

The Contractors Critic

Reporting on Safety, Productivity and Honesty in the Construction Industry

BAY HARBOUR ELECTRIC, INC.

Dishonest Tactics, Litigation & Lawlessness

Bay Harbour's heart wasn't in Highland, letters show

Bay Harbour Electric became involved in a construction project at Highland High School in Medina, Ohio.

A series of increasingly nasty letters, starting in September 2003, reveals just how tense things became between Bay Harbour, the school and the main contractors were hurrying to complete the project before winter snows commenced.

The tale begins with a Sept. 2, 2003 letter from W.W. Williams, an Atlanta, Ga.-based equipment provider.

Williams wrote to the school district treasurer and other partici-

pants in the project to complain that Bay Harbour had still not paid for a generator valued at some \$21,000 that had been billed in May 2003 and delivered in June 2003.

With that "deadbeat" allegation already in the wind against Bay Harbour, Nov. 18, 2003 arrived along with a letter to Bay Harbour from another angry contractor at the Highland High School project.

The Ruhlin Company wrote to a Bay Harbour executive tartly announcing that, "This letter shall serve

as notification to your firm [Bay Harbour] that any further pay applications can and will not be processed until Bay Harbour provides written notice and documentation that the notice of claim on bond and lien document has been resolved with your labor supplier. . . . In protection of the owner, they will be advised accordingly until such items of request are received and deemed acceptable."

"In cooperation on this issue," the
Highland cont'd, pg 2

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You are what you claim to be: Bay Harbour's idea of 'honest' bidding

Extreme caution is advised when examining the paperwork that accompany Bay Harbour bids and documentation. There is no telling what it may conceal or inadvertently reveal.

Take the mechanic's lien waiver filed June 15, 2001 in connection with *Erie Metropolitan Transit Authority, et al v. Bay Harbour Electric, Inc.*, Lien Waiver #40434-01; Erie

County (Pa.) Court of Common Pleas.

The waiver, an agreement signed by both Transit Authority and Bay Harbour, indemnifies the owner Transit Authority from any suits or actions brought against Bay Harbour related to the \$462,000 contract bid Bay Harbour had then won for electrical work on the
Honest Bidding cont'd, pg 3

Highland

Cont'd from pg 1

Ruhlin warning letter continued, “you specifically mentioned that there may be some confusion on the part of your labor subcontractor and you would resolve the issue expeditiously. Please do so and advise accordingly.”

That said, only a few days later on Nov. 24, 2003, another angry subcontractor was at the keyboard tapping out an angry memo to The Ruhlin Company complaining about the progress – or lack of same – by Bay Harbour on the installation of canopy lighting.

“We have had the canopy ceiling ready for electrical rough since 11-5-03. I have requested this work a number of times, nothing has been started as of this date due to [Bay Harbour] not having the lights on site. We are running out of suitable weather to do EFS work without getting into weather protection... Since there was plenty of time for this work to be completed before now [this particular subcontractor] won't be responsible for this added cost.”

A week later, on Dec. 1, 2003, a project engineer with The Ruhlin Company forwarded the memo to Bay Harbour. Nine days later a Bay Harbour Vice President replied generally to The Ruhlin Company about delays and other matters connected to the troubled Highland High School project.

What the Bay Harbour executive wanted, it appears, was more time, more understanding and more money. Bay Harbour wanted to extend the project 90 working

days through the winter and well into the spring.

“In addition, we are seeking compensation for all administrative and field operating costs we have acquired on this project due to delays,” the Bay Harbour executive demanded.

His letter was dated Dec. 10, 2003. The blistering reply from The Ruhlin Company was dated Dec. 11, 2003, so you can easily imagine just exactly how exercised the responding executive was.

“I take exception to your letter of December 10, 2003 regarding the time extension change order sent to all contractors on March 4th of this year.” The apparently furious Ruhlin Company executive began.

After outlining why calendar mathematics made an extension

unreasonable, The Ruhlin Company executive summed up his opinion of Bay Harbour's pitch for more time and more money: “Therefore all of your statements regarding additional labor, trade stacking, chaos and loss of productivity are incorrect.”

