



Buildings

Rick D. Chandler, P.E.
Commissioner

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May 1, 2018

Original via Certified/RRR Mail

Kevin J. Reilly
36 Colony Road
Port Jefferson Station, NY 11776-4230

Dear Mr. Reilly:

I have completed my review of Administrative Law Judge Ingrid M. Addison's Report and Recommendation in this matter (OATH Index No. 1116/17, April 10, 2018), along with the record of the proceedings.

The ten day hearing at OATH began on June 26, 2017 and continued intermittently until October 31, 2017. The Department presented four witnesses in support of the Charges and Specifications.

In her April 10, 2018, Report and Recommendation, Judge Addison found that you were negligent, incompetent, lacked knowledge of and failed to comply with, applicable rules and regulations, and engaged in or assisted in an act that endangered public safety by failing to properly stow the crane that you were operating at 60 Hudson Street, New York, New York on February 4th and February 5th 2016, in anticipation of a weather-forecasted wind event. Additionally, you failed to follow the crane manufacturer's guidelines for stowing the crane.

Judge Addison stated:

Petitioner established that respondent was responsible for the crane and was required to fully familiarize himself with the crane and the proper care necessary for the crane. Respondent neglected this responsibility when he failed to follow the manufacturer's instructions to lower the crane prior to a wind event, which I found to constitute negligence. While leaving a crane erected overnight does not appear to be an anomaly, leaving the LR 1300 (possibly the largest crane configuration in New York City at the time) erected overnight when strong winds were expected the following day, was. It led to respondent's belated attempt to lower the crane during the wind event, at which time the crane collapsed, resulting in one fatality and other significant damage to property.

Additionally, in her Report and Recommendation, Judge Addison stated:

Had respondent followed the manufacturer's instructions and laid the crane down on the eve of the wind/weather event, the resulting fatality and other associated significant injuries would not have occurred.



Judge Addison rejected your defenses to the charges and specifications, finding that you are ultimately responsible for the operation of the crane. I agree with her findings.

However, I disagree with Judge Addison's finding that on February 5, 2016, you did not make the crane unstable and cause its ultimate collapse by lowering the boom to 72 degrees and the jib to 49 degrees. Having reviewed the record, including the CTS report, I find that specification 4 of Charges 1 and 2 should have been sustained. The crane computer's CPU data indicate that at or near the time of the collapse, the crane had a main boom angle of approximately 70 degrees, which put the crane at its maximum limits of stability. These digital measurements corroborate CTS's field measurements regarding the actual boom and jib angle at the time of the collapse.

Based on my extensive education, training and experience as a licensed Professional Engineer, I find that, contrary to Judge Addison's assertion that "Petitioner's theory relied on several questionable and unproven assumptions," CTS's analysis was based on basic engineering science. Respondent's theories to the contrary, relied on speculation and self-serving statements. As such, this specification should have also been sustained.

Pursuant to the New York City Charter, Section 1046, I may adopt, reject or modify any Report and Recommendation of a City agency's tribunal. I hereby adopt Judge Addison's April 10, 2018 Report and Recommendation as to some of her findings of fact, adopt her recommendation to revoke your Hoist Machine Operator's license and find you in violation of the provisions of law cited in the Report and Recommendation.

THEREFORE, effective immediately, the sanction imposed upon you is revocation of your Hoist Machine Operator's license. You must surrender your license immediately to the Department.

SO ORDERED:

Rick D. Chandler, P.E.
Commissioner

cc: ALJ Ingrid M. Addison
Stacey Richman, Esq.