

LOCATIONS: Las Vegas 555 East Washington Avenue, #2450
Carson City 1919 College Parkway, Room 100

Members Present: Kevin Christensen Chairman, Public Member

Michele Daugherty Employer Member
Nanette Quitt Employer Member
Tom Pfundstein Employer Member

Randy Canale Employee Member
Dan Gouker Employee Member
Wade Mohr Employee Member

Legal Counsel: Dawn Buoncristiani Deputy Attorney General

Administrative Staff: Shannon Chambers Labor Commissioner
Mary Huck Deputy Labor Commissioner
Lleta Brown Chief Compliance Audit Investigator
Jennafer Jenkins Auditor II
Kristine Garcia Administrative Assistant III

ITEM 1 – CALL TO ORDER AND ROLL CALL

Roll call was taken to ensure a quorum.

Ch. Christensen explained that Items 15 & 16 had been requested to be tabled.

Mr. Gouker motioned to table Items 15 & 16 for a future meeting.

Ms. Daugherty seconded the motion.

Ch. Christensen asked Ms. Brown to be sure to send new notices for the interested parties when necessary.

Ms. Brown said she would.

(M/S/C TO TABLE ITEM 15 SOUTHERN NV CARPENTERS APPRENTICESHIP AND JOURNEYMAN TRAINING TRUST FLOOR WORKER AND ITEM 16 SOUTHERN NV CARPENTERS APPRENTICESHIP AND JOURNEYMAN TRAINING TRUST PLASTERER)

ITEM 2- PUBLIC COMMENT

There was no public comment.

ITEM 3 - APPROVAL OF THE MAY 6, 2016 MEETING MINUTES

Mr. Gouker motioned to approve.

Mr. Canale seconded the motion.

Ch. Christensen stated that there were two typos that needed correcting. Page 14 the word Teamsters was needed an R and page 16 the word Northern needed to be corrected.

Mr. Gouker amended his motion to include the corrections.

Mr. Canale seconds the motion.

(M/S/C TO APPROVE THE MAY 6, 2016 MEETING MINUTES WITH CORRECTIONS)

ITEM 4 – CONSENT ITEMS A) NEVADA GLAZIERS JATC MASTER GLAZIER, B) NEVADA GLAZIERS JATC ARCHITECTURAL GLAZIER, C) IRONWORKERS LOCAL 118 JATC, D) SO. NV LABORERS TRAINING TRUST, E) SO. TEAMSTERS CONVENTION TRAINING, F) PHCC OF NV JOINT APPRENTICESHIP TRAINING PROGRAM, G) FLOORCOVERERS JATC, H) PAINTERS JATC, I) DRYWALL FINISHING JATC, J) ELECTRICAL JATC OF SOUTHERN NV ELECTRICAL INSTALLER/TECH, K) SO. NV LABORERS TRAINING TRUST, L) PLUMBER LOCAL 350 PLUMBER/PIPEFITTER AND M) PLUMBERS LOCAL 350 HVAC

Mr. Mohr stated that items 4E needs clarifying of the pay period.

Crystal VanDyke, Teamsters Training Director, stated the pay period was weekly.

Mr. Canale recused himself on items 4 L and 4M.

Mr. Pfundstein recused himself on Items 4G, 4 H and 4I.

Ms. Quitt asked for clarification on items 4J. She asked for the number of apprentices in the program.

Mr. Mohr motioned for approval of Items 4A through 4F.

Mr. Gouker seconded the motion.

(M/S/C TO APPROVE – CONSENT ITEMS A) NEVADA GLAZIERS JATC MASTER GLAZIER, B) NEVADA GLAZIERS JATC ARCHITECTURAL GLAZIER, C) IRONWORKERS LOCAL 118 JATC, D) SO. NV LABORERS TRAINING TRUST, E) SO. TEAMSTERS CONVENTION TRAINING, F) PHCC OF NV JOINT APPRENTICESHIP TRAINING PROGRAM)

Mr. Gouker motioned to approve Items 4G-4I.

Ms. Quitt seconded the motion.

(M/S/C TO APPROVE CONSENT ITEMS G) FLOORCOVERERS JATC, H) PAINTERS JATC, I) DRYWALL FINISHING JATC)

Ms. Brown stated Item 4J the number of apprentices were 12.

Ms. Quitt motioned to approve items 4J and K.

Ms. Daugherty seconded the motion.

(M/S/C TO APPROVE CONSENT ITEMS J) ELECTRICAL JATC OF SOUTHERN NV ELECTRICAL INSTALLER/TECH, K) SO. NV LABORERS TRAINING TRUST)

Mr. Gouker motion to approve Items 4L and M.

Ms. Ms. Daugherty seconded the motion.

(M/S/C TO APPROVE CONSENT ITEMS L) PLUMBER LOCAL 350 PLUMBER/PIPEFITTER AND M) PLUMBERS LOCAL 350 HVAC)

ITEM 5 GREGORY S. MANNION VS. OPERATOR ENGINEERS LOCAL 12 APPEAL

Larry Hopkins, Director of Training, and Louis Louprias, Training Coordinator were present to answer questions regarding Mr. Mannion's appeal.

Mr. Mannion was not present.

Ch. Christensen stated that in the past if the appellant was not present the appeal would be denied.

Ms. Brown said there had been a lot of communication problems with Mr. Mannion.

Mr. Gouker asked if the apprentice had appealed to the committee.

Mr. Hopkins said he had.

Mr. Gouker motioned to uphold the dismissal of Mr. Mannion.

Ms. Daugherty seconded the motion.

(M/S/C TO UPHOLD THE DISMISSAL OF GREGORY S. MANNION)

ITEM 6 WILLIAM BERG VS. TEAMSTERS LOCAL 631 TRAINING PROGRAM APPEAL

Crystal VanDyke, Training Director and Bryce Loveland were present to answer questions regarding the Mr. Conan's appeal.

Ms. Brown said stated that Mr. Berg was notified by certified mail. The return receipt was received.

Mr. Gouker motioned to uphold the termination of William Berg.

Ms. Daugherty seconded the motion.

(M/S/C TO UPHOLD THE DISMISSAL OF WILLIAM BERG)

ITEM 7 JAMES CONLAN VS. LABORERS TRAINING TRUST LOCAL 872

Verbatim

CHRISTENSEN: Next item on the agenda is No. 7, James Conlan who is appealing his dismissal from the Program. Maintained by the Laborers Training Trust Local 872 JATC. Is there anyone here to speak in favor of Mr. Conlan? If you are, would you identify yourself for the record and then we'll have you sworn by the Attorney General's Office.

CONLAN: I'm Mr. James Conlan.

CHRISTENSEN: You're Mr. Conlan?

CONLAN: Yes sir.

CHRISTENSEN: Thank you Mr. Conlan. Would you go—

HUCK: I'm not with the Attorney General's Office; I'm with the Labor Commission.

CHRISTENSEN: Oh, that's right. We don't have an Attorney General's Office representative here.

BROWN: We should have a representative in Carson City.

BUONCRISTIANI: My name is Dawn Buoncristiani; I'm a Deputy Attorney General.

CHRISTENSEN: Would you go ahead and swear—

BUONCRISTIANI: I'll proceed with the swearing in.

CHRISTENSEN: Yes.

[parties sworn in]

CHRISTENSEN: All right. Mr. Conlan, would you go ahead then and present your appeal to the Council?

CONLAN: Well, I pretty much turned in the paperwork. I don't have much to say besides what's on there.

CHRISTENSEN: Could you just summarize in your own words why you believe that you should be reinstated to the program?

CONLAN: That particular time, I didn't have [inaudible] before that I did, but at that time, it wasn't dirty. It was just the hair test he decided to give me after so many tests I've already passed. They say it was 14 days before that date or up to a year back it could've been from. It wasn't from that time. Basically the rest of it is pretty much in the PO.

CHRISTENSEN: So, as I understand it, the basis for your termination from the program was a failed drug test?

CONLAN: A hair test, yes sir.

CHRISTENSEN: Okay. And, were there any other basis for your being terminated from the program as you understand it?

CONLAN: Not that I understand but I'm—[pause] It was a [inaudible] I don't know, I had the suspension first, which I wasn't let go from the company at that time, when he gave me a suspension. Other than that, I don't know anything else.

CHRISTENSEN: Are there questions for the Appellant from the Council?

GOUKER: Yes sir.

CHRISTENSEN: Mr. Gouker?

GOUKER: I read your packet extensively and I've got a few questions. It appears that your termination was based on the drug testing. Your statement you just made was you had already submitted in past urinalysis, is that correct?

CONLAN: Correct.

GOUKER: The timeframes involved with that testing and I've reviewed all of the labs and there's a specific timeframe for the testing. Although you did provide a specimen, it was outside the authorized timeframe.

CONLAN: No, that's not what my paperwork shows.

GOUKER: All I can go on, what was submitted to this Council from the program.

CONLAN: One of the papers had been altered as a matter of fact. That was another thing that I needed to bring to your attention.

GOUKER: Let me finish my question if I may.

CONLAN: Okay.

GOUKER: Are you familiar with the terminology of shy bladder syndrome?

CONLAN: No, I'm not.

GOUKER: Okay. It's a physiological condition. It's recognized in some places under the—as a disability, although it's not a physical disability. One of the requirements—and it typically happens for an individual who is required to provide a specimen and they can't, within their allotted timeframe. I think you had two or three that I've seen that were not within the allotted time frame.

So, what happens is, the drug testing of record, where you're sent to, erred on the side of caution and there are several court cases that take both sides. One most recently is Lucas v. Greg Appliances, US District Court. Shy bladder is not necessarily an ADA issue, however, err on the side of caution, they allow alternate methods of testing. One of being which is a hair test.

Now, throughout your affidavit of true bill, the summary that you submitted for review, you made several references to that hair testing is I think less than accurate, etc., etc. I won't get in to all the details because I don't want to try to muddy the waters here. Every lab that I've reviewed, even the neutral, a regulatory commission. An alternative is to give a reasonable accommodation to an ADA issue. A reasonable accommodation is a hair test. They are absolutely accurate. Even the ...smokepot.com will tell you that you can do hair shampoos and remove metabolites from marijuana and all the pieces and parts, but you cannot hide drug screens, the controlled substances.

Your claim that a hair test is not good or shaky or inadequate is not accurate. Now, if there's altered documents, then I certainly would like to see that. All we can, at this Council, go on what was submitted before the meeting. We can't accept anything after the fact but your termination was based on the failing of a drug screen. Whether it be in your mind a urinalysis that was clean. It lacked the stance that it was not dirty. It was called a lab positive because of the lack of timing. I believe, in our

records, you have a document that you signed when you were indentured in this program that you would be drug-free throughout the time of the program.

Now, your claim is, at the time of the accident and it was listed as a non-job related. I think actually you had slipped and fallen in a ditch or something. The issue was a bug bite or something that they treated. The fact is, that was long after your indentured date. You did test positive with that hair test. Whether it be four days or fourteen days. The hair testing, the human hair grows about a centimeter every five days. The presence of a controlled substance can happen within three to four days, five days. It does go back, depending on what they're testing, six to nine months.

I think in my opinion, I've read your document over and over and over. Mr. Conlan, for the life of me, I can't figure out anything other than you failed to provide a testable specimen. That does not equate to a clean test. That test is a testable specimen. That's based on the JATC policy on timeframes. It's based on the lab policy on timeframes. It does not necessarily have to be an observed test, but I—I'm not sure, unless you have something else that we could talk about. If that's the complete stance of your appeal is that, you provided a clean test, that doesn't—that's not accurate. That's all I have to say.

CONLAN: [crosstalk] By talking to the people that took the test later, testers told me that it doesn't mean I was dirty at that time. It meant that I had relapsed before that particular time, it could be 14 days before or a year back to that.

GOUKER: That's absolutely accurate, but that timeframe still puts you as an indentured apprentice in that program and you agreed by signature that you would be drug-free, whether it be four days, four weeks or a year. Is that not accurate?

CONLAN: That's accurate.

GOUKER: Thank you. That's all I have.

CHRISTENSEN: Now you—Mr. Conlan, you indicated that you felt that there had been some dates doctored on the document?