Rebuffed there, Bay Harbour was back at it Dec. 24, 2003, writing yet another of its infamous “To Whom It May Concern” missives. The letter – this one also stamped with an executive name, but not signed – was to the architectural firm Fanning/Howey Associates, Inc. of Dublin, Ohio. It announced Bay Harbour was seeking compensation for “damage delays.”

“At this time a total cost of our claim can not be determined,” Bay Harbour announced.

Angry school district cries, ‘Foul!’ over Bay Harbour’s lawsuit antics

The Iroquois School District filed a blistering answer and counterclaim in the Erie County Court of Common Pleas deriding Bay Harbour for trying to shift the blame for failing to fulfill a contract in a timely manner.

Filed June 19, 2003, the counterclaim denies a host of “averments” contained in a lawsuit Bay Harbour launched to get more money out of the district for work they may – or may not – have done in a project that started in 2001, but was not substantially completed until July 2002.

“The School District deni[ed] that it had any duty to Bay Harbour to schedule or coordinate the Project, [or] ... breached any administrative duty...”

Attorneys said the district “denies Bay Harbour’s imprecise description” of the terms of the bid and subsequent contract and plans to stand on the original document which “speaks for [itself].”

“The School District objects to the imprecise averments ... regarding an undefined ‘contract’ and undefined responsibilities to

School District cont'd, pg 3

Honest Bidding

Cont'd from pg 1

Erie Intermodal Transportation Center.

According to Transit Authority web site, "Erie's Intermodal Transportation Center, located at 208 East Bayfront Parkway, was officially opened on Nov. 8, 2002.... The facility's purpose is to serve as a hub for many modes of transportation, such as buses, taxicabs, limousines, and bicycles."

The 33,500 square foot facility cost an estimated \$8.9 million. The project sits on 2.8 acres, with parking for 151 vehicles. Funded by both the federal and state governments, the geothermal-heated center includes office space for the local chamber of commerce and Congressman Phil English.

Bay Harbour was awarded the contract — but only after company

Chairman Carolyn Dolak certified that Bay Harbour was "not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by the Commonwealth of Pennsylvania, the federal Government or other states."

But in fact, Bay Harbour had been debarred in New York state from bidding on government contracts because it had been previously caught and convicted of violating prevailing wage rules and was still excluded from bidding on government contracts at the time. (*See article, page 9.*)

Nevertheless, Dolak signed the affidavit presenting assurances to the Transit Authority that Bay Harbour was not bidding under a legal cloud,

which it was.

In an unsigned, no return address given, "To Whom it May Concern" memo attached to the certification, Bay Harbour admitted to the debarment, urging that Erie officials ignore the obvious conclusion that Bay Harbour was attempting to circumvent the law.

U.S. and state laws designed to encourage and enforce honest business practices, it seems, may apply to other companies, but — in Dolak's eyes — did not apply to Bay Harbour because of special considerations.

"In my opinion, I am 100% confident that our debarment was a political campaign..." the memo claimed. Interestingly enough, *Honest Bidding cont'd, pg 4*

School District

Cont'd from pg 2

allegedly 'coordinate and administer' such contract and, therefore, denies such averments," the answer and counterclaim said.

So "imprecise" were some of Bay Harbour's descriptions in this lawsuit — *Bay Harbour Electric v. Iroquois School District, et al.* — that one sample paragraph "constitute[d] a nonsensical sentence...."

The district also objected to Bay Harbour trying to re-characterize a change order in a delayed claim with a hail of vague claims of certain "anticipations" and ambiguous "expectations" that Bay Harbour had allegedly held for

the contract.

Moreover, the district answered, the change order "serves to maintain and reaffirm the final Contract completion date. As such, this charge order specifically negates and voids any schedule-related damages claimed by Bay Harbour prior to the March 29, 2001 effective date of the change order," the district argued.

In its counterclaim, the Iroquois School District quickly got down to the nub:

"Over the course of the Project, Bay Harbour failed to perform its work in a timely manner and failed to effectively respond to the School

District's notices of its untimely performance.

