling on whether or not
14 his license should be revoked, based upon the
15 facts.

16 MR. WRIGHT: Now, in the
17 department here, because he hasn't paid fines, we
18 will not review his license. That's an automatic

19 thing. So regardless of anything else, we have
20 two situations that are running. I don't know
21 when his --

22 MR. DAVIES: I was going to ask
23 you when is the date, any idea?

24 MR. WRIGHT: January. His renewal
0062

1 is in January. So that will be coming up, and
2 until the fines are paid, all fines paid, he
3 wouldn't be able to renew a license.

4 That's going to be running also, but we
5 do have to do both things because a verified
6 complaint has been entered in and we have to act
7 on it.

8 MR. DAVIES: Is it too late to get
9 a hearing for December?

10 MR. WRIGHT: No.

11 MR. WHITING: You'll have to send
12 the letter to notify, I know he's thrown out of
13 his house and his wife has a restraining order, so
14 I think you'd have to send it the business.

15 MR. WRIGHT: I don't have the
16 business.

17 MS. RYAN: His business address is
18 the same.

19 MR. WHITING: I know he's thrown

20 out of the house, there's a restraining order from
21 his wife. He's not answering his phone now
22 because of the Providence situation for that
23 \$39,000.

24 MR. CRONIN: Well, listening to

0063

1 this, being on this board, we'll have to attend a
2 workshop. It seems to be getting, even early on
3 with the pictures and everything, I don't think
4 that's what this board is supposed to be, but I'm
5 going to say that anyway.

6 MR. WEBSTER: Civil.

7 MR. CRONIN: It seems like we're
8 allowing things, but this seems very serious.
9 What I'm suggesting is whatever we do, we should
10 do it right the first time. If you're looking for
11 motion to call for a meeting for December to bring
12 him in for all these violations, then let's do
13 that if that's the legal terminology we need
14 because we want to do it the right way.

15 Like Val said, there's due process, I
16 don't want to do something and say, shit, we
17 should have. So he may respond, so we want to get
18 him in here to answer some of these charges.

19 MR. WRIGHT: Ron, just to assure
20 you, everything I do I'm going to run by legal

21 first to make sure we do it by the book.

22 MR. CRONIN: Are we looking for a
23 motion to have a meeting in December?

24 MR. DAVIES: Do I have a motion on
0064

1 that?

2 MR. WEBSTER: Past violations, or
3 is it revocation?

4 MR. WRIGHT: Revocation.

5 MR. CRONIN: To take away his
6 license.

7 MR. JANUARIO: Second.

8 MR. DAVIES: All those in favor?

9 MR. WRIGHT: We'll work on the
10 date and stuff. You're going to have to bear with
11 us on that, as far as the meeting date will be.

12 The next thing, there is an ongoing
13 problem with the Attorney General's Office. One
14 of the things we get, Ted and I get complaints in
15 to the board here. We can't act on monetary
16 complaints, we can't act on jobs not being done
17 according to code. We can act on no permit, no
18 license. That's what we act on here as
19 investigators.

20 A problem has come up since then.

21 Talking to Mr. Murray at the Attorney General's

22 Office who I had talk to our legal, and I need Val
23 to address you guys about this problem that's come
24 up that Ted and I have to consider now. Val?

0065

1 MR. LOMBARDI: It seems to me that
2 the way the law is written with regard to not our
3 law regards to this board or the boards that the
4 department has, but the way the law is written
5 with the regard to the Consumer division of the
6 Attorney General's Office is that if an agency,
7 whether it be the Department of Halth, Department
8 of Labor & Training or Environmental Management
9 has jurisdiction over a case, that the Attorney
10 General's Office Consumer Affairs can't look into
11 those cases.

12 That's the way the law is written.
13 They're excluded. And so right now what happens
14 in cases where the board has determined that
15 somebody has worked without a license or didn't
16 have a permit and fines them, that's where it ends
17 for us.

18 And if the people have civil complaints,
19 we've told them to go to the Attorney General's
20 Office, but unfortunately the attorney general
21 does not have the jurisdiction. The court has
22 ruled that they don't have jurisdiction over these

23 cases because the individual agencies have.