CONLAN: I don't—for some reason I'm missing one of my pieces—one of them. All mine doesn't say that I was miss-accurate on the time. One of the tests were because I went to Kansas City, there was a difference in the timeframe there. Other than that, I was not—especially on the particular one, which was the last one, besides the hair test, I wasn't late on it. I mean, I didn't make it back up to their office to get another copy of it because I called and I asked them about it. They told me there wasn't no problem with the timeframe on it.

CHRISTENSEN: I'm not sure that Mr. Gouker was saying that the hair test had a time issue.

GOUKER: The hair test did not have a time issue.

CONLAN: I wasn't talking about the hair test. I was talking about time frame on it. They're saying I was late on all of them obviously. It just gives—that's impossible for me to be late for all of them. That's—that's absurd, but okay.

CHRISTENSEN: Do you have anything further you would like to present to the Council sir?

CONLAN: No, I don't.

CHRISTENSEN: All right. Is there anyone present to speak in favor of the 872 Training Trust?

DAUGHTERY: Mr. Chair, I would like to just ask one quick question if that's okay?

CHRISTENSEN: Go ahead, please.

DAUGHTERY: I noted reading all of the documents and just like Dan, you know, stated, we spent a lot of time looking at your case. One of the things that popped out to me that I just wanted to ask you about was, your statement that it took almost three months for you to get your last paycheck.

CONLAN: Yeah.

DAUGHTERY: Do you have documentation of that?

CONLAN: Well, I mean, I don't—no, I don't. I mean I probably have the check stub at the house, but that's all I really have. That's just the way they did it. I asked them for it several times and he'd said, it will be coming in the mail.

DAUGHTERY: Thank you.

CHRISTENSEN: Other questions from the Council for the Appellant please?

CANALE: Mr. Chairman?

CHRISTENSEN: Go ahead, Randy.

CANALE: I have a couple of questions, a couple of statements as well. Obviously from the refusal and not being done in the amount of time, that is a failure. The hair test, no matter what timeframe it is, it came back positive, still within your apprenticeship program. I had a question on some of the dates that were put in here. This lists your termination of employment from the package as 07/21.

CONLAN: That's what they say, yeah.

CANALE: 2015.

CONLAN: That's not true though.

CANALE: Then looking at a letter from the Training Trust, I look at it as being August 6, 2015. I had a question, were you offered the opportunity to come before the full Committee for appeal?

CONLAN: No.

CANALE: So when your letter of termination, this one written on August 6, 2015, is approximately, I'll say 15-16 days after the incident. You were never given the opportunity to appeal this decision?

CONLAN: Not that I know about. I didn't know about any of it until—until I was—it was a suspension that happened because I was let go from Abbotts Construction, they say. But I wasn't let go of at that time. So, the day I went to the doctor and came back to the Union, gave me a paper that I was suspended because I was let go from Abbotts Construction. I called them they said no you're not let go, you're laid off; if the test comes back clean, you come back to work. They said they never received that test. Which that's not my fault but—

CANALE: That was my question to you. My next question is going to be of the Training Trust. I just wanted you to answer that question, thank you.

SPEAKER: You'll have to speak up a bit.

CHRISTENSEN: Yes, Randy, we were having a tough time hearing you. If you have any further questions. Other questions from the Council for the Appellant please. All right, if there are none, we'll hear from the Program. If you would come forward, identify yourselves for the record and then be sworn by the Attorney General's Office please.

WALDEN: Good morning, Archie Walden. Good morning ladies and gentlemen of the conference. My name is Archie Walden, Laborers Local 872, Training and Apprenticeship Coordinator.

CHRISTENSEN: Mr. Walden.

DESALVIO: Lou De Salvio for the record, Training Director for Laborers Local 872.

CHRISTENSEN: Mr. De Salvio. Go ahead.

[parties are sworn]

CHRISTENSEN: Very good. Mr. Walden.

WALDEN: Good morning ladies and gentlemen. I'm here representing Laborers Local 872, Training and Apprenticeship in the appeal of James Conlan. Mr. Conlan's removal for reasons of failing a drug test. Looking over his record, once again and listening to the questions you asked him—as Mr. Gouker stated, if you look through Mr. Conlan's drug tests, all of them came back late. This is

something that I noticed from the first day of the General Construction Class when he entered into the program on July 7, 2015. He was 15 minutes late on that drug test itself.

In all honesty, our policies and procedures stated in our program and the Standards of Apprenticeship signed by the Nevada State Apprentice Council, that was reason to remove him from the program on that date. The reason why Mr. Conlan was not put in front of our Training Trust, if you look at Article 7 inside the Laborer's International North America Standards of Apprenticeship, he was still under probationary reasons. I was not required to take him in front of my General Training Trust to remove him from the program.

When I remove an apprentice under my probationary period, I take that very serious. I don't do it unless I have a concrete reason to do it. It's not just a willy nilly type of thing I do.

Under drug testing policies, there is no second chance under probation. When they are out of that 1,000 hours, they are remanded for 30 day suspension and then they are rescind to a drug rehab center and upon completion they get readmitted to the program. Under probation, that is not a valid excuse. They are just removed from the program under a drug test, under probation.

Looking over Mr. Conlan's statement as far as why he was removed from Abbotts Construction. If you look at the statement by Ryan Landon who was the Superintendent on the job, there are three statements included in the packet. One from Ryan Landon and two from two apprentices working with him and one from the foreman he was working with, I think his name was Terry Glenn. He was the operator working with Mr. Conlan.

Mr. Conlan understands that he was removed from employment but he does not understand the date or the reason why. Mr. Conlan worked on this job for exactly one day. He went to work, the next day he was fired. They didn't tell him he was fired because of the statements he was making inside the trailer. These are things I didn't put inside the packet because they were things I heard secondhand and I didn't think it would be proper to put inside the packet. I think the training staff was intimidated by him, [inaudible] inside the room while he was waiting to take the drug test. They honestly didn't want to deal with him. They called me—when I called them to find out what was going on, was he coming back to work? The answer was no, would you mind telling him, we don't want to deal with it anymore. That happened on the jobsite. An employer made to feel intimidate, they don't want to deal with these problems so they'll ask me to take care of it.

Mr. Conlan was suspended because I did not have a drug test. I did have his results as far as them, as far as what he turned into me, and what I saw was an inconclusive drug test because he did not perform the drug test within the time specified. Once again, under probation, that is grounds for removal. I decided to go the extra step, to give him a second chance and had his drug test come back negative, I would've kept him in the program and he would've just been—we would just have a conversation. I would suspend him for 30 days and I would let him continue in the program. The drug test came back positive for amphetamine and methamphetamine and I removed him.

The one mistake I did make was in assuming, or on my part, not knowing that the State did not contact him, without being notified and my paperwork was wrong, which I have corrected since then through correspondence with Lleta and her staff. They told me what I need to put in my documents to make sure he understands his rights to appeal to the Nevada State Apprentice Council. That, as far as I know, was the only mistake I made. His removal for drug policy was under probationary reasons which did not require me going in front of my Trust.

CHRISTENSEN: Mr. Walden, is it—was a notice given to Mr. Conlan that he was being terminated based upon the failed drug screen?

WALDEN: Yes.

CHRISTENSEN: Was he given written notice that he had the right to appeal to this body?

WALDEN: No, he was sent a notice that this body would contact him, was what the mistake on my paperwork was. When I contacted Lleta, she said to rectify the information send another letter and let him know he can come to this body and appeal, which is why he's here now.

CHRISTENSEN: So you then corrected the prior letter, sent out another notice of termination.

WALDEN: Yes.

CHRISTENSEN: And then that one explained his appeal rights to this body.

WALDEN: Yes.

CHRISTENSEN: Okay. Very good. Do you have anything further Mr. Walden?

WALDEN: No, just that you know, Mr. Conlan seems to think he was a great apprentice in the program and such but his record indicates quite a different thing. He—just as any other program has an opportunity to come back and apply at any time, he's wasted a year of his time instead of coming back and applying for the program again, he sat out waiting for this opportunity. In that timeframe, I've put in over 60 apprentices. So, I mean, I understand his appeal. I understand what he feels are his rights. But, instead of going through all this right here, just put in another application and go through the process again.

CHRISTENSEN: All right, thank you. Do you have anything further?

WALDEN: No, that's about it, thank you for your time.

CHRISTENSEN: All right. Mr. De Salvio, do you have anything?

DE SALVIO: He's covered it, nothing further.

CHRISTENSEN: All right, thank you. Mr. Conlan—well, Members of the Council, do you have any questions for the Program please?

GOUKER: Mr. Chairman, I just wanted to clarify that we weren't—did not have the information that's dated, that they did properly notify him of his right to appeal. All we have is, we told him he was entitled to—or, that we would contact him. That was my concern and apparently it was addressed, but we have no paperwork that shows that it was addressed.

WALDEN: Okay, I apologize. I did not send that paperwork in with the packet. The packet had already gone in by then, but that's how we found out about this appealing process in the first place, that there was another letter sent out to him, advising him of his rights and his opportunity to appeal to this Board.

Once again, as I—I'm not sure. Do we have evidence we do—sorry about that. I might have the evidence here myself. One second. [pause] Yes, here's the letter right here. It was sent out through Certified Mail August 6th and it was amended on April 6, 2016. It states that, at the bottom of the letter, it says the state of Nevada Apprenticeship Council has been notified the Southern Nevada Laborers Joint Apprenticeship Training Council has canceled your apprenticeship indenture agreement. You are entitled to certain rights of appeal. You can contact Nevada State Apprentice Council and it gives the address, the date and phone number and such. This appeal must be made in writing in 30 days of this receipt, of this notification, excuse me. It was sent by another certified letter and a regular mail, snail mail basically.

CHRISTENSEN: Will you submit a copy of that to the Council please?

WALDEN: Yeah, no problem.

GOUKER: Thank you for clarifying.

WALDEN: You're welcome.

CHRISTENSEN: Are there other questions from the Council, for the Program? Mr. Conlan, do you have anything further to present?

CONLAN: I don't.

CHRISTENSEN: All right. Any other witnesses or anyone else have any comment on this appeal? All right then, I'll entertain a motion.

GOUKER: Mr. Chair. Based on motions earlier on appeals, though Mr. Conlan is here and Mr. Walden has already stated that he is eligible to reapply for the Program, is that correct?

WALDEN: Yes sir.

GOUKER: Mr. Conlan, you do understand that, that you can reapply for the Program?

CONLAN: I was told previously.

GOUKER: Okay. Based on what we have and Mr. Chair has requested clarification copies of the letters, my motion is to uphold the termination of Mr. James Conlan from the Laborers Training Trust, Local 872 for a violation of Committee policy.

CHRISTENSEN: Is there a second to the motion?

QUITT: Second.

CHRISTENSEN: Was that you Nanette?

QUITT: Yes sir.

CHRISTENSEN: All right, thank you. Those in favor say aye please [ayes around] Any opposed say nay. All right, that motion is carried. Termination is upheld. The appeal is denied. Thank you for being here Mr. Conlan. Thank you very much Mr. Walden.

WALDEN: Thank you ladies and gentlemen of the Council.

(M/S/C TO UPHOLD THE DISMISSAL OF JAMES CONLAN)

ITEM 8 DAMONE RODRIGUEZ VS. ELECTRICAL JATC OF SOUTHERN NEVADA APPEAL

CHRISTENSEN: Is everything working? Okay, very good. Next item on the Agenda is Item No. 8 which also is an appeal of a dismissal from the Electrical JATC of Southern Nevada by Mr. Damone Rodriguez. Is Mr. Rodriguez present? If so, would you please come forward, identify yourself for the record and we'll have you sworn in by the Deputy Attorney General's Office.

GOUKER: Mr. Chair?

RODRIGUEZ: Damone Rodriguez.

GOUKER: Before he starts his testimony, I would like to reserve the right to comment on this if possible but I will be abstaining from voting on it.

CHRISTENSEN: All right. Let the record reflect that Mr. Gouker will abstain from voting. If we can have the Appellant sworn please?

[party sworn in]

CHRISTENSEN: All right, Mr. Rodriguez, would you please present your appeal to this body?

