

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
MECHANICAL BOARD**

1511 Pontiac Avenue, Bldg 70, 2nd Floor Conference Room

Cranston, RI 02920

Wednesday, August 5, 2015

In attendance:

Dennis Brennan

Timothy Byrne

Stanley Davies, (Chair)

Michael Januario

Jack King

Quinlan T. Regan

Charles Wright

Board Members Robert J. Eva, Fred Foeri, Steven Gray and Bobby Joe Harris were not in attendance.

Also in attendance were Nicholas Ranone, Chief Mechanical Investigator; John Shaw, Administrator; and Valentino Lombardi, DLT Legal Counsel.

1.) Call to Order: Chair, Stanley Davies called the meeting to order at

9:16am.

2.) Minutes of the June 3, 2015 Meeting: Charles Wright made a motion to accept the minutes of June 3, 2015 meeting as presented; seconded by Quinlan T. Regan and passed unanimously by the Board.

3.) Conflict of Interest – Legal Counsel will address the Board concerning compliance with conflict of interest requirements: Val Lombardi, DLT Legal Counsel, reminds board members that they are subject to the RI conflict of interest laws and of their responsibility to disclose conflicts of interest, financial or otherwise, and should recuse from hearing and voting on the matter. Legal Counsel is available for any questions.

4.) Violation Appeal Hearings:

Bryan J. Borzell, AES Chimney – Violation 5073: Nicholas Ranone, DLT Chief Mechanical Investigator, and Bryan Borzell, CEO of AES Chimney are sworn in for testimony. Mr. Ranone reads the violation.

Location of Violation: Robin L. Daggett, 68 Cedar St., Coventry, RI 02816

VIOLATION: On 2-16-2015, I, Nicholas Ranone, Chief Mechanical

Investigator, received a complaint from Ms. Robin L. Daggett, against AES Chimney, Mr. Bryan Borzell, for the installation of one (1) stainless steel chimney liner that was installed at the above mentioned location by two (2) employees of AES Chimney. After visiting with the Mrs. Daggett on 2-18-15, I viewed the work that was done, obtained a copy of the invoice from AES Chimney, stating the work that was done, obtained a copy of the cancelled check that was written to and deposited by AES Chimney and received a written witness statement confirming that two (2) employees of AES Chimney did in fact install the chimney liner. After speaking with Mr. Borzell, he did admit that he himself, and one of his "helpers" did do the entire install. This is one (1) violation of RIGL 28-27-6 Corporations and firms engaged in business (paragraph 2, Section b, unlicensed employees).

Also, no permit was issued from the Town of Coventry for this installation. This is one (1) violation of RIGL 28-27-20 State and municipal inspections and installation permits.

Two (2) violations at \$1,500.00 each. Total \$3,000.00.

The Board questions Mr. Ranone. Bryan Borzell provides testimony and is questioned by the Board. A photograph and invoice sheet is entered as Exhibit A. Testimony and questioning continued.

Regarding Violation 5073, Charles Wright made a motion that a

violation of RIGL 28-27-20 State and municipal inspections and installation permits and RIGL 28-27-6 Corporations and firms engaged in business did occur; seconded by Dennis Brennan and passed unanimously by the Board.

Regarding the penalty, Charles Wright made a motion that the fine of \$3,000.00 be upheld; seconded by Dennis Brennan and Quinlan T. Regan and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

***Testimony for Violations 5120, Scott R. Gauthier; Violation 5121, Michael R. Dubeau, Victory Heating & Air Conditioning Co., Inc.; Violation 5122, Matthew R. Beaupre; and Violation 5123, Gary J. Tsacoyianis, is heard collectively as they all relate to the same incident.**

Michael Dubeau, Scott Gautier, Matthew Beaupre and Gary Tsacoyianis are sworn in for testimony. Nick Ranone was previously sworn.

Nick Ranone reads Violations 5120, 5121, 5122 and 5123. Mr. Ranone is questioned by the Board.

Michael Dubeau provides testimony and is questioned by the board.