The counterclaim continued, "Bay Harbour's untimely performance of its work on the Project, and failure to achieve its contractually-mandated completion dates, constitutes a breach of its Contract duties to the School District, the remedy for which is assessment of liquidated damages."

It finished, "Despite demand, Bay Harbour has refused to honor its obligation to the School District for payment of liquidated damages." (*Case #GD 11722-03*)



Honest Bidding

Cont'd from pg 3

Dolak's "100%" level of "confidence" was not strong enough for her to actually place her own name and signature on the memo.

As anyone used to tacking close to the legal winds knows, signed documents have a unpleasant habit of resurfacing in the hands of opposing lawyers during cross-

examination.

In any case, despite being warned of Bay Harbour's prior conviction of violating prevailing wage rules, the Transit Authority chose to award the contract to Bay Harbour anyway. So the Transit Authority therefore had only itself to blame when an investigation a few months later

forced it to notify Bay Harbour that:

"... [I]n reviewing Bay Harbour's prevailing wage filings, it appears that Bay Harbour is using the incorrect scale.... Please provide us with an explanation for the discrepancies or take such steps as are necessary to rectify the situation," an Transit Authority official told Bay Harbour in a letter dated March 21, 2002.

Other documents obtained through public information laws also showed that Bay Harbour's contract for \$462,000 was inflated by \$70,000-plus to at least \$534,940 as a result of multiple change orders.

Whistleblower bares scheme to hide illicit operation from ISO auditors

An ex-Bay Harbour employee has implicated high company officials in a scheme to hide the operations of an illegitimate office from a team of International Organization for Standardization (ISO) auditors investigating Bay Harbour's management practices.

cally ordered employees not to reveal the existence of an unauthorized office the company maintained in Ohio.

"I was uncomfortable with being directed to lie," said the former employee, who asked not to be named.

When the auditor — curious about why Pennsylvania-based Bay Harbour supervisors were making service calls to Ohio — the now-fired employee honestly reported that the company had an office in that state.

The employee was immediately hustled out of the auditor's presence and, a few days later, was fired on the trumped-up reason that he was allegedly "rude" to the auditor.

"I think its because I told the truth," he insisted.

Proof of that could be seen, he continued, in the fact that Bay Harbour refused to provide any documents to prove the previously well-regarded employee suddenly merited termination and the fact that the state fully approved his unemployment claims.

Dun & Bradstreet downgrades Bay Harbour Electric

Dun & Bradstreet, the prestigious company that rates businesses of any prominence, has given Bay Harbour Electric a credit score of "5" which means that, "during the previous year... [Bay Harbour] paid one or more bills severely delinquent." According to Dun & Bradstreet, the information they have on Bay Harbour indicates that, "Subject company pays its bills slower than the average for its industry." The business report also included evidence of open court cases against Bay Harbour.

Bay Harbour higher-ups had specifically ordered employees not to reveal the existence of an unauthorized office the company maintained in Ohio.

The former employee, who now works elsewhere, said he was summarily fired shortly after answering truthfully to questions from an ISO auditor assessing whether Bay Harbour met ISO 9000 standards.

The ex-project coordinator said Bay Harbour higher-ups had specifi-

Bay Harbour's Litigation & Liens

The following lawsuits are just a sampling of Bay Harbour's voluminous and varied legal problems.

Magnum Cable Corp. v. Bay Harbour Electric, Inc.; Case #CV-03-505294; Filed 7/10/03; Cuyahoga County (Ohio) Court of Common Pleas

This case was filed in the court of Judge Christine McMonagle with the declared prayer amount of \$13,980. The case was voluntarily dismissed without comment Aug. 26, 2003.

Bay Harbour Electric Inc. v. GTI, Inc.; Lien #JL-03-196938; Filed 5/8/03; Cuyahoga County (Ohio) Court of Common Pleas

Bay Harbour filed a lien with an unstated prayer amount on May 8, 2003.