RODRIGUEZ: Basically my appeal is for inaccuracies that were basically [inaudible] on me during my two appeals through the JATC. I see a lot of stuff that were put on my history that were inaccurate. I don't know if they were added. I have a feeling that they were, in order to otherwise expedite my being kicked out of the apprenticeship, that I have issue with.

Also, I do—I do have—as far as not an excuse, but I did contact my teacher for my absences and also my employer at the time which was Cupertino. They're in my two appeals but JATC was pretty much not heard, disregarded. I just wanted to appeal that because I didn't get, to me, a fair appeal on either one of the two through the JATC at all.

CHRISTENSEN: So as you understand it, you were terminated as an apprentice for a single absence?

RODRIGUEZ: No, it was not a single absence.

CHRISTENSEN: Okay. Could you tell us whether there were more than one absence and—

RODRIGUEZ: There were more absences during my—during my first year as an apprentice. My whole ordeal is that, I did have—what I was told is that, I would have the chance to finish—basically I was about two weeks away from finishing my first year as an apprentice. Basically one more quiz that I had left. I was also told that my percentage was below—below passing, which was inaccurate. I had a 78%, which at that point, I was passing. Told me with my—I guess with my absences it would be below, which I also spoke with my professional instructor and that was inaccurate as well.

CHRISTENSEN: So it was your understanding that your grade was affected by your absences, that it actually would decline directly based on absences from your training?

RODRIGUEZ: Correct, yes sir.

CHRISTENSEN: Okay.

RODRIGUEZ: Also, I just wanted to make—I mean, I know this is way before, but I mean there are just inaccuracies. Why I feel like it snowballed. I have one from 06/29/2015 where I was told I showed up to work with Bombard with a late, without being told, which was inaccurate. I was never reprimanded by any of my foreman. I was always there—I was always the first one there. It just seems like it's stuff being put in there, after the fact now, that I'm already out. I just wanted to speak that because it's ridiculous all the stuff I'm seeing here that I'm like, it's completely fabricated and inaccurate.

CHRISTENSEN: So it's your testimony today that you were not late to Bombard Electric.

RODRIGUEZ: Correct. Never. Not one day. I was always there early. I was there way before the foreman, way before anybody. Every single day.

CHRISTENSEN: Okay. All right.

RODRIGUEZ: Like I said, I'm sorry, I would figure if that was the case, I would've got reprimanded or somebody, by my foreman, or—or my journeyman, that never happened, ever.

CHRISTENSEN: Do you have a present recollection that you were not in fact ever late for Bombard?

RODRIGUEZ: I—yes, I know for a definite fact I was never late. I was never late at any of my jobs.

CHRISTENSEN: Okay. Very good. Do you have anything further to present to this Council?

RODRIGUEZ: I do have on my cell phone, which I wanted to present during my two appeals at the JATC, that I did call the sick call number for Cupertino and also, that I did text my foreman at the time which was Al Centeno, to tell him I wouldn't be able to make it in.

CHRISTENSEN: All right.

PFUNDSTEIN: Mr. Rodriguez, how many absences did you have?

RODRIGUEZ: It was quite a bit. I believe it was, if I'm not mistaken, about eight, I believe, seven or eight, I believe. I know the first two—the first two was a miscommunication. I had my wife, she's coming to get my books so I could do my homework. Which was really weird to me because my wife was able to pay for my book but she wasn't able to retrieve my books, which means I couldn't do my—I couldn't do my homework. The first day I got sent out because I didn't have my homework done, because I couldn't be able to retrieve my books. At that time, yeah, I did have car issues, which I know was going to get brought up. Like I said, I made it to my jobs with no problem. That was another big thing that was always brought up was car or transportation. I never had any problem making it to my employment.

Also, I didn't understand the whole regulation that we had a quiz and I did not know that I had to have that homework done before I can actually take the quiz. So the next day was already counted as an absence. That was two absences right off the bat within the first week.

PFUNDSTEIN: You got into the apprenticeship, you signed your documents, did you read it? Did you read what this document said?

RODRIGUEZ: I did read it. Obviously I guess I didn't understand that part. I'm just going to be honest—It's not like I—

PFUNDSTEIN: It's your responsibility to read it, if you signed it, it states you've read it.

RODRIGUEZ: Yes sir.

PFUNDSTEIN: In those document, it tells you you're not allowed to be absent in school.

RODRIGUEZ: Yes sir.

SPEAKER: Mr. Rodriguez, did you receive a copy of your apprenticeship Standards?
The Standards that you're supposed to be upheld to?

RODRIGUEZ: Yes sir.

MOHR: Okay, so you did get a copy?

RODRIGUEZ: Yes sir.

MOHR: And you are aware of Section 21B on your probationary period?

RODRIGUEZ: Not off the top of my head, no sir.

MOHR: Okay. But you did read your Standards?

RODRIGUEZ: Yes. I mean, I read them. I wouldn't say I recollected every single thing that was in that book, but I mean, I did read it.

MOHR: Okay, thank you.

CHRISTENSEN: Other questions from the Council for the Appellant?

GOUKER: Just one clarification and as a reminder, I won't be voting on this. Okay, but I want you to clarify something that you had stated. I'm kind of familiar with the policies of the JATC. You said that it's not accurate that you had a 78 average but with your absences it dropped below passing that your teacher said that that's not accurate. I'm pretty sure, unless things have changed at that facility that the teacher doesn't establish policy, the JATC Director, Assistant Director and Committee establish policy. I'm looking at related instruction absence policy A14, how many absences did you actually have from class?

RODRIGUEZ: Probably like seven or eight.

GOUKER: Seven or eight, okay. Looking at this absence policy, five absences is a loss of 10 points from your final grade. That puts you at a 68, which is failing. It's in the policy.

RODRIGUEZ: No, I had an 88. The 10 points put me at a 78. I had an 88 in my class.

GOUKER: Thank you, then we need to clarify that, okay. That's all I had, thank you.

CHRISTENSEN: Okay. Other questions for the Appellant please, from the Council? Mr. Rodriguez, do you have anything else that you'd like to present?

RODRIGUEZ: No sir.

CHRISTENSEN: All right. Very good, thank you. Is there anyone here to represent the Electrical JATC of Southern Nevada? If you would please come forward, identify yourselves for the record. We'll have you sworn and then take your statement.

BUNCHER: Robert Buncher, Assistant Training Director for the Electrical Apprenticeship.

WYNN: Diane Wynn, Office Manager for the Electrical JATC of Southern Nevada

CHRISTENSEN: All right.

[parties are sworn]

CHRISTENSEN: All right, go ahead, Robert, Diane, whichever wants to go first.

BUNCHER: I'll speak to that. First of all, thank you for giving us this opportunity to speak to you concerning this matter with Mr. Rodriguez. What I'd like to do is reference some of the paperwork that's been sent to you. I'm going to start with a timeline, Mr. Rodriguez's timeline at the Electrical JATC.

CHRISTENSEN: Very good.

BUNCHER: On June 18, 2015, Mr. Rodriguez was registered into the Wiring Program. June 29th, Robert Buncher, the JATC Assistant Training Director received a call from Kenny Cavalos with Bombard Electric in regards to Mr. Rodriguez's showing up to his training assignment late and without tools. Mr. Rodriguez was turned around due to these issues.

On June 30, 2015, Robert Buncher JATC Assistant Training Director met with Mr. Rodriguez in regards to his issues with Bombard. Mr. Rodriguez was given tools to borrow until he could get some of his own. Robert Buncher, the JATC Assistant Training Director also explained the transportation policy and tool policy to Mr. Rodriguez. Mr. Rodriguez stated that he understood and would be on top of the matter.

August 24, 2015, Mr. Rodriguez was absent from the first day of school.

August 31, 2015, Mr. Rodriguez was absent from school and he did not attend—and he did attend a make-up session on September 4th.

September 2nd, Mr. Rodriguez was absent from school and he did attend a mandatory make-up session on September 18, 2015.

September 14th, Mr. Rodriguez received his first tardy from school.

October 12, 2015, Mr. Rodriguez was absent from school and he did attend a make-up session on October 16th.

November 9th, Mr. Rodriguez was absent from school and he did attend a mandatory make-up session on November 20, 2015.

January 20, 2016, Mr. Rodriguez received his second tardy from school.

February 8th, Robert Buncher, JATC Assistant Training Director spoke with Mr. Rodriguez in regard to his absenteeism from school. Robert Buncher, JATC Assistant Training Director urged him to bring in documentation to try and excuse some of his absences from school.

March 25th, Robert Buncher, JATC Assistant Training Director was contacted by Mr. Al Centeno with Cupertino Electric in regards to transportation and absenteeism issues with Mr. Rodriguez. Robert Buncher, Assistant Training Director, left a message for Mr. Rodriguez to contact him immediately.

March 28th, Mr. Rodriguez was absent from school.

March 29th, Robert Buncher, JATC Assistant Training Director, received a call from Mr. Al Centeno with Cupertino Electric in regards to Mr. Rodriguez. Al Centeno stated that he has been giving Mr. Rodriguez a ride to work daily and Mr. Rodriguez has not been in the pick-up point for the last two days. Al Centeno also stated that Mr. Rodriguez has not contacted him. Robert Buncher, JATC Assistant Training Director, called Mr. Rodriguez and left a message for him to contact the JATC as soon as possible.

March 30th, Robert Buncher, Assistant Training Director, received a call from Cupertino Electric in regards to Mr. Rodriguez, was a no call no show. Robert Buncher, Assistant Training Director, called Mr. Rodriguez and left a message for him to call the JATC as soon as possible.

March 30th, Mr. Rodriguez was absent from school.

March 31st, Robert Buncher, Assistant Training Director, I'm just going to leave that out in the future, I don't need to keep saying it. You know who Robert Buncher is.

GOUKER: It sounds so good though.

BUNCHER: Left a message for Mr. Rodriguez to contact the JATC as soon as possible in regards to school and the work out sessions.

April 1st, Mr. Rodriguez's training assignment with Cupertino was canceled for no call no shows on the following dates: March 25th, March 28th, March 29th, March 30th, March 31st, April 1st. Robert Buncher left a message for Mr. Rodriguez to call the JATC as soon as possible.

April 4th, Mr. Rodriguez noticed to appear before the Committee on April 20, 2016; was sent via Certified Mail.

April 4th, Mr. Rodriguez was absent from school.

April 6th, Mr. Rodriguez met with Madison Burnett, JATC Training Director, Robert Bunch, Doug Zekihagen, JATC and Mr. Rodriguez's first year requirement apprentice instructor in regards to Mr. Rodriguez's training assignment cancellation with Cupertino for no call no show, school absences, grade point average and transportation issues. Mr. Rodriguez was given instruction of how to move forward.

April 6th, Mr. Rodriguez was absent from school. I just want to bring a note to that point, that's the same day he met with the Training Director and the reason he was not—he was absent, even though he was there was that there was a test given the previous week and per our policy, JATC Policy, recognized by the State Apprenticeship Council, A-11 Section D, it says 'a test must be made up before they're allowed to attend the next class'. That's why he was counted absent on April 6th because the test was not made up.

April 11th, Mr. Rodriguez received his third tardy from school. Per JATC Policy, instruction to attendance policy, a third absence, a third tardy equals an absence.

April 12th, the JATC received signature card on Mr. Rodriguez's notice to appear before the Committee on April 20th.

April 20th, Mr. Rodriguez did appear before the Committee. The Committee determined he didn't—Mr. Rodriguez's apprenticeship for violation of the absence and tardy notification policy and related instruction to absence policy during his apprentice, pre-termination probation. Mr. Madison Burnett, JATC Director, explained to Mr. Rodriguez appeal rights. Mr. Rodriguez did not stay, state anything and left the room.

April 21st, Mr. Rodriguez—Mr. Rodriguez's April 20, 2016 Committee Minutes and appeal documents were sent via Certified Mail.

May 20th, JATC received Mr. Rodriguez's appeal documents.

May 25th, Mr. Rodriguez noticed to appear before the Committee on June 15, 2016 was sent via Certified Mail.

June 9, 2016, Amanda Roth, Administrative Assistant, attempted to call Mr. Rodriguez to remind him of his notice to appear before the Committee on June 15th at 1:00 PM for his appeal hearing. Mr. Rodriguez's listed number was for a hotel and the person who picked up the extension stated that he did not live there.