24 So unless the law is changed, and that's

0066

1 what would have to be done, then some of these
2 people like the woman who was here earlier today,
3 but of course she has an attorney and her damages
4 are excessive, so she will be suing him civilly,
5 there's no question about that, her attorney told
6 me, but people who have small damages, maybe a few
7 hundred dollars, that we would refer to the
8 attorney general.

9 We cannot refer them to the attorney
10 general. We can only tell them they have a right
11 to take civil action on their own against the
12 individual. That's the problem that's being
13 faced. And the Attorney General's Office did send
14 me some information where a memorandum that they
15 wrote to the Superior Court on a case involving --
16 it's not only our boards, a board of dentistry,
17 Board of Examiners of Dentistry, the Department of
18 Health had the same problem.

19 An individual, they wanted to enforce
20 something against this consumer, fraud against
21 this dentist, but because it had been -- because
22 the Department of Health has jurisdiction over the
23 licenses, they could not -- and took action

24 against the person's license -- they could not

0067

1 enforce it against -- the consumer's rights

2 against the violator. That's the problem.

3 MR. WRIGHT: So you can see where

4 Ted and I are left with this now. We have to do

5 our job, which means if a complaint comes in about

6 licensing or a permit, we have to issue a

7 violation. The minute we do that, we've taken

8 these poor people -- they can't get redress now

9 through the AG's office on consumer affairs.

10 MR. JANUARIO: The alternative

11 would be not to take action or refer them to the

12 attorney general; how do you do that?

13 MR. WRIGHT: We can't do that.

14 That's our job. We have to do that.

15 MR. LOMBARDI: The ideal solution

16 is to have the law changed.

17 MR. WRIGHT: Mr. Murray over there

18 who is the head of that department and he talked

19 to Val, said it's absolutely ludicrous this

20 problem. But can't do anything because of the way

21 the law reads and a judge will uphold that. I

22 want to make you aware of that. This all happened

23 in the last week.

24 MR. WEBSTER: Does that subject

0068

1 the board to further legal if we make a decision
2 on it?

3 MR. WRIGHT: No. It's more that
4 the attorney general's have to fix their law or we
5 have to do something about it.

6 MR. LOMBARDI: We can ask the
7 people to talk to their representatives and
8 senators to help push a bill like this through.
9 That's all we can do. And support the Attorney
10 General's Office in their pursuit of that bill.

11 MR. WRIGHT: We want to keep money
12 things that way. We don't want to be involved in
13 that areas. That's not a good area for us. We
14 don't have the authorization. We shouldn't be in
15 that area, but we've got to take whatever the
16 Attorney General's Office comes up with. They
17 have to be pushed to do it. That's the next
18 thing.

19 And I want to thank you for coming in.
20 We're going to address this. You know what we're
21 going to do now. Good luck to you.

22 MS. RYAN: I appreciate it. Thank
23 you, all of you.

24 MR. WRIGHT: Next thing is the

0069

1 rules and regulations. We've done some extensive
2 work on them because there is a public hearing
3 coming up and we're requested by the administrator
4 to get these things done. They're in front of
5 you. What I'm probably -- is it too much to ask
6 to read them now and get something going on this?

7 MR. LOMBARDI: No, not now.

8 MR. WRIGHT: I can't ask you to
9 read these now. So, listen, take them with you.
10 We'll send the other board members copies that
11 aren't here. And I'd like your comments no later
12 than the December meeting, December 6th.

13 MR. JANUARIO: The changes are in
14 bold and underlined?

15 MR. WRIGHT: Yes. Where there's a
16 line through it, that's wording that's deleted.
17 Take your time, read through it. A lot of
18 corrections had to be done. Quite extensive. So,
19 read through them.

20 MR. DAVIES: Is there any other
21 business?

22 MR. WEBSTER: Motion.

23 MR. JANUARIO: Motion to adjourn.

24 MR. WEBSTER: Second.

0070

1 (ADJOURNED AT 10:40 A.M.)

2

* * * * *

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24