Chris Watkins, IBEW Local No. 306 v. Bay Harbour Electric, Inc.; Case #6-CA-32166 & 6-CA-32167; Filed 5/2/01; U.S. National Labor Relations Board, Region 6

In a case filed with the National Labor Relations Board in May 2001, Chris Watkins charged that Bay Harbour had been engaging in unfair labor practices. The lawsuit claims Bay Harbour Electric had been interfering with, restraining and coercing employees in the exercise of rights guaranteed in Section 7 of the National Labor Relations Act and that the company had "been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees..."

The Regional Cancer Center v. Bay Harbour Electric, Inc., North Coast Building Company, et al; Case #14332-00; Filed 12/18/00; Erie County (Pa.) Court of Common Pleas

The Regional Cancer Center also had problems with Bay Harbour Electric. Court records show that the Regional Cancer Center filed a pleading for a writ of summons against the defendants Bay Harbour Electric, North Coast Building and others on December 18, 2000.

David M. Allen v. Bay Harbour Electric, Inc., et al.; Case #1469 of 1997 C.A.; Filed 12/1/99; Clarion County (Pa.) Court of Common Pleas

David M. Allen suffered a severe electrical shock at the Clarion County Prison and his civil suit charged that Bay Harbour Electric was responsible for his injuries. His complaint claimed that Bay Harbour Electric used the wrong type of electrical ground fault receptacle during their construction of the electrical wiring of the prison. His suit charged Bay Harbour Electric with "failure to follow Local, State and Federal codes in the installation of the electrical outlets; failure to properly supervise their employees ... failure to provide watertight housing for said electrical units; failure to inspect the work..." He also charged

Bay Harbour Litigation Cont'd, pg 6

Plan 'failed to demonstrate good faith'

The State of Ohio's Equal Opportunity Division stated in a May 12, 2003 letter, that Bay Harbour Electric "has failed to demonstrated (sic) good faith efforts to comply with the State of Ohio's Affirmative Action Program." As a result, the affirmative action certificate, which is essential for Bay Harbour Electric to avoid sanctions and penalties, was made "conditional."

Under the conditional certificate of compliance, the

The affirmative action certificate, which is essential to avoid sanctions and penalties, was made "conditional."

state will scrutinize Bay Harbor Electric's good faith effort to comply with the State Affirmative Action program and Bay Harbor Electric and its subcontractors will be required to file monthly reports on their hiring practices. The State of Ohio was forced to take these actions, even though Bay Harbour Electric's official hiring policy claims, "We do not discriminate on the basis of union affiliation, race, sex, color, age, national origin, disability..."

Bay Harbour Litigation

Cont'd from pg 5

Bay Harbour Electric with “failure to use ordinary and reasonable care in the installation [of the electrical system] ... failure to promptly fix the problems ... [and] failure to perform the work according to the ordinary and reasonable standards of the [electrical] profession.” Allen sought more than \$25,000 in damages from Bay Harbour Electric and the other parties.

Bay Harbour Electric, for their part, claimed that the other parties to the case, namely the construction project designers, were at fault for failing to designate the correct type of electrical receptacle for Bay Harbour Electric to install.

Bay Harbour Electric, Inc. v. M&K Electrical Company, Inc.; Case #11439-1999; Filed 5/3/99; Erie County (Pa.) Court of Common Pleas

In this court suit, Bay Harbour Electric agreed to buy various pieces of equipment and tools from M&K Electrical Company. Bay Harbour Electric said that they paid \$29,700 down and agreed to pay monthly installments of \$877. However, when Bay Harbour Electric received a shipment of the promised equipment, they claimed that some of the tools were damaged. Bay Harbour Electric went to court in an effort to avoid paying \$10,500 of that equipment contract.

M&K Electrical Company strongly contested Bay Harbour Electric’s assertions. Mark J. Leach, a M&K representative, submitted an affidavit to the court, stating that Bay Harbour Electric had thoroughly and carefully inspected all of the goods and accepted them upon delivery, without objection.