June 16th, Mr. Rodriguez did appear before the Committee for his appeal hearing. The Committee upheld the previous—

June 16th, the Committee upheld the previous decision of Mr. Rodriguez's termination. Mr. Burnett, Training Director, explained Mr. Rodriguez's rights to appeal to the Nevada State Apprenticeship Council.

June 16th, Mr. Rodriguez's June 16, 2016 Committee Meeting Minutes were sent via Certified Mail.

July 20, 2016, the JATC received notice of Mr. Rodriguez's appeal application and the appeal would be at the September 9, 2016 State Apprenticeship Council.

It is our goal to support any AW—excuse me. Pretty invested in this. It is our goal to support any AW for the date of indentureship until graduation. They're mine. We do make every attempt to assist the AW along that journey. Not only was it myself, the journeymen on the job, general foremen on the job, Committee Members and instructors who made every attempt to help this apprentice along the way. From giving him tools to do his job to helping arrange transportation for him to get to work. It just happened to be a Committee Member that gave him a ride to work every day. The efforts of the JATC Staff, Committee, Instructors, went out to this apprentice in several different instances to help through the issue.

All supporting documents concerning this matter and the facts and policies are included in the paperwork that you have concerning it. It is our wish for the Council to uphold the Committee's decision. If there are any questions, we're here to answer them. I ask you to please reference the outline calendar from Cupertino on the no call no shows. Also the Timmons Calendar from the JATC on the absenteeism from school. And also, to under—recognize the written or registered standards, Section 12 on probationary period of an apprentice, which is 2,000 hours. Thank you for that opportunity to explain our situation.

CHRISTENSEN: Thank you Mr. Buncher. Diane, do you have anything to add?

WYNN: No.

CHRISTENSEN: All right, thank you so much. Are there questions from the Council for the Program please?

DAUGHTERY: As we stated earlier, the individual has the right to reapply to your Program?

BUNCHER: Absolutely.

DAUGHTERY: Thank you.

CHRISTENSEN: Other questions for the Program please. All right. Do you have anything further to present?

BUNCHER: No sir. Thank you for your time and consideration in this matter.

CHRISTENSEN: Thank you. Mr. Rodriguez, do you have anything further to present?

RODRIGUEZ: Yeah.

CHRISTENSEN: Please come forward. Remember that you've been sworn to tell the truth.

RODRIGUEZ: Yes, on several absences, inaccurate, and tardies. I was never tardy to my class, ever. On the absences he's talking about on the 11th and the 4th, I was there. I don't understand how that can be noted as an absence.

See, all these were absences that were given to me like, after I was already on probation, 30-day probation after Cupertino. So, I don't understand where all these are coming from. I mean, I guess it is what it is, but it's just—like I said, I'm coming here telling the truth. I just don't like being lied on and it's true that I'm being lied on. I was never told that also, that I could reapply either. That wasn't even an option, that I was told.

CHRISTENSEN: All right. Well, now you're aware, correct? Are there questions from the Council for the Appellant please?

CANALE: Mr. Chairman?

CHRISTENSEN: Go ahead Randy.

CANALE: Mr. Rodriguez, thanks for appearing today but I want to refer back to the deposition page from your appeal hearing. In it, you were asked about the absences and stuff like that and your comments were 'My absenteeism, sir I can validate. That was my fault, just manning up here.' It's admirable that you're taking responsibility for that but you must realize, even though you took responsibility for it, you also must accept the consequences. The fact that you were given multiple opportunities, even in your own deposition, you didn't deny it at the time. You said it today that you had 8-9 absences from school. This is in a one year period. Do you feel that it's appropriate the Committee should have to spend this much time on one individual, trying to follow their issues and problems when they don't seem to be able to take care of them themselves.

Like I say, it's admirable that you manned up to them, but again, maybe the best thing here would be that you reapply and say that you realize you blew a big opportunity. These are your own words that were in your deposition. Maybe you should make an effort to maybe take a little more serious next time.

Do you have any statements that are—was the deposition incorrect as well?

RODRIGUEZ: I don't even know what to say because it seems like everything I say, you know—you're talking about absences, I did admit for the absences. I'm talking about absences after—this is what I'm trying to convey to everybody here. That there's stuff being put on there after the fact. Like the tardy-ism, none of that ever happened. The absences on the 11th, the 4th—I mean—I mean, it is what it is, like I—but it's just ridiculous I have to go through this and have the kind of cover-up stuff that's being put on it after the fact. I'll just leave it at that.

PFUNDSTEIN: Mr. Rodriguez, I'm going to go back to a question I asked you earlier. You signed your papers of indoctrination, right?

RODRIGUEZ: Yes sir.

PFUNSTEIN: Why didn't you read them? It tells you, you can't be absent to the classes. If you are, you got to make them up immediately. Even if you go back to the dates you're talking about, you still had 6-7 absences. And none were made up.

RODRIGUEZ: I made up all my absences. Every single absence that they gave me to make up, I made up all of them.

PFUNDSTEIN: Is that true?

BUNCHER: Sir, the absences were made up, per the policy, that's correct. But the absences stand toward the policy concerning absences that mount up to the days, like six absences or more, 10 grade point—excuse me. There are consecutive days. When one days I missed, when two days are missed, when three days are missed, we require them to make up their absences. They come and do a make-up. It doesn't—it explains it, it doesn't make it—it doesn't cancel the absence.

When they get to six absences, they are required to go before the Committee and the options that the Committee have are to given a written or to terminate or to address the matter in another way. This apprentice had 10 absences, according to our records and I would reference his sign-in sheets that we have from his classrooms, which are included in the document, where his signatures aren't there. And if he was tardy, the instructor marked the tardy column.

When he says he did make up his absences, you can also refer to the chart that we've given you that shows that he did make up absences but they do not negate the fact that he wasn't in school. He's missed that time. Which is, for us, means that he has to have those requirements in order to graduate. Thank you.

PFUNDSTIEN: Thank you.

CHRISTENSEN: Other questions from this Council for Mr. Rodriguez? All right, do you have anything further to present?

RODRIGUEZ: No sir.

CHRISTENSEN: All right. Very good. I'll entertain a motion please.

MOHR: Mr. Chair, I make a motion to uphold the cancellation.

CHRISTENSEN: Is there a second to the motion?

DAUGHERTY: Second.

DAUGHERTY: Second.

CHRISTENSEN: Those in favor say aye. [ayes around] Any opposed say nay. All right, that motion is carried.

GOUKER: Mr. Chair, for the record again, I am abstaining from voting on this item.

CHRISTENSEN: All right. Let the record reflect Mr. Gouker's abstention. The appeal is denied. The termination is upheld. Thank you for being with us Mr. Rodriguez and the Program.

(M/S/C TO UPHOLD THE DISMISSAL OF DAMONE RODRIGUEZ)

ITEM 9 Christopher Arnold vs. Painters JATC of Southern Nevada Appeal

The next item on the Agenda is No. 9, an appeal by Christopher Arnold involving the Painters JATC of Southern Nevada. I have a conflict on this matter and I've asked Mr. Gouker to Chair Agenda Item No. 9.

CANALE: Mr. Chairman, I also have to recuse myself.

GOUKER: All right, do you reserve the right to comment?

CANALE: Yes.

GOUKER: Thank you. Mr. Arnold, is Mr. Arnold present today?

ARNOLD: Yes sir.

GOUKER: Please take the podium and can I have the Deputy AG have them sworn in please.

[party sworn]

GOUKER: Okay Mr. Arnold, we have copies of the paperwork, your appeal form and then a letter to the Nevada State Apprenticeship Council, To Whom It Concerns, I, Christopher Arnold, etc., etc. Please present your side of the story.

ARNOLD: I wanted to say that—

GOUKER: In front of the microphone please, thank you.

ARNOLD: I would like to say that I should be reinstated. I do have some absence in these last three years that have been made up and I found out that, they said now I have some other five absences that I was never told about until now, that I was in the process of making up. But, the thing is that, I'm in my 7th, 8th year. I had already did this Program. I was trying to make up my work hours. I did the program already.

GOUKER: By 'did', you mean you completed your curriculum?

ARNOLD: I did the 48—yes, I did the 48 hours.

GOUKER: Okay, thank you.

ARNOLD: I was short on work hours. So it basically, I'm being held for something I shouldn't be. I'm still here, coming to class. I was on my e-board and everything else. You know, I'm just—and then I talked to them about trying to come up with a situation or solution to this whole issue and then I got served to go in front of the Board. Even after that, I still tried to talk to them and then when I was kicking out and everything else. I just want to be reinstated so I can finish what I'm doing, that I love.

GOUKER: Okay. And, your absences, the ones that are the issue now is absence from work or from school?

ARNOLD: From the school on this second go around that—

GOUKER: Can you explain what you mean by 'second go around', please?

ARNOLD: Because I did my—I did my first four years.

GOUKER: Okay.

ARNOLD: The Program is a four-year program.

GOUKER: Right.

ARNOLD: With X amount of work hours. And, here I am, this is what the 7th or 8th year and I'm trying to—you know, still come to this class and everything, I'm just short my work hours, which I was in the middle of getting now. I mean, there was a point in time that it was hard to get work because of the economy and stuff, but I just feel that this is a second go around right now that's being—that's sort of being held against me wrong.

GOUKER: Okay. By way of clarification, because I don't mean to be confused here but I think I am. If you completed your four years of curriculum and now you're back taking more classes, is that what you're saying?

ARNOLD: I did my first four years, that I was supposed to—

GOUKER: Right.

ARNOLD: [crosstalk] I didn't have all my work hours, okay. So, I'm still at like at—

GOUKER: 60%.

ARNOLD: 60% or something because I'm short on my work hours.

GOUKER: Okay.

ARNOLD: But the thing is that, I was still coming to class. Nobody said that I didn't have to come to class or I did had to come to class, I was still showing up for class.

GOUKER: What classes were you attending?

ARNOLD: My apprenticeship classes. I had one teacher my first four years. Then he went in the hospital. He was taken out of his position for medical reasons. I had another teacher for these last four years—three or four years.

GOUKER: So are you saying you're taking double classes?

ARNOLD: Yes sir.

GOUKER: You did four years and now you're starting over and starting the same four year class schedule again.

ARNOLD: Yes sir. Yes sir.

GOUKER: Okay, by my calculations, if you have been indentured, you say 7 or 8—err on the side of caution and say seven years, in a work environment, that's about 14,000 hours. If you're at a 60% in this particular program, in seven years you've only gotten approximately 3,000 hours. That's almost 22%. Has work been that difficult that you were not able to get any more than 3,000 hours in seven years?

ARNOLD: At the time, it was, yes sir.

GOUKER: Okay. And that's a requirement. We will hear from the Program in a minute. It's a requirement as long as you're an indentured apprentice and not completed your job hours, you're required to attend related instruction, is that correct?

ARNOLD: I was going to class and everything. It was just, there was a time period in there that it—yes, it was hard for me to get work, to be employed.

GOUKER: Okay. So your absences, before I turn it over to the rest of the Chair for questions, let me make it very, very clear. The absences are related to your instruction in class and not on the job training?

ARNOLD: Correct sir.

GOUKER: Okay. So you're lack of a job is because lack of work.

ARNOLD: Correct.

GOUKER: Okay. I have nothing else. Thank you.

DAUGHERTY: I'm going to also be—just to confirm 100%, so you completely finished your first year curriculum. You then completely finished your second year curriculum. You completely finished your third year curriculum. You completely finished your fourth year curriculum. Correct?

ARNOLD: Correct.

DAUGHERTY: So there was no stop in moving forward in your curriculum while your hours were not where they needed to be.

ARNOLD: No.

DAUGHERTY: Okay.

ARNOLD: And, the thing was that, I had brought it up to them and they said, they didn't know where all my stuff has gone to but some of the paperwork that I received shows some of the stuff that I did prior to my new teacher coming in, but where is all my other paperwork. I mean, I've been in here for 7-8 years, you know, but when there's a—and this is no disrespect to them or anything, but where does it stop? I mean, I'm just short on my work hours.

GOUKER: Anything else? Committee, anything else? From the North? Okay, can we hear from the Program please? Thank you Mr. Arnold.