Scott R. Gauthier – Violation 5120:

Location of Violation: Heatherwood Health Care Center, 398 Bellevue Ave., Newport, RI 02840

Violation: On 4-17-2015, I, Nicholas Ranone, Chief Mechanical Investigator, noticed four (4) Victory Heating & Air Conditioning Co. vehicles in the parking lot of the above mentioned location. After entering the building I approached four (4) employees of Victory Heating & Air Co. One of the employees, Mr. Scott R. Gauthier, admitted to helping with the installation of one (1) combination gas fired roof top HVAC unit, which consisted of installing the condensate drain piping and helping with the gas piping to the unit. Mr. Gauthier does hold a valid RI Master Plumber license (MP003458) which would allow him to install the condensate drain piping, but he does not hold any RI Pipefitter's license which would allow him to engage in the gas piping.

This is one (1) violation of RIGL 28-27-28 Practices for which a license is required.

Regarding Violation 5120, Tim Byrne made a motion that a violation of RIGL 28-27-28 Practices for which a license is required did occur; seconded by Charles Wright and passed unanimously by the Board.

Regarding the penalty for Violation 5120, Tim Byrne made a motion that the fine of \$1,500.00 be upheld; seconded by Quinlan T. Regan and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

**Michael R. Dubeau, Victory Heating & Air Conditioning Co., Inc. –
Violation 5121:**

**LOCATION OF VIOLATION: Heatherwood Health Care Ctr., 398
Bellevue Ave., Newport, RI 02840**

VIOLATION: On 4-17-2015, I, Nicholas Ranone, Chief Mechanical Investigator, noticed four (4) Victory Heating & Air Conditioning Co. vehicles in the parking lot of the above mentioned location. After entering the building I approached four (4) employees of Victory Heating & Air Co, Mr. Gary J. Tsacoyianis, Mr. Scott R. Gauthier, Mr. Mathew R. Beaupre and Mr. Kenneth M. Budnick. It was stated to me that an old roof top HVAC unit was replaced by a new combination gas fired roof top unit. Mr. Tsacoyianis and Mr. Gauthier admitted to engaging in the gas piping to the unit. Mr. Tsacoyianis and Mr. Gauthier do not hold any RI Pipefitter's license which would allow them to engage in gas piping. Mr. Beaupre admitted to helping with the rigging of the new HVAC unit. Mr. Beaupre does not hold any RI

Refrigeration or Pipefitter's license which would allow him to engage in the rigging of the unit. Mr. Budnick is a RI licensed electrician and stated he was only involved in the wiring of the HVAC units.

This is one (1) violation of RIGL 28-27-6 Corporations and firms engaged in business (paragraph 2, section b, unlicensed employees.)

Regarding Violation 5121, Tim Byrne made a motion that a violation of RIGL 28-27-6 Corporations and firms engaged in business did occur based on testimony and exhibits provided; seconded by Charles Wright and passed unanimously by the Board.

Regarding the penalty for Violation 5121, Tim Byrne made a motion that the fine of \$1,500.00 be upheld; seconded by Quinlan T. Regan and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

Matthew R. Beaupre – Violation 5122:

Location of Violation: Heatherwood Health Care Center, 398 Bellevue Ave., Newport, RI 02840

Violation: On 4-17-2015, I, Nicholas Ranone, Chief Mechanical Investigator, noticed four (4) Victory Heating & Air Conditioning Co.

vehicles in the parking lot of the above mentioned location. After entering the building I approached four (4) employees of Victory Heating & Air Co. One of the employees, Mr. Matthew R. Beaupre, admitted to helping with the installation of one (1) combination gas fired roof top HVAC unit, which consisted of engaging in the rigging of the new unit in place. Mr. Beaupre does not hold any RI Refrigeration license nor is he a RI registered apprentice which would allow him to rig and set this HVAC unit.

This is one (1) violation of RIGL 28-27-28 Practices for which a license is required.

Regarding Violation 5122, Charles Wright made a motion that a violation of RIGL 28-27-28 Practices for which a license is required did occur; seconded by Timothy Byrne. There is discussion. Nick Ranone provides additional testimony.

Charles Wright made a motion to reopen discussion on Violation 5122 Matthew Beaupre Beaupre; seconded by Michael Januario and passed unanimously by the Board. The matter is reopened.

Matthew Beaupre provides testimony and is questioned by the Board.