Bay Harbour Electric, Inc. v. H. Platt Company; Case #10518 of 1999; Erie County (Pa.) Court of Common Pleas

Bay Harbour Electric sued this fellow contractor in a dispute over work Bay Harbour Electric performed for H. Platt Company at the Elder-Beerman Store. After H. Platt Company paid Bay Harbour Electric \$450,450 for a contract that was originally \$525,000, Bay Harbour Electric complained that they wanted to be paid \$525,000 altogether. According to the lawsuit, Bay Harbour Electric asserted it had performed additional work.

Bay Harbour Electric also claimed that H. Platt owed them another \$6,887 for electrical work performed on a Consolidated Public Works job.

Clifford W. Bennett v. Ellwyn Reynolds, Jr., Bay Harbour Electric; Case #10585 of 1998; Filed 4/22/98; Beaver County (Pa.) Court of Common Pleas

One of the most important people on a construction job is the field supervisor. They are responsible for direct relations with the employees who are performing the fieldwork. One of Bay Harbour Electric’s supervisors was a real piece of work, according to a court complaint filed in Butler County,

Bay Harbour Litigation cont'd, pg 7

Bay Harbour’s trouble telling truth goes on and on

Bay Harbour’s tawdry troubles with telling the truth, the whole truth and nothing but the truth – resurfaced in a Jan. 4, 2001 letter from an Ohio county government notifying the company it was being fined for performing work without a license.

The letter from a Mahoning County Building Inspection Department official alerted Bay Harbour that the county electrical board had decided at a Sept. 19, 2000 meeting to fine Bay Harbour \$500 for “not being licensed to obtain a permit for the work you were performing at [the] subject cell tower site.”

The notice continued saying, “You were not a licensed electrician in Mahoning County and were not authorized to perform electrical work therein.”

In fact, Mahoning County’s Chief Building Official noted in the brief letter that Bay Harbour “did not receive a permit until after the work was well done.” Attached was a “timeline of events for the cell site...” and a notice ordering it to, “Please submit a check for \$500.00 within 30 days.”

Before that 30-day deadline could arrive, the

Truth Telling cont'd, pg 7

Bay Harbour Litigation

Cont'd from pg 6

Pennsylvania. The Bay Harbour Electric supervisor was named Ellwyn Reynolds. He was known to be “malicious and of a violent nature.” He also “had been criminally charged on a number of occasions with disorderly conduct.” Reynolds’ supervisors at Bay Harbour Electric knew he was “confrontational, ill tempered and [that he] frequently engaged in fighting.”

Nonetheless, Bay Harbour Electric had “failed to discipline or discharge”

Reynolds, even though they recognized his conduct as a major infraction of company policy. Bay Harbour Electric also failed to protect other employees from Reynolds’s violent conduct, which rendered him incompetent as a supervisor.



Bennett suffered severe and serious personal injuries and damages.

With a loose cannon like Reynolds at Bay Harbour Electric, trouble was bound to result. The inevitable confrontation took place at a restaurant, during diner, after a day’s work by Bay Harbour Electric at the Seven Fields project in Butler County, Pennsylvania. For no foreseeable reason, Ellwyn Reynolds abruptly began slugging another Bay Harbour Electric

employee, Clifford Bennett during their evening meal. The restaurant furniture went flying as Reynolds attacked Bennett.

According to his court suit, Bennett suffered severe and serious personal injuries and damages. His civil complaint charged that Bay Harbour Electric knew about Reynolds’s violent nature, but kept him on as a supervisor anyway and did not take steps to protect other Bay Harbour Electric employees from Reynolds’ outbursts.

Bennett sought \$25,000 in damages from Bay Harbour Electric after his beating at the hands of Reynolds. Bay Harbour Electric eventually paid a settlement to Bennett.

Bay Harbour Electric, Inc. v. Union Station Development Corporation; Case #12920-1997; Filed 5/26/97; Erie County (Pa.) Court of Common Pleas

Bay Harbour Electric sued this construction customer for \$105,000. Union Station Development originally hired Bay Harbour Electric to perform electrical work, but when Bay Harbour Electric sent the bill for the work conducted, Union Station Development balked on the payment. Bay Harbour Electric agreed to reduce its invoices, and Union Station Development did make payments. Ultimately, Bay Harbour Electric claimed they wanted more money. According to the court records, Bay Harbour Electric sued Union Station Development, claiming they were owed \$105,000 on a note.