MALLORY: Thank you Mr. Chairman, Members of the Committee. For the record, Jack Mallory, representing the Painters, Glazers, Floor Coverers Joint Apprenticeship Training Committee.

GOUKER: Okay. And?

DUARTE: Adolf Duarte, Director of Training for the JATC.

GOUKER: Okay.

ALDALGO: Henry Aldalgo, Teacher Coordinator.

GOUKER: Thank you.

CAMPBELL: Bob Campbell, Management Trustee for the JATC.

GOUKER: Thank you. Can I ask the Deputy AG to have the gentlemen sworn in, please?

[parties are sworn]

GOUKER: We've heard from the—from Mr. Arnold. Who is taking the point here on—

MALLORY: I am sir.

GOUKER: Okay, thank you. Please continue.

MALLORY: For the record, Jack Mallory, representing the Committee. You have in the pack of information that was presented to you the Committee History Report for Mr. Arnold. Regrettably, there have been issues in the past with prior instructor/coordinator. There was an extended period of time where there were no classroom hours reported for a number of individuals, including Mr. Arnold.

You have though, however in front of you a complete history of the classroom and work hours for Mr. Arnold. You also have a record that shows absences and make-up. All of this information that's been presented to you is part of our business record, part of his file and has been certified as such by our custodian of records.

Mr. Arnold talks and has stated in his appeal that there has been a limited number of work hours available in the market. I would say that, in some circumstances and in short periods of time, for the floor covering industry that has been true. Floor covering industry is different from other industries, particularly because there is always repairs and replacements going on. Particularly with the casinos.

The problem with Mr. Arnold is that he has limited his employment, specifically to two employers, both of which tend to stay away from Las Vegas Boulevard. They typically do hospital work. They do light commercial work. They limit their work to predominately hard surface installation and not carpet. Thus, the explanation for his spotty employment record.

We have attempted to place Mr. Arnold with other employers. He has ignored those attempts to place. In some instances, when he has been placed he has failed to maintain employment because of his lack of ability to perform on the job.

We find ourselves in an unfortunate situation because Mr. Arnold is honestly a good person. We feel that after seven years, he's only been able to complete just shy of 3,400 work hours. That he shows a lack of ambition to move forward and to pursue additional employment opportunities with other employers in the industry. That he has disregarded opportunities to make up the several classes that he was missing according to our records.

Unfortunately we believe he's not a good fit for the Program. That he fails to comply with the Standards of Apprenticeship. That he has signed an acknowledgement that he's received and that he agreed to uphold. That he has failed to adhere to the rules of the Program, which include an attendance policy. And ultimately, because we're in this situation, what we're faced with is a situation where Mr. Arnold is presenting one set of facts and no evidence. The Committee is presenting its own set of facts with evidence. Mr. Arnold is not making any legal objection to the Committee's dismissal. We believe that there have been no wrong facts presented. That we have not followed any improper procedure. That our decisions to dismiss should be upheld. We'd be happy to answer any questions.

GOUKER: Okay. Any other testimony from the gentlemen?

SPEAKER: No, not at the moment.

GOUKER: Okay.

CAMPBELL: For the record again, Bob Campbell. I am a Management Trustee that sits on the Joint Apprenticeship. I represent a group of employers in the industry. Based on the evidence that you have in front of you and that's been talked about this morning, the Apprenticeship Agreement that Mr. Arnold has signed, he is in violation of for those reasons of absence, failure to make-up the absences. Timely manner of completing his program and non-communication with the Apprenticeship which he is required to do.

One of the factors that I'm tasked with on behalf of my employers that I represent and that the Labor Apprenticeship Coordinators and Instructors are tasked to do is to provide qualified educated apprentices to the employers. If those members of the apprenticeship choose not to attend class, learn the craft, learn the safety procedures that go along with that craft, then they are a hazard to themselves and others on job sites. Those issues are very important, obviously to—to everyone.

Based on the facts that have been given here, there have been instances where Trustees have witnessed Mr. Arnold in both classroom and hands-on training, where he has chosen not to bring his tools and has chosen not to participate; again, showing unwillingness to learn the craft or the safety procedures there that are required of him. Based on that and the other facts provided, we should uphold his termination.

GOUKER: Okay. I've got just two questions and I'll turn it over to the rest of the Committee. Having served in apprenticeship many years ago on a whole different calendar, decade and possibly century, I don't recall ever having an option on a job assignment. Are you saying that he can decide whether he wants to go to work for a contractor or did I misunderstand and you said he doesn't work for contractors on-strip, so it's off-strip contractors? Does he have—I don't like the color of their trucks so I'm not going to work or does he get a training assignment and he needs to show up?

MALLORY: Mr. Chairman, for the record Jack Mallory. The way that our Program tends to operate is, the Program itself does not assign apprentices to employers. As a function of the Local Union, we have attempted to place Mr. Arnold with different employers. It is up to individual apprentices to also seek employment.

GOUKER: Okay. The other question, not really problematic but just by clarification, the records of the students that were missing for whatever reason, are there other students that are having to retake their related instruction? There's no verification that they actually attended class? No sign-ins or anything, is that?

MALLORY: Mr. Chairman, again for the record, Jack Mallory. It is our position that the records are complete.

GOUKER: Okay, thank you. Thank you for clarifying that. Members of the Committee?

DAUGHERTY: Still on that same question you just asked, Chairman, from what was stated in this eight year pathway that there was a period of time where there was missing attendance, missing grades and so, I'm still requesting to understand—were all students that were subject to that situation, were all of them fairly put back into classes and re-attendance?

MALLORY: For the record, Jack Mallory. Yes ma'am. Every apprentice has been given the same opportunity.

DAUGHERTY: Thank you.

GOUKER: Mr. Mohr?

MOHR: Yeah. I have a question. I'm looking at your letter received by the Labor Commissioner's Office, August 29th. Line item, just for clarification. Line Item No. 6 says, report list shows scores of zero for January 23rd, February 18th, February 25th, February 27th and March 3rd. Then the next line item says notice to appear dated May 16th. Was the meeting held on May 16th or is that when you sent notification to the apprentice?

MALLORY: Mr. Chairman, through you to the Committee Member, for the record Jack Mallory. That was the date that the notice was sent.

MOHR: Okay, thank you.

GOUKER: Anything else? From the Committee in the North?

CANALE: Mr. Chairman?

GOUKER: Please.

CANALE: To the Committee, I'm still—so, I want to get this right and make sure I understand, they are responsible for trying to find some of the work themselves but you did state that the Union did attempt to have him dispatched to different contractors and he failed to take those assignments?

MALLORY: Mr. Chairman, through you to the Committee Member, Jack Mallory, I would defer that question to Henry Aldalgo the Apprenticeship Coordinator for the Floor Coverers and also Business Representative for the Floor Coverers. He can speak more eloquently on that specific issue.

ALDALGO: Good morning Committee. This is Henry Aldalgo, Coordinator. Chris Arnold was dispatched to Freeman's Carpet, during the day he was dispatched, Rob Phillips, the Foreman told him that he would be badged later. Chris Arnold took upon himself to go get badged,

came back later, two or three hours and Rob Phillips fired him due to that they were getting badged later.

And then, he's been dispatched to J&R Flooring where he only worked one day. And, Rivas Carpet and then failed to work a whole shift. That's all, just the two.

GOUKER: Thank you Mr. Aldalgo. Anything else from the Committee? Okay. Well, Mr. Arnold, do you have anything else if you'd like to clarify or add before I ask for a motion? Hang tight while we flip the tape here. No, you're fine. Please. [pause] As a reminder, you have been sworn in.

ARNOLD: Yes, I understand.

GOUKER: Okay. In front of the microphone please, thank you.

ARNOLD: Those instances that were just brought up were not fully true. Freeman Carpet, I was not dismissed from that company because of a badge issue. I worked for them that one day and we didn't get along. The boss left or whatever. But, I've worked for other companies, like J&R for more than one day. I've worked for them a few times—for a couple of times. But, as far as, FSI and Prospectum are the companies that have been keeping me working. Freeman and J&R, they were not. It was hard to get into them companies. They were not keeping me working. I have not turned down any work assignments.

GOUKER: Okay. Anything else?

ARNOLD: All my work I've gotten for myself. They gave me a couple of times, you know, to send me to Freeman. Other than that, I've gotten all my work myself. That's Prospectum and FSI were the ones keeping me working. Freeman, J&R and the rest say either we ain't hiring or whatever or, like I said, you know—

GOUKER: Okay. Thank you.

ARNOLD: As far as everything else, you know, I been on the e-board, I come and do what I have to do for the apprenticeship. You know, since I been in. Like I said, this is basically a second go round that still shouldn't be held against me.

GOUKER: Okay. Thank you. Anything else Committee? In the appeal of Christopher Arnold v. Painters JATC of Southern Nevada, I'll entertain a motion please.

MOHR: Mr. Chairman, I make a motion to upheld the cancelation of Mr. Arnold at this time.

GOUKER: Is there a second?

CANALE: Mr. Chairman, I'll second that.

GOUKER: Thank you. All those in favor of upholding the termination of Mr. Arnold, please signify by saying aye. [ayes around] Those opposed say nay. Okay, that appeal is upheld. Mr. Arnold, you do have the right to reapply for the Program. The rest of the Committee is coming back, is it appropriate at this time to take about a seven minute—seventh inning stretch.

(M/S/C TO UPHOLD THE DISMAL OF CHRISTOPHER ARNOLD)

RECALLED ITEM 5 GREGORY S. MANNION VS. OPERATOR ENGINEERS LOCAL 12 APPEAL

Ch. Christensen stated that MR. Mannion was present. He asked the Council if they would like to hear the matter.

Mr. Gouker asked Mr. Mannion if he was notified of the date and time of the meeting.

Mr. Mannion stated that he was called and he believed the meeting date to the 9th. He came to the office to pick up his packet and he was told the meeting had started.

Mr. Gouker said he believe it would be good to hear the matter.

Verbatim:

CHRISTENSEN: It is. I'm informed by staff that one of the earlier appeals that was a no show has appeared, Mr. Mannion, on No. 5, with the Operator Engineers Local 12. Are the Local 12 people still here? If we take that 10 minute break that you've talked about, I'd prefer to have a full record on that matter and then see whether our prior decision stands or not. That's my inclination. If the Board agrees or does not agree with me, that's what I would prefer to do. So, when we come back from a 10 minute break, probably about 10:45, maybe 10:48, we'll take up that matter for a moment.

GOUKER: Thank you.

[break, start second audio file] [crosstalk]

CHRISTENSEN: All right, we're going to start the meeting again please. When we took our break, we had been advised that the Appellant, Mr. Gregory Mannion in Item No. 5 had appeared. That would've been about 15 minutes ago, so roughly 10:30. Mr. Mannion's item was called on the regular agenda about an hour and 15 minutes earlier than that. Based on his non-appearance and the record that was before us, we made a decision to deny his appeal and to uphold his termination from the Program. Mr. Mannion is here now. I'm just going to ask the Council what your pleasure is. Whether you want to reopen this matter and take Mr. Mannion's statement. We're going to restrict his time, for his failure to be here in a timely manner, but we would like to find out whether the Council wants to reopen this matter or whether they will stand with their opinion. So, discussion from the Council on Agenda Item No. 5, Mr. Mannion's appeal involving Local 12 Apprenticeship Program and our prior denial of the appeal.

GOUKER: Mr. Mannion, could you take the podium please? Before we even get started too heavily, were you notified of this meeting starting at 9:00 this morning?

MANNION: I was called a couple of weeks ago and they told me the 9th. I have work off today. I came in to pick up my packet last Friday after work and the office was closed. I came in today and luckily I came in today and they told me the meeting was being held today. I just received my packet. They said they sent it to me in Certified Mail but I never received anything in Certified Mail. So, I'm just grateful to have the opportunity.

GOUKER: Okay, so again, let me simplify, were you notified of this meeting starting at 9:00 was a simple yes or no.

MANNION: I had been notified on the 9th, next Wednesday, not the 4th. That was my—that was what I heard on the telephone call, if that was a mistake—

GOUKER: Can I ask staff, do we have record that he was notified of this meeting?

GARCIA: Kristine Garcia, I have several—I have attempted to reach him several times. I did speak to him a couple of weeks ago and I did say the 4th. And I am—and I did mail out his package certified. Like I said, we never received anything.