After discussion, there was a roll call vote: Quinlan T. Regan, violation occurred; Charles Wright, violation did not occur; Jack King, violation did not occur; Dennis Brennan, violation did not occur;

Michael Januario, violation did not occur; Timothy Byrne, violation did not occur. With five (5) votes that a violation did not occur and one (1) vote that a violation did occur , therefore, the motion that a violation did occur fails.

The recommendation will be forwarded to the Director.

Gary J. Tsacoyianis – Violation 5123:

Location of Violation: Heatherwood Health Care Center, 398 Bellevue Ave., Newport, RI 02840

Violation: On 4-17-2015, I, Nicholas Ranone, Chief Mechanical Investigator, noticed four (4) Victory Heating & Air Conditioning Co. vehicles in the parking lot of the above mentioned location. After entering the building I approached four (4) employees of Victory Heating & Air Co. One of the employees, Mr. Gary J. Tsacoyianis, admitted to helping with the installation of one (1) combination gas fired roof top HVAC unit, which consisted of disconnecting and removing the old HVAC unit and rigging the new unit in place. Mr. Tsacoyianis also admitted to installing the gas piping to this particular unit. Mr. Tsacoyianis does hold a valid RI Refrigeration Journey 1 license, which would allow him to rig and set this HVAC unit, but he does not hold any RI Pipefitter's license which would allow him to engage in the gas piping.

This is one (1) violation of RIGL 28-27-28 Practices for which a license is required.

Regarding Violation 5123, Charles Wright made a motion that a violation of RIGL 28-27-28 Practices for which a license is required did occur; seconded by Dennis Brennan and passed unanimously by the Board.

Regarding the penalty, Charles Wright made a motion the penalty be imposed; seconded by Quinlan T. Regan.

Dennis Brennan made a motion to reopen the matter for discussion; seconded by Timothy Byrne and passed unanimously by the Board. The matter is reopened for discussion.

Scott Gauthier, Gary Tsacoyianis, Nick Ranone and Michael Dubeau provide additional testimony.

At 10:18am, Chair Stanley Davies is excused and Timothy Byrne assumes the roll of Chair in his absence.

The motion to impose the fine was previously made and seconded; Tim Byrne moves the vote be taken. All were opposed. No fine imposed.

The recommendation will be forwarded to the Director.

Mr. Davies returns at approximately 10:23am and resumes as Chair.

***Testimony for Violation 5124 Michael R. Dubeau, Victory Heating & Air Conditioning, Co., Inc. and Violation 5125 Scott R. Gauthier is heard collectively as they relate to the same incident.**

Parties were previously sworn.

Nicholas Ranone reads the violations and submits three (3) photographs of the gas piping on the roof into evidence for Violations 5124 and 5125 marked Exhibit A. Mr. Ranone is questioned by the Board

Michael R. Dubeau – Victory Heating & Air Conditioning Co., Inc. – Violation 5124:

Location of Violation: Orchard View Manor, 135 Tripps Lane, East Providence, RI 02915

Violation: On 4-20-2015, I, Nicholas Ranone, Chief Mechanical Investigator, made a site visit to the above mentioned location. After entering the building I approached Mr. Scott R. Gauthier, an employee

of Victory Heating & Air Conditioning Co. Mr. Gauthier admitted to installing some gas piping to the roof top HVAC units. Mr. Gauthier does hold a valid RI Master Plumber's license (MP003458) which does not allow him to install gas piping. He would need to hold a RI Pipefitter's license to engage in any gas piping work.

This is one (1) violation of RIGL 28-27-6 Corporations and firms engaged in business (paragraph 2, section b, unlicensed employees).

Michael R. Dubeau addressed the Board that he appealed arguing double jeopardy, as in Violation 5121. That argument was not upheld.

Mr. Dubeau sees no reason to continue the appeal and does not contest.

Charles Wright made a motion that Mr. Michael Dubeau be allowed to withdraw his appeal at this time relative to Violation 5124; seconded by Michael Januario and passed unanimously by the Board. The appeal is withdrawn.