Bay Harbour Litigation cont'd, pg 8

Truth Telling

Cont'd from pg 6

Mahoning County building official again notified Bay Harbour that it had again been fined “for not being licensed to obtain a permit for the work [it] was performing at the subject cell tower site.”

“This was the second offense. You were not a licensed electrician for Mahoning County and were not authorized to perform electrical work therein,” the same building official announced, tartly.

About six months later, Bay Harbour – never one to bow to the law without first trying to float an alibi – was still haggling with the County of Mahoning. But official patience seems to have been wearing thin, as recorded in a tensely worded June 28, 2001 letter to a Bay Harbour executive.

“The [Electrical] Board reviewed your position thoroughly and failed to find any evidence which would change their position. The licensing laws are very positive on the fact but since you had made an effort to settle the matter, the Board agreed to accept a \$2,500.00 fine with the condition that it must be paid by July 31, 2001. If it is not paid by that date, the fine is to return to the original \$5,000.00 amount,” the warning letter stated.

Bay Harbour Litigation

Cont'd from pg 7

Bay Harbour Electric had its share of problems on the Union Station Development job, including seven serious violations of OSHA standards, and a \$800 proposed fine for an electrical violation and for exposing its workers to asbestos, for failing to notify the workers of the dangers of asbestos, for failing to provide protective equipment such as respirators, and for failing to monitor the levels of airborne asbestos.

Bay Harbour Electric, Inc. v. Aerotech Mechanical Contractors, Inc.; Case #12048-1996; Erie County (Pa.) Court of Common Pleas

In this case, Aerotech Mechanical Contractors hired Bay Harbour Electric to install wiring for a heating, ventilation and air condition unit at the Lowe's Store in Keystone Plaza in Erie, PA. Aerotech paid Bay Harbour Electric \$9,475 for the work they performed. After being paid, Bay Harbour Electric claimed they were owed another \$2,475 plus interest. Ultimately, Bay Harbour Electric sued Aerotech Mechanical Contractors for that \$2,475, according to the lawsuit.

Louis Kosan & Joy Kosan v. Bay Harbour Electric, Inc., et al.; Case #2271-A-88; Filed 7/24/95; Erie County (Pa.) Court of Common Pleas

Louis Kosan was a welder who worked on the Longfellow School renovation. His job was to cut pipe in the poorly lit basement of the building. His court complaint states that Bay Harbour Electric, Inc. was responsible for the tempo

Bay Harbour Litigation Cont'd, pg 9

OSHA cites Bay Harbour for safety violations

Inspection #	Violations	Fine	Date
303708069	1 other		01/16/02
122174683	1 serious	\$ 675	09/01/00
302505300	2 other		03/16/99
018183301	2 serious	\$1,925	11/04/98
121932685	1 serious	\$ 525	02/13/96
113335137	3 serious	\$ 800	11/09/94
113338925	1 other		05/12/92
113338644	2 other		04/30/92
002130425	2 serious	\$ 300	11/28/90
002130078	3 serious, 1 repeat, 2 other	\$1,020	09/06/90
106919475	1 serious	\$ 300	03/21/89
017660788	3 serious, 3 other	\$1,590	06/01/88
017660838	1 serious, 1 other	\$ 810	04/26/88
100662709	2 other		02/05/87

Total Violations: 32 Total Serious Violations: 17 Total Initial Fines: \$7,945

Over 50% of the violations are considered serious

The violations listed reflect initial citations and fines. They may have been reduced or bargained down at later dates.

The listing is only a glimpse of Bay Harbour's OSHA history.

Bay Harbour Litigation

Cont'd from pg 8

rary lighting on this construction job. While trying to work in the poor lighting, he was severely injured. His court suit charges that Bay Harbour "...was responsible for temporary lighting at the Longfellow School Project, and provided insufficient temporary lighting in the area in which the plaintiff was working, thereby creating a dangerous condition which resulted in the accident..."