GOUKER: At 9:00.

GARCIA: Uh huh.

GOUKER: Mr. Chair—

MANNION: When she did call, I was on equipment at the time—

CHRISTENSEN: Just a second, wait a second. Go ahead Mr. Gouker.

GOUKER: Although we have had a tradition here with the Council that when an individual who is appealing termination does not show, we vote as we have done this morning. I think that that's prudent. However, I think the magnitude of this and in all fairness to both the Program and to the Apprentice, I think it would be prudent for us to hear you. You say you didn't, they say you did. The back and forth he said/she said gets very tedious. So, I agree with the Chair, we're going to limit your time here. We have a lengthy agenda. We've already dealt with some. We've got several programs that are before us for standard revision which is very, very important. As you can see some of the apprentices don't seem to understand the programs that they're actually indentured in. I think I would like to err on the side of caution and hear this appeal. That doesn't mean we'll maybe agree or disagree or change our previous decision at all, but in fairness to you, fairness to the Program, I would like to put a final from this Council, final review of this appeal process on extremely limited time. Mr. Chair.

CHRISTENSEN: Other comments from the Council?

MOHR: Yeah, Mr. Chairman, is staff from Southern Nevada Operating Engineers here?

CHRISTENSEN: Yes, I believe.

MOHR: Thank you.

CHRISTENSEN: Yeah. All right.

DAUGHERTY: Do we need a point of order to rescind the previous motion?

CHRISTENSEN: Well, I'm not sure that we're going to rescind the decision. Even if we do hear it—

DAUGHERTY: Well, wouldn't we have to amend it no matter what because our decision was based on his non-attendance.

CANALE: Mr. Chairman.

CHRISTENSEN: Mr. Canale?

CANALE: We didn't hear all of that. You did say the representatives from the Program that operates the Operator Engineers, they are still present?

CHRISTENSEN: Yes. I think Larry and Louie are still here, right? All right.

CANALE: One more question to staff, you stated that you did send the certified letter but you had not received confirmation that he had received it?

GARCIA: Correct.

CANALE: Thank you.

CHRISTENSEN: Other comments from Council?

GOUKER: The mechanics of what we may or may not do is certainly up to the Chair of this Council but as a Councilmember, I can tell you that we made a decision this morning based on your appeal and we voted to uphold the decision of the JATC to terminate your apprenticeship. That decision stands. We're not telling you right now we're going to reverse that decision. That decision was made and voted unanimously and that decision stands. We will hear whatever the Chair allows us to hear from you and from the Program. Do you understand that?

MANNION: Okay.

GOUKER: All right.

CHRISTENSEN: Then we probably need a motion to that effect, to go ahead and hear Mr. Mannion's presentation. Understanding that if he persuades us otherwise, there could be a change in

our prior decision. We'll also hear again from the Program, to justify the original dismissal. Mr. Mannion, let's go ahead—

GOUKER: So moved.

SPEAKER: Second.

CHRISTENSEN: All right. That motion has been made and seconded. Those in favor say aye. [ayes around] Any opposed say nay. All right, that motion carries.

Now, Mr. Mannion, what we customarily do is anybody that testifies before the Council must be sworn as a witness.

MANNION: Okay.

CHRISTENSEN: We have a representative of the Attorney General's Office up in the North and she will share—she will swear you at this time.

MANNION: All right.

[party sworn]

CHRISTENSEN: Thank you. Mr. Mannion, would you go ahead then and present the basis for your appeal. Understanding that we have a significant body of documents, some of which you've provided to us. We've all read through that and are familiar with the basis for your appeal. If you would go ahead and make your presentation. We would ask you to limit your remarks to what you think is relevant to the appeal. And then we'll have some questions for you.

MANNION: Okay. I probably should start from when I first came into the apprenticeship. I was—I had that opportunity through my ex-father-in-law, Daryl Thornton who is President of the Nevada Ready Mix. I was led to believe that I could journey out through Nevada Ready Mix, that I didn't have to attend courses. This was Daryl's attitude towards it and I got off on a bad start with the apprenticeship to begin with. I rectified that situation through [inaudible] out there that was teaching classes. I had to make up a couple of semesters because of that. For the first semester because I didn't attend those first couple of classes. I believe the second semester I had three tardies which stipulated that I needed to make up the course. Well, I made up those courses, I carried a B average.

During that time, the majority of my work was with Nevada Ready Mix. I went through a divorce, with my ex which was Daryl's daughter. At that time, he stated to me that I would never work for another company in Las Vegas again. I was actually rehired by Nevada Ready Mix when Ron retook over the operations out there.

CHRISTENSEN: Let me stop you there. What was the date of your indenture, the date of your divorce and the date Mr. Thornton allegedly told you that you would never work in—

MANNION: I don't have that with me. I just got my packet today.

CHRISTENSEN: Okay. Well, approximation then.

MANNION: My divorce was two years ago. I believe it was in June—was it June or July.

CHRISTENSEN: 2014?

MANNION: I believe so, yes. He had made that comment to me prior to that. Along with taking my—my daughter, which I spent several—several months in family court with malicious accusations against me that on two occasions were dismissed by CPS and Family Courts and it was very trying. These were the—this is what I was dealing with, the adversity from Daryl.

CHRISTENSEN: All right. Understanding that those personal issues that are outside the work place and the training place, while they may impact your performance are probably not justification for overturning a termination. Go ahead.

MANNION: Okay. So those relationships that probably screwed up at the beginning, I felt that I rectified that. I went back there and I had a good attitude and completed my course work there.

Upon Daryl saying that, I never had an opportunity to work for a local company. The first local company that I was hired by was Wells Cargo. I went in and filled out all the paperwork and did everything they asked. I called—I believe, his name may have been Ryan, before I even left the parking lot. He was the foreman on the job. I never received a phone call back from him. I called him two days—I called him the day after and the next day. I never received a call, left my phone number and everything.

When I went in to talk to Louie, there was paperwork in my file that stated that I had failed a drug test. I've never failed a drug test and never failed to show up to a job that I was assigned to, ever. That goes from a urine test to mouth swabs to whatever. I'll take a urine test, mouth swab, hair test anytime, but to have that in my file was very concerning to me. I never was actually allowed to even go out on the job because I was never contacted by them.

I went before an appeal to the Apprenticeship Board. This was back in January of last year. I had to file a letter of appeal by December 19th, which I did. What I did was, unaware that I needed to go through the US Post Office, I went on and I dropped it off in the mailbox at the Apprenticeship and it was on a Saturday. On Tuesday I received a letter from the Apprenticeship saying I was been removed from the apprenticeship because I didn't appeal. I immediately called Louie and I said, I left you a 17-page letter in the mailbox.

From that time that I dropped it off on the Saturday and received the letter on Tuesday, that's a matter of three, four days. I'm stating that because on January, a month later is when I would go before

the Board for my hearing because the letter had to be in prior to that, a month before that. I get a call from my ex-wife and she stated that, while she was intoxicated, because she has a problem with drinking, but she was intoxicated stated, you didn't even bother to appeal. Which tells me that within those three days, somebody told Daryl. Because I asked my ex, I said, how did you get that information? She said, I called down there and they go, they gave it to me. I go, you called down there and they gave it to you? I went into that meeting with Louie. I let him listen to the recording on my phone and his comment to me was—I said, there has to be a leak in here because I don't talk to my ex. I don't talk to her about my work, I don't talk her about anything. He said, well don't you think she's just throwing mud on the wall? It's more than that. Because she's mentioned to me about—well they report—now, I don't know where this information is coming from but it's not coming from me because I don't have that relationship with her.

I went before the Board to explain that and they didn't seem to be concerned about that, which I think that's a breach of confidentiality. It was completely dismissed at the hearing.

Now, I was on the out of work list. I had a brother that committed suicide a couple of years ago, two years October 19th. I asked Louie for some time off for some personal time off. He gave it to me and then we met again and so we decided that I'd go back and I'd start working out of the apprenticeship and then we'd get me back into work. That that would be better for me.

CHRISTENSEN: When was that?

MANNION: This was probably—[pause] The end of the summer, last year. Prior to that, I've been on the out of work list for three months at a time and second on the list when I would call. There was one time that I was three months on the list, I went in to pay my dues on the 31st day—and this had been three months. I went and I paid my dues and upon leaving the—the—paying my dues, driving down the road, I wasn't 100 yards out of the parking lot, Louie called me and said, you know I had a job for you at Aggregate Industries yesterday but you weren't on the list.

There was times that I was called and didn't respond—responded within three or four hours and was told the job was not available. I said, how much time do I have? They said, you have a half hour. Which to me seems pretty unfair when you're waiting for months to get a job and, like I said, I haven't gone to work for a local company. I guess Daryl has kept his word on that promise.

My last job with the apprenticeship was with North American Drillers on a graveyard shift. I went out there. I got my forklift certification. I already had it. I went back and re-got it out of the apprenticeship. I went out there on the job. Very slow job. I was doing three pits a night. Louie said, when you're slow get off the equipment and grab some shovels. So, I would get off the equipment. I would clean off around the drills where the excess concrete overflowed. I'd clean it out, level it out so it wasn't hazard—tripping hazard. They released one of the laborers during that time. I'm not sure exactly what it's called but [inaudible] you had to have so many laborers, workers out there whatever, they ended up rehiring him back. I thought it was because I got off and was doing his job.

There was times when I got off the equipment and workers from Nevada Drilling or from North American Drillers were drilling it and start moving my duties and my equipment, which I was told by the journeymen out there working the truck crane that, hey you need to get on your equipment and stay with your equipment.

I was written up for the 25 piece links of steel that they connected to go to, used to drill and for not having them secure on my forklift. There was never a time when I was out there when anybody strapped it down, taped it or anything together and upon taking it over to the racks that they were placed on, one of them tilted, got out of the way so I had to stop my vehicle. I guess at the time there was somebody out there that saw that and they wrote me up for unsafe load.

I was late one time for—I got stopped by patrol going down the hill to Lake Mead. I was coasting about 20 miles over the speed limit and I was delayed, so I was a few minutes late.

Other than that—and I did nod off. I'll tell you, I did nod off on the job, waiting for in between picks. Like I said, I was doing three picks a night. Eight hour shift. It was a graveyard shift. It was—it was a struggle, I'm not going to lie, it was a struggle to—for the change in that hours.

As far as doing my work, I've never shied away from work. I've never avoided it. I feel like there's been—you know, I was told that Daryl Thornton had nothing to do with me getting removed from the Apprenticeship, but he had everything to do with me getting into the Apprenticeship. I find it hard to believe that he had nothing to do with me being removed when he got me in and for the statements that my ex made to me on the telephone call regarding that I never appealed it and for comments about the Labor Board. I find that—I'm disturbed about that. I have 4,000 hours in. I've done my classwork and carried a B average. I only need 1,000 hours. I've gone in and got work, non-union work which is half the pay and no benefits. You know, I want the opportunity to complete that and journey out.

I know that I've made mistakes through the Apprenticeship and I've explained that and I take responsibility for that. I have—it was a rough journey, going through the personal things. I know that doesn't apply but it affected me. I have a 6 year old daughter that I care nothing more about in this world that I was trying to get taken away from me by vindictive, malicious people. I think that that corresponds with them trying to take my daughter away, trying to take my livelihood away. I think there was a breach of confidentiality and that bothers me. I can't—I can't actually prove it. The recording was there. Louie heard the recording. The Board heard the recording. They dismissed it as well due to—don't you just think she was yanking your—as a matter of fact, Louie made the comment, do you think she was just yanking your chain? And then another Board Member made the same comment to me the night that I had the hearing. To me, it just doesn't fit.

CHRISTENSEN: Now Mr. Mannion, as we sit here today, what do you understand the basis for your termination to be?

MANNION: I'm—I'm not sure. I haven't read through all the paperwork. I haven't got the chance. I just got the packet today. I just know that I spent years in the Program. They said that I didn't complete the hours, that I had time to complete the hours. Well, there was months that I spent on the out of work list, second on the list. I know work was slow for a time in Las Vegas but it wasn't that slow. And when I go in and I pay my dues on the 31st day and Louie calls me and says, well you weren't on the list and for times that I was called to go out to work and didn't respond, you know, within a half hour, then I was penalized for that. In talking to other people, that didn't seem to add up. It wasn't the situation for other apprentices in that timeframe.