Scott R. Gauthier – Violation 5125:

Location of Violation: Orchard View Manor, 135 Tripps Lane, East Providence, RI 02915

Violation: On 4-20-2015, I, Nicholas Ranone, Chief Mechanical

Investigator, made a site visit to the above mentioned location. After entering the building I approached Mr. Scott R. Gauthier, an employee of Victory Heating & Air Conditioning Co. Mr. Gauthier admitted to installing some gas piping to the roof top HVAC units. Mr. Gauthier does hold a valid RI Master Plumber license (MP003458) which does not allow him to install gas piping. He would need to hold a RI Pipefitter's license to engage in any gas piping work.

This is one (1) violation of RIGL 28-27-28 Practices for which a license is required.

Regarding Violation 5125 Scott R. Gauthier, Charles Wright made a motion that a violation of RIGL 28-27-28 Practices for which a license is required be upheld; seconded by Dennis Brennan and passed unanimously by the Board.

Regarding the penalty for Violation 5125, Charles Wright made a motion that the penalty per RIGL 28-27-24 of \$1,500.00 be upheld; seconded by Timothy Byrne and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

***Testimony for Violation 5143 Ismail Ouldsfiya, TempTec Mechanical and Violation 5144 Mynor Portillo is heard collectively as they relate to the same incident.**

Ismail Ouldsfiya – TempTec Mechanical and Mynro Portillo do not appear.

Nick Ranone was previously sworn. Mr. Ranone confirms notice of the hearing was sent to respondents.

Timothy Byrne made a motion to continue with the hearings with the clarification that parties have been properly notified; seconded by Charles Wright and passed unanimously by the Board. The hearings continue.

Nicholas Ranone reads the violations 5143 and 5144. Mr. Ranone submits four (4) photographs (scissor lift, units, ductwork and individuals present) as evidence for Violation 5143 and Violation 5144, marked Exhibit A. Mr. Ranone is questioned by the Board.

Ismail Ouldsfiya, TempTec Mechanical – Violation 5143:

Location of Violation: Panera Bread, Sockonosett Rd., Cranston, RI 02920

Violation: On 4-24-2015, I, Nicholas Ranone, Chief Mechanical Investigator, made a site visit to Panera Bread and witnessed Mr. Mynor Portillo, an employee of TempTec Mechanical, located on a scissor lift taking measurements for the installation of duct work at

the above mentioned location. Mr. Portillo did confess to helping engage with the duct work installation. Mr. Portillo does not hold any RI sheet metal license nor is he a registered apprentice with the State of RI which would allow him to engage in this type of work.

This is one (1) violation of RIGL 28-27-6 Corporations and firms engaged in business (paragraph 2, section b, unlicensed employees).

Regarding Violation 5143, Charles Wright made a motion that a violation did occur of RIGL 28-27-6 Corporations and firms engaged in business; seconded by Jack King and Quinlan T. Regan and passed unanimously by the Board.

Regarding the penalty for Violation 5143, Charles Wright made a motion the penalty per RIGL 28-27-24 of \$1,500.00 be upheld; seconded by Quinlan T. Regan and Dennis Brennan and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

Mynor Portillo – Violation 5144:

Location of Violation: Panera Bread, Sockonosett Rd., Cranston, RI 02920

Violation: On 4-24-2015, I, Nicholas Ranone, Chief Mechanical Investigator, made a site visit to Panera Bread and witnessed Mr. Mynor Portillo, an employee of TempTec Mechanical, located on a scissor lift taking measurements for the installation of duct work at the above mentioned location. Mr. Portillo did confess to helping engage with the duct work installation. Mr. Portillo does not hold any RI sheet metal license nor is he a registered apprentice with the State of RI which would allow him to engage in this type of work.

This is one (1) violation of RIGL 28-27-28 Practices for which a license is required.

Regarding Violation 5144, Timothy Byrne made a motion that a violation of RIGL 28-27-28 Practices for which a license is required did occur; seconded by Charles Wright and passed unanimously by the Board.

Regarding the penalty for Violation 5144, Timothy Byrne made a motion that the fine of \$1,500.00 be upheld; seconded by Dennis Brennan and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

***Testimony for Violation 5140 Anibal L. Ramos, AR Heating & Cooling, Inc. and Violation 5141 Jorge A. Garcia is heard collectively**

as they relate to the same incident.