According to the suit, Kosan sued Bay Harbour Electric and others for more than \$10,000, for his hospital bills and lost earnings. This case was ultimately settled.

Bay Harbour Electric, Inc. V County of Chautauqua, New York; Motion #407; New York State Court of Appeals

The county rejected Bay Harbour Electric's bid. Yet again, Bay Harbour Electric sued. The court filed against Bay Harbour Electric, finding that the county had properly refused Bay Harbour Electric's bid, because Bay Harbour Electric had responded with "hostility and lack of cooperation" to the County's requests for information.

Alfred C. Hodas v. Jeffrey M. Anthony, Carolyn Dolak; Erie County (Pa.) Court of Common Pleas

In the tough world of construction contracting, integrity is all-important. When something goes wrong on a project, and something goes wrong on every project, will the contractor act with integrity, and make it right? Or will they try to weasel out of their duties, by citing an obscure footnote in the contract?

A construction customer has to look hard for clues relating to their contractor's integrity, in order to figure out how the contractor will react when a job turns tough. One way to evaluate a contractor's integrity is simple. Ask this question - do they pay their bills on time? This is a fundamental test of the contractor's financial integrity. If you believe this is worth knowing, you may want to ask Alfred C. Hodas about his experience as a contractor for Jeff Anthony and Carolyn Dolak. Anthony is the president of Bay Harbour Electric and Dolak, his wife, is the Chairman of the company.

Alfred Hodas signed a \$16,742 contract with Dolak and Anthony to refinish, decorate, paint and wallpaper their home on Wolf Road in Erie, Pennsylvania. Dolak and Anthony only paid Hodas \$7,500, although he sent them invoices and a letter of explanation.

Ultimately, he had to sue Dolak and Anthony for Fraud, Breach of Contract, Unjust Enrichment, and Misrepresentation. He sought a judgement for \$7,997 against Anthony and Dolak, according to the original lawsuit.

The First National Bank of Pennsylvania v. Carolyn Dolak Anthony & Jeffrey Anthony; Case #1353-J-1989DSB; Filed 8/3/89; Erie County (Pa.) Court of Common Pleas

Dolak and Anthony have faced court complaints over charges of money owed. The First National Bank of Pennsylvania sued them in Erie County case to collect a debt of \$210,000, according to court documents.

Lyle R. Lee v. Alan D. Hartley and Bay Harbour Electric, Inc.; Case #104-26-1988; Filed 3/15/88; Erie County (Pa.) Court of Common Pleas

In this case, Lyle Lee sued Bay Harbour Electric when he was severely injured in an accident involving Alan Hartley, who was driving a Bay Harbour Electric company truck, as stated in court records. He sought over \$10,000 for his medical bills, damages, as well as pain and suffering.

Bay Harbour debarred in New York state

In 1996, the New York State Department of Labor issued a list of contractors that are ineligible to bid on, or be awarded any public works construction project in New York State. These contractors, including Bay Harbour Electric (who was debarred for five years), were debarred for either a willful failure to obey wage laws, or for falsification of records, or for payments of kickbacks.

Electricians lambast Bay Harbour accident ploys

Bay Harbour employees are lambasting a new policy, which they fear encourages them to become accomplices in unlawful activities, a newsletter has reported.

The February issue of Electricians for a Brighter Future reported and alleged that Bay Harbour managers are pressuring injured workers to report falsely that their job site accidents occurred elsewhere.

The purpose of such falsifications appears to be to shield Bay Harbour from penalties imposed by federal and state worker safety authorities. "It has been reported that several [Bay Harbour] employees [who] were injured on the job have been asked falsify their report to say the injury did not happen on the job but happened at home," the newsletter alleged.

The reporting parties are then asked to file medical claims for the injury to their personal insurance carrier, the employee newsletter said.

It continued, "By Pennsylvania Labor and Industry rules, all on the job injuries are required to be reported to the insurance provider immediately. For injuries resulting in the loss of a day, shift, or turn of work, the employer must also complete an employer's report of occupational injury or disease... and submit it to the bureau of labor law compliance within 7 days of

injury. Copies of the report must also be provided to the injured worker and the employer's insurer."