CHRISTENSEN: Following your brother's passing, how long was your personal leave?

MANNION: I didn't get—I didn't take personal leave. They—we decided just to get me back to work and so I went out and I started working on equipment at the Apprenticeship. I started working on the backhoe. Was working on that for a couple of weeks. Louie came out to me, drove out to me on the side and says, why you working on the backhoe? Why do you have the backhoe at an angle, instead of front forward? I said, well I was told to have it at angle so I could see the trench that I'm digging. He goes, well you don't need to be working on a backhoe because you're not going to be held out to go on a backhoe.

So, I went out and I started working on a bulldozer. Later they told me that I needed to come and get my certification for forklift which I already had certified and by the way, did that anyway. Then I went out to North American Drillers. I was only out there for a couple of weeks.

There was somebody who was out there on the forklift, prior to that they had got rid of and my feeling was, they didn't really want anybody on that forklift because they didn't—there wasn't much to do. And but they had to have somebody out there because it was maybe three picks a night.

CHRISTENSEN: All right, do you have anything else that you want to present?

MANNION: Like [inaudible] had an opportunity—I spent years in the Program with a multitude of course work and—and I wrote a 17-page letter that—

CHRISTENSEN: We've read it.

MANNION: Okay. All right. I just—I just wanted the Board to be aware of that.

CHRISTENSEN: So, right now, you're lacking 1,000 hours—

MANNION: I think I'm at 4,200, plus a year. Yeah.

CHRISTENSEN: Okay, how many classes?

MANNION: I've taken all my classes, any classes that were offered that I needed to recertify for the HAZMAT, for the global industry has certification, I've taken all that. So, I'd be willing to take more.

CHRISTENSEN: All right, thank you. Questions from the Council for the Appellant, Mr. Mannion? Mr. Mannion, you might want to sit there for a moment.

MOHR: Just for clarification, Mr. Mannion, is your CDL license up to date?

MANNION: Yes, it is.

MOHR: Yes it is, thank you.

CHRISTENSEN: Other questions for the Appellant please?

CANALE: Mr. Chair?

CHRISTENSEN: Go ahead Randy.

CANALE: Mr. Mannion, you're saying here, you really weren't sure why you were removed from the Program. Did you not have an initial hearing with the Committee and then, to appeal to that Board and did they not say why you were terminated Board Committee at those times?

MANNION: I was brought before the Committee for absences, the first semester, for tardies the other semester. So, yes, I'm aware of that.

CANALE: Was there anything mentioned about failure to turn in your work reports, were those an issue?

MANNION: Yes, I did fail to turn that in on time.

CANALE: Was it part of your Apprenticeship Agreement that you would turn them in on time and that you would keep up to date on them?

MANNION: Yes, that was. And I accept responsibility for that. There was times I was out of work for months and that—put a big zero on it, but that's no excuse so.

CANALE: No more questions, thank you.

MANNION: Okay.

CHRISTENSEN: Other questions from the Council for Mr. Mannion? All right, thank you very much. Are there representatives of the Program that would like to respond to Mr. Mannion's presentation? All right, what we'd like to do is swear you in as well.

[parties sworn in]

CHRISTENSEN: Could you identify all three of you please again?

O'SHEA: Good morning. My name is Daniel O'Shea. I'm the Director of Labor Relations for the Nevada Contractor's Association and a Trustee on the Operators Apprenticeship Trust.

CHRISTENSEN: Mr. O'Shea.

HOPKINS: Larry Hopkins, Director of Training, Southern Nevada Operating Engineers Training Trust.

CHRISTENSEN: Mr. Hopkins.

LOUPIAS: Billy Loupias, Apprenticeship Coordinator for the Southern Nevada Operating Engineers.

CHRISTENSEN: Thank you Mr. Loupias. All right, who would like to lead out then?

HOPKINS: I guess I'll go ahead and take the lead. Mr. Chairman, again, good morning the second time around.

CHRISTENSEN: Yes.

HOPKINS: A couple of statements I wanted to make. First of all, I think that Mr. Mannion's appearance here is indicative of why he wound up before this Board to begin with. Obviously the record is lengthy and there were numerous opportunities given to write this situation that we're not properly taken advantage of.

One thing I would like to say and although I respect the Board's decision to rehear Mr. Mannion's testimony and for us to come up and make our statements on it to get all the facts, I would caution the Council that we would not want to make this a—a routine where our appellees or appellants feel that they can show up whenever they want and throw everything out of sorts and could've been a different situation if we had other meetings and places to go where we weren't here. I'm curious what would've happened with that. I just wanted to make that statement.

CHRISTENSEN: Thank you.

HOPKINS: In regards to some of the testimony Mr. Mannion gave, I won't address anything specifically because it was all over the board, unless the Council of course, has specific questions for me to address. What I would say is, as I believe Council is aware that, referring back to Mr. Mannion having many opportunities, he was terminated from the Program initially back in August 2015. He was granted an appeal by the Subject C Committee. The Subject C Committee listened to Mr. Mannion. Listened to his reasons for the issues. They understood that he had personal issues in the past, apparently gave those some weight and gave him a second opportunity, allowing him to reenter the Program.

Within about a couple of months, at this point November, Mr. Mannion was once again cited for failure to comply with procedures and the Sub JAC upheld or decided to terminate Mr. Mannion the second time.

Upon his termination, he was notified that he had 30 days time to appeal to the Sub JAC and he submitted that apparently to the red box, as we refer to it and the initial appeal was not timely based on the procedures that we require for filing of appeals.

Mr. Loupias, my office, I run not only Southern Nevada but also Southern California. Louie had called me at my office and said, hey we got this appeal from Greg but it's late. What do you want to do? I said, give him the appeal. So, we did that. The Sub JAC upheld the decision and then he was notified of the second appeal to the Main JAC.

During the Main JAC meeting, when it's normally scheduled we invited Mr. Mannion to come back, which he did. I was present at that meeting as well as Mr. O'Shea and Louie. He presented very similar case to the Main JAC.

In regards to the allegations of information being released and so forth, I would point out that May of 2015, because of some legal issues going on in Mr. Mannion's personal life, we were served with a subpoena to provide documents. We complied with that directive. We supplied the documents and that is the only release of information we're aware of.

The Main JAC did listen in length to Mr. Mannion. Probably 45 minutes or so. They even allowed him to play his recording. And afterwards, unanimously decided to uphold the Sub JAC's decision for termination from the Program.

I think I'll conclude at that unless the Council has any questions specifically for me.

CHRISTENSEN: Questions from the Council for Mr. Hopkins?

GOUKER: Just for clarification, Mr. Mannion was dropped from the Program at some point, August—sometime around August 16th, 17th, you sent him a letter. He was reinstated. The issues that would've caused his termination apparently didn't change, so he's been terminated a second time.

HOPKINS: Correct.

GOUKER: Is that basically correct? So, just so I understand, I completely understand your comment and I can tell you, from my personal point, I've read this about 225-page bit of information and it appears to me and you correct me if I'm wrong, Mr. Mannion at some point if the Chair asks for another very brief yes or no answer—it appears to me that the bulk of the difficulties are from Mr. Thornton, an ex-wife, I didn't get this, I didn't get that. Even today, you know, I didn't know about it. I got my packet this morning. It seems like everybody's got the problem except Mr. Mannion.

I haven't heard anything personally that would cause me to reverse our previous decision, quite frankly. I have read his documents. I scanned them again while you were both testifying. There's nothing in there other than, it was Mr. Thornton's fault, it was my ex-wife's fault. There's Mannion v. Mannion, which quite frankly has got nothing to do with an apprenticeship. I've got two ex-wives,

Plaintiff 1 and Plaintiff 2, it never kept me from going to work. That's—that to me that doesn't even hold water, not at all.

Mr. Chair, I don't know what your feelings are on this thing but I thank you for your time. It's obvious to me that this Program has spent an enormous amount of time and paperwork, documenting the issues. It seems by the—I see no reason for us to do anything other than what we've already done.

CHRISTENSEN: Other questions or comments from the Council? I do want to follow-up on one allegation. I think it's very, very serious when someone asserts that an employer representative like Mr. Thornton may have had some kind of impact on either the admission of an applicant or the termination of his apprenticeship. Have you spent any time looking into that allegation?

HOPKINS: What I can tell you Mr. Chair is that, I took over as Administrator of this organization three years ago this week actually. I don't even know who Mr. Thornton is. He is not a member of our committees. He doesn't appear to our meetings. I understand he is a signatory contractor.

However, the only contact that we received from Mr. Thornton or one of his representatives was release of the file of Mr. Mannion. We—I specifically said that we do not release documents without proper subpoena and recommendation from Counsel. I think you'll see in the back under subpoenaed documents that that's exactly what happened. The subpoena was issued, it went to our Counsel. Counsel even sent it back for a clarification on the way the subpoena was issued.

Upon them reissuing the subpoena, our Counsel said comply. Give them the whole file, for which we did. Other than that, Mr. Thornton, the only reason I know who he is is because of this deal.

CHRISTENSEN: All right, Mr. O'Shea.

O'SHEA: I do know Daryl Thornton. I've known him for 20 years. When we went into Executive Session to make a decision on the suspension, it wasn't a few minutes. We gave every opportunity of everything that he said—and I believe in second chances. I'll see your two divorces and raise you a couple.

We gave him every opportunity we could. That decision was based on what he complied with in the apprenticeship. It had nothing to do with anything personal. I asked a million questions because I wasn't there in the beginning, on the first one but I was there on the second one. I think we went far and wide in trying to help. The track record is what it is. Thank you.

CHRISTENSEN: Is he eligible for reapplication?

O'SHEA: Yes.

CHRISTENSEN: Okay. Anything further?

HOPKINS: Not from us.

CHRISTENSEN: All right, very good. Now if there's no further questions for the Program from the Council, then we'll ask Mr. Mannion if he has any rebuttal and we'd like to limit your time to just a few minutes. We've been very fair I believe this morning.

MANNION: I'll be short. I appreciate my time here. I would like to say that I was working at Fairway Chevrolet when I was dating Daryl's daughter, before we got married. I've never run any heavy equipment in my life. It was nothing that I was—had an inclination I would ever do. It was brought to my attention by her that her dad was going to get me into the apprenticeship. I didn't have to wait on any list. I didn't have to sign up for it. All I did was go down and take a test at the Apprenticeship and I was in. That was how I got into the Apprenticeship sir.

So for them to say that he had nothing to do with me getting in, that is completely false. From the time it was mentioned to me until the time I was in, I never signed up on a list. I went down. I took a test and I was out at Nevada Ready Mix working, under Mike Pilzer.

CHRISTENSEN: All right. Having heard this additional information on Agenda Item No. 5—

MANNION: Can I ask one more question?

SPEAKER: No.

MANNION: Could—

CHRISTENSEN: I think we're done.

GOUKER: We're done.

MANNION: About the reapplication—

CHRISTENSEN: I asked that question and they said that you could.

MANNION: About the process, how would I go about that?

CHRISTENSEN: Just contact Louie, I believe.

MANNION: Okay.

CHRISTENSEN: We've received the additional information from Mr. Mannion, reopened this matter, Agenda Item No. 5, notwithstanding our prior denial of the appeal on mostly procedural grounds. We've heard from the Council and their questions and some of their thoughts. I'm prepared to entertain a motion on Agenda Item No. 5. I think it would be whether or not the prior decision should be disturbed in any manner or whether it should be upheld.

GOUKER: It would be my motion, I made an earlier motion that due to lack of attendance that the appeal was denied. I see no reason to overturn that decision.

CHRISTENSEN: Are there other—other reasons in the record to justify the termination, other than his earlier no show this morning?

GOUKER: Not that I've seen, not that would cause me to make any other motion other than to uphold our previous decision.

CHRISTENSEN: Is there a second to the motion?

CANALE: Second to the motion.

CHRISTENSEN: Those in favor say aye. [ayes around] Any opposed say nay please. All right, that motion is carried. Mr. Mannion, your appeal has been denied. Your dismissal from the Program is upheld. You do have an appeal to the Labor Commissioner and you'll be provided with information by Lleta if you'd like to pursue that. In addition, I would encourage you, if you're still interested in finishing that Program to go ahead and make a reapplication.