Anibal Ramos, owner of AR Heating & Cooling, Inc., and Jorge Garcia are sworn in for testimony. Attorney Richard Sinapi represents Anibal Ramos and AR Heating and Cooling, Inc. Attorney Sinapi does not object to the matters being heard together.

Nicholas Ranone reads Violation 5140 Anibal Ramos, AR Heating & Cooling, Inc., and Violation 5141 Jorge A. Garcia. Mr. Ranone submits three (3) photographs (vehicle and job site) for both Violations 5140 and 5141 as evidence marked Exhibit A. Mr. Ranone is questioned by the Board. Attorney Sinapi did not question Mr. Ranone.

Attorney Sinapi questions Anibal Ramos. Mr. Ramos and Jorge Garcia are questioned by the Board. Attorney Sinapi questioned Mr. Ranone. Attorney Sinapi provides a summary.

Stanley Davies, Chair, excused himself at 11:17am. Timothy Byrne chairs the meeting in Mr. Davies absence.

Anibal L. Ramos, AR Heating & Cooling, Inc. – Violation 5140:

Location of Violation: Commercial multi use building, 200 Clarke Tower Square, Portsmouth, RI 02871

Violation: On 4-17-2015, I, Nicholas Ranone, Chief Mechanical Investigator, made a site visit to the above mentioned location. I witnessed two (2) employees of AR Heating & Cooling, Mr. Jorge A. Garcia and Mr. Josue Ortiz, installing duct work in an office area on the second floor. Mr. Ortiz is a registered Refrigeration apprentice (22181) with the State of RI which allows him to install duct work at a limited capacity under direct supervision. Mr. Ortiz was working unsupervised. This is one (1) violation of RIGL 28-27-4.3 Pipefitter apprentice, refrigeration / air conditioning apprentice, journey person sprinkler fitter apprentice and journey person sheet metal worker apprentice defined - Duration of apprentice program (section E, Direct supervision).

Mr. Garcia does not hold any RI sheet metal license nor is he a registered apprentice with the State of RI. This is one violation of RIGL 28-27-6 Corporations and firms engaged in business. (paragraph 2, section b, unlicensed employees.)

Mr. Ramos did have a prior violation within one (1) year (7-24-14), therefore all fines will be assessed at \$2,000.00. Two (2) violations at \$2,000.00 each. Total \$4,000.00.

Regarding Violation 5140 Anibal L. Ramos, AR Heating & Cooling, Inc., Charles Wright made a motion that a violation of RIGL 28-27-6 and RIGL 28-27-4.3 did occur; seconded by Michael Januario. There

is discussion. After discussion, all were in favor. Motion carried.

Regarding the penalty for Violation 5140, Jack King made a motion to reduce the fine to \$2,000.00; seconded by Quinlan T. Regan and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

At 11:21am Stanley Davies resumes chairing the meeting.

Jorge A. Garcia – Violation 5141:

Location of Violation: Commercial multi use building, 200 Clarke Tower Square, Portsmouth, RI 02871

Violation: On 4-17-2015, I, Nicholas Ranone, Chief Mechanical Investigator, made a site visit to the above mentioned location. I witnessed two (2) employees of AR Heating & Cooling, Mr. Jorge A. Garcia and Mr. Josue Ortiz, installing duct work in an office area on the second floor. Mr. Garcia does not hold any RI Sheet metal license nor is he a registered apprentice with the State of RI.

This is one (1) violation of RIGL 28-27-28 Practices for which a license is required.

Regarding Violation 5141, Timothy Byrne made a motion that a violation of RIGL 28-27-28 Practices for which a license is required did occur; seconded by Charles Wright. In favor: Brennan, Byrne, Januario, Regan, Wright; Opposed: King. With a vote of 5 to 1 the motion carries.

Regarding the fine for Violation 5141, Timothy Byrne made a motion that the fine of \$1,500.00 be suspended for one (1) year pending no further violation; seconded by Charles Wright and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

End of hearings

5.) Old Business - Review of proposed changes to Rules & Regulations and proposed licenses: Passed.

6.) Adjournment: Motion to adjourn made by Charles Wright; seconded by Quinlan T. Regan. All were in favor. The meeting adjourned at 11:24a