We've had several people that go through this same process and then they have come forward with a renewed enthusiasm and dedication to the Program after being readmitted and have finished. And so, I think you have an opportunity for you still.

MANNION: Does that include going through all the coursework or just getting my hours?

CHRISTENSEN: That would be up to the Program.

MANNION: Okay.

(M/S/C TO UPHOLD THE DISMISSAL OF GREGORY MANNION)

ITEM 10 - ELECTRICAL LOCAL 357 JATC REVISION OF STANDARDS

Madison Burnett, Training Director and Diane Wendt, Office Manager, were both presented the revision of standards.

Mr. Burnett stated the program requesting revisions to the selection procedure which would include honorably discharged military veterans and pre-apprenticeship. He read the changes into the minutes.

Mr. Mohr asked the program to update the Workforce Analysis. He asked the program to change pate 5 section 5 subsection 2 to 01 days.

Mr. Burnett agreed to make the changes.

Mr. Gouker motioned to approve the revision of standards with the suggested changes.

Mr. Mohr seconded the motion.

(M/S/C TO APPROVE THE ELECTRICAL LOCAL 357 REVISION OF STANDARDS)

ITEM 11 PLUMBERS & PIPEFITTERS LOCAL 525 HVAC REVISION OF STANDARDS

Mr. Mohr recused himself on this matter and presented the standards. He stated that a cover letter with the changes had been provided with the revision. There were two additional changes made. Section 2 D-11 has been updated to 10 days and the EEO Pledge has been updated.

Ms. Daugherty motioned to approve the revision of standards.

Mr. Gouker seconded the motion.

ITEM 12 SOUTHERN NV CARPENTERS APPRENTICESHIP AND JOURNEYMAN TRAINING TRUST DRYWALL APPLICATOR

ITEM 13 SOUTHERN NV CARPENTERS APPRENTICESHIP AND JOURNEYMAN TRAINING TRUST SCAFFOLD PROGRAM

ITEM 14 SOUTHERN NV CARPENTERS APPRENTICESHIP AND JOURNEYMAN TRAINING TRUST MILLWRIGHT PROGRAM

Ch. Christensen said she asked the program if the changes were similar for all three programs, if so if the program would like the items to be heard together.

Ms. Ruby Ramos said they were and the program would like them to be heard together.

Mr. Pfundstein recused himself on these matters.

Bobbie Whitmore, Training Coordinator, Dan O'Shea Co-Chair, and Ruby Ramos, Office manager were present to present the revision of standards.

Ms. Ramos stated that the revision of standards were the same as the National Guideline Standards. They updated the wages, minimum qualifications using the alternative selection methods. They also updated their direct entry methods to follow the national guideline standards. Ms. Bobbie Whitmore's name needs to be added to the Adjustment of Differences section. She read the verbiage into the record.

Mr. Gouker asked for an explanation of Section IV under qualification of apprenticeship relating to the applicant providing an official transcript. He said the educational requirements needed to be either high school diploma or high school equivalency within the first year.

Ms. Ramos stated the transcript could be used for entry into the program giving points for selection. She said the policy is that they have to have it within a year.

Mr. Gouker said that needs to have the education requirements for added verbatim in the standards. To meet the requirement of the State. He said that would need to be added to all of the programs standards.

Ms. Ramos agreed to make the change.

Mr. Gouker suggested that the program reference to the Nevada Statutes in the standards. Not just the federal regulations.

Mr. Mohr stated on the ratio of needs to meet the requirements of NAC 610.438.

Ms. Ramos stated the ratio language was taken directly from the collective bargaining agreement.

Mr. Mohr stated that Appendix D page 6 in all three sets of the standards. He said the selection method being used. He was concerned with the Intent to Hire letter. He said the way it read to him a person could go directly into a program.

Ms. Ramos said the applicant would still need to apply to the program. The sponsor have quarterly meetings where they can come in and get more information about the programs. She said it's not just the letter of hire that can be used.

Mr. O'Shea said the applicant would still need to meet the minimum qualifications.

Mr. Gouker pointed out that the ratios were not the same for all three programs.

Ms. Ramos said that was because the Millwrights have a separate collective bargaining agreement.

Mr. Gouker said the program needs to conform to the state statutes pertaining to the ratio.

Mr. O'Shea said the CBA has been in place for a while and this doesn't negate the apprentice from any safety training prior to employment.

Ch. Christensen explained that in the past, to use a lessor ratio, the Council has required some safety information that could justify a relaxing of the regulation.

Mr. O'Shea asked if they could provide that information at a later date.

Ch. Christensen said the program could come back.

Mr. Gouker suggested the program make there ratio match NRS 610.438.

Mr. O'Shea agreed to the change.

Mr. Gouker said the direct entry language is conflicting. He asked the program to meet with Ms. Henry to work on the language.

ITEM 17-OPERATING ENGINEERS LOCAL 3 JATC REVISION OF STANDARDS

Brian Prather, Administrator for program, was present to answer questions regarding this matter. He said the program was submitting their standards to add language for veterans and direct entry into the program. He read the revisions into the record.

Ch. Christensen asked Mr. Prather to explain page 37 #8, the signatory contractor referral.

Mr. Prather said the JATC wanted to offer a way for the applicant to come in through the normal process but they would have the ability to give them direct entry based on their experience out on the field or with that company.

Ch. Christensen asked if they would be required to satisfy the admission requirements of the program.

Mr. Prather answered yes they would still have to meet the minimum requirements.

Ms. Quit asked if the Form 5910 has the pay period box check.

Ms. Brown said the box was not check.

Mr. Prather said he would correct this.

Mr. Gouker asked Ms. Henry if the contactor referral would be considered direct entry.

Ms. Henry said yes it is assumed that it is.

Mr. Gouker asked if this would be the same as a Letter of Intent.

Ms. Henry said it appears that the program would have two different selection methods. The program would still need to have the applicants listed on the ranking list, and dispatch accordingly. They would have to keep records of which contractors interviewed which applicants to make sure there was no discrimination practice. She said that also allows the SAC staff to perform compliance reviews on each contractor individually.

Ch. Christensen asked how the program would function if method #8 was approved.

Mr. Prather explained that the employer would refer the applicant to the JATC for testing and evaluation.

Ch. Christensen asked if the direct entry would allow someone to jump the list of applicants.

Mr. Prather said yes that was the intent to allow preferred entry. He said the contractors that came to the JATC said that a lot of applicant that they feel are qualified and have good work ethics are not being allowed in because of poor test scores. They feel they would have a better pool if they were allowed to bring in applicants that they feel were qualified.

Ch. Christensen said that a recommendation from a contractor could be a factor but not a basis for jumping a pool of eligibles.

Mr. Gouker said he had a problem with this. He suggested that the program meet with Ms. Henry and staff. He explained that the program would be creating two lists, and that was illegal.

Ch. Christensen asked Mr. Prather if he wanted to withdraw that section from the revision.

Mr. Prather said yes he'd like to take that matter back to the JATC for review.

Ch. Christensen asked if he wanted to have the application reviewed without that information.

Mr. Mohr suggested that the language for the ratio be updated to match the NAC and that page 15 Addendum 1, "Construction Equipment Operator Branch" should be changed to "Grading and Paving" to match the Form 5910.

Mr. Prather said it could be. Both terms were used. The contract said Grading and Paving.

Mr. Gouker said the language for the ratio is higher than the regulation.

Ms. Henry said she believed the ratio language needed to show that the apprentice and journeymen were working in the same classification.

Mr. Gouker said inserting the word "operating engineer apprentice" to the ratio language on page 12.

Ms. Henry said there were different occupations for this set of standards.

Mr. Prather said the ratio applied to all of the crafts.

Ms. Quitt suggested add a disclaimer that the journey worker supervising must be from the same trade. So that there would not be a grading and paving journeymen supervising an crane operator apprentice.

Mr. Prather agreed to the suggestion.

Public Comment

Rob Bagley, Local 3 member and committee member. He is employed by Q & D. He was an apprentice in 1985. He said the intent for direct entry was for the military veterans to qualify. He said also the company does have a lot of people coming into their office that are recommended by others that they know. They have been very diligent to direct them to the JATC for application. Since there have been many applicants, but some of the people don't score well on the test and end up low on the list. They are trying to find a way to bring them in. He said the intent is not just to jump the list because someone knows someone. He said he would ask that the Council consider that when they revise the language at a later day.

Mr. Gouker said he understood, but the way that the language could be abused. He said maybe the program should consider reviewing their selection and ranking procedure.

Ch. Christensen said the programs have the discretion on how they evaluate and assess their applicants as long as they don't use subjective manners that are nondiscriminatory.

Mr. Prather said they will work on that and come back in February with new language.

Mr. Gouker motioned to approve with the removal of item #8 on page 37, the clarification made by Ms. Quitt and any additional corrections suggested and agreed to.

Ms. Daughterly seconded the motion.

(M/S/C TO APPROVE OPERATING ENGINEERS LOCAL 3 REVISION OF STANDARDS WITH CORRECTIONS)

ITEM 18 – REPORT OF STAFF A) QUATERLY STATISTIC

Ms. Brown reported there were 63 total programs approved and 3,107 registered apprentice 7% are female, 55% minority, and 4.5% veterans.

Ch. Christensen said we should place concrete dates for the next four meetings and make sure we comply with the statute.

Mr. Gouker suggested the first Monday of each calendar quarter.

After discussion from the council, Ch. Christensen asked if there were any objections to scheduling the meetings for February 13, 2017, May 8, 2017, August 14, 2017 and November 13, 2017.

Mr. Gouker motioned to approve dates for the meetings.

Mr. Canale second the motion

(M/S/C TO APPROVE 2017 MEETING DATES)

ITEM 19 –REPORT OF FEDERAL OFFICE OF APPRENTICESHIP

Ms. Henry stated Mr. Gouker, was inducted to the USA Apprenticeship Hall Of Fame.

She reported DETR was awarded 200,000 hour accelerator grant to help the workforce and economic development system to promote registered apprenticeship in high demand industries. DETR was awarded almost \$800,000 grant to expand apprenticeship.

She reported two new bulletins were issued. The first was for apprenticeship occupation, Agriculture Commodity Grader. The second was a revision of Standards to make it a competence base for the Wireless Technician.

Doug Howell was promoted to a new position, as Multistate Director where he will be servicing WA, OR, HI, Guam and the small islands.

Ms. Henry said they will help with the Standards and will be working with the grantees of the state.

ITEM 20 – REPORT OF ATTORNEY GENERAL

Ms. Buoncristiani did not have a report.

Mr. Gouker requested for clarification on NAC 610.110, General Powers & Policies Of The Council, and NRS 610.020.

Mr. Gouker asked for clarification on how we determine what a parallel program is in fact.

Mr. Gouker asked for clarification what it means to have the minutes posted. He stated the statute says that we have 45 days or the next regular scheduled meeting to approve the minutes. The statute also states the minutes need to be available for public inspection within 30 days after adjournment of meeting.

Ms. Buoncristiani said that on the Open Meeting Law minutes are to be posted within 30 days as draft minutes which are approved at the next meeting.

Ch. Christensen asked Ms. Buoncristiani if an audio recording could be an alternative to make available to the public.

Ms. Buoncristiani said she would get clarification for their question and make sure it was answered.

ITEM 21 – REPORT OF STATE DIRECTOR OF APPRENTICESHIP

Ms. Chambers reported DETR was awarded \$800,000 grant. We will be working with DETR with them throughout the next year, attending meeting, trainings, and outreach. We will not manage the grants.

Ch. Christensen asked if there is a bill draft in the legislature to change the council to be an Agency under the direction of a different portion of the government.

Ms. Chambers said she is not aware of an actual bill draft but she is aware of possible discussions of this.

PUBLIC COMMENT

There was no public comment.

ITEM 22 – ADJOURNMENT

Mr. Gouker motioned to approve.

NEVADA STATE APPRENTICESHIP COUNCIL
November 4, 2016
Quarterly Meeting

Ms. Daugherty seconded the motion.

(M/S/C TO ADJOURN)