A review of the most recently available figures from Occupational Safety and Health Administration (OSHA) give us a glimpse into how serious such shenanigans can be.

According to OSHA, "In 2002, occupational injury and illness rates were 5.3 cases per 100 workers, with 4.7 million injuries and illnesses among private sector firms."

In 2003, for instance, the federal OSHA reports it conducted 39,798 job site inspections nationwide, of

The policy encourages employees to become accomplices in unlawful activities.

which 9,025 were complaint or accident related. The construction industry accounted for 22,916 of all the job site inspections.

These inspections resulted in a total of 60,305 willful or serious violations being cited carrying a approximately \$65.6 million in fines.

Inspections by states which have their own OSHA-type regulatory bodies (Pennsylvania is one of them) conducted an additional 59,290 site inspections, of which 14,570 or 24.6 percent were complaint or accident related, federal OSHA reported.

Some 47 percent of the inspections, or 27,895, were conducted in

the construction industry, OSHA reported.

These state inspections resulted in 59,889 willful or serious violations being issued by inspectors. These two categories alone led to \$59.1 million in fines and penalties, OSHA reported.

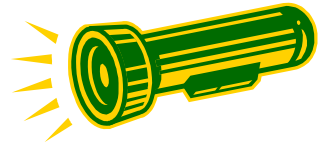
It is thus easy to see how the fines, fees and penalties can quickly add up for companies like Bay Harbour, which do not maintain sound safety practices, either willfully or through neglect.

It is therefore understandable how these fines can lead a firm to lean on employees to not report on-the-job accidents, and frame any report that would later make it difficult to receive benefits from other insurers, most likely their own, if they should be paid enough to afford coverage.

The Electricians for a Brighter Future newsletter argued strongly against Bay Harbour employees agreeing to go along with unethical suggestions from Bay Harbour.

"Let's add one more reason why you should not go along with this new procedure. Say that the insurance company that has been paying the medical bill [said] they were not obligated to pay, investigates this matter and files a [suit] for insurance fraud. Your signature would be the only one on the questionable document... [Y]ou are foolish to falsify accident reports," the employee newsletter concluded.

Caught in flashlight beam of truth Bay Harbour bares teeth, squeals



After having their checkered business practices – past and present – brought embarrassingly to light in recent news publications, Bay Harbour’s panicked owners lashed out, as might be expected.

True to their past modus operandi, Bay Harbour execs fired off an “honest we’re honest” memo, which they left conveniently undated, addressed to no one in particular and bearing no actual signatures they might later be called upon to verify in court.

The five-paragraph memo is written on Bay Harbour letterhead and composed in a shrill, “how dare they” tone. It is rife with dubious claims, unsupported allegations and implied threats.

But balance the memo’s huff ‘n’ puff boasts of support and dark hints of “they’ll pay” against its lack of substantiating names, numbers and dates and the final sum is: Zip!

For example, the sweeping salutation sentence is like the opening frames of a cheap spaghetti western: wide sky, barren plain, lonely wind, — but no real actors to pay.

“We would like to thank the numerous customers that voiced their support, and tremendous offense to the two recent defamation packages targeting Bay Harbour Electric. We have taken the last few weeks to consult with customers, friends and legal counsel regarding the ‘mass mailing’ of unflattering characterizations concerning our company.”

Notice the lack of a single direct quote, corroborating even one of the “numerous” declarations of “support” and “offense” allegedly made by a

single Bay Harbour customer.

The proper authorities have been notified. There is no doubt that harassment and copyright laws have been broken, charges of libel and slander are forthcoming as well. We are confident that this unauthorized Dun & Bradstreet report was generated by our competition.

The next paragraph goes on to make a claim, both puzzling and astounding.

“There are no vendor and/or customer lawsuits or liens associated with, or filed against Bay Harbour Electric.”

It seems that the two top corporate officers, Jeffrey Anthony and Carolyn Dolak, have somehow “forgot” that a \$132,317.87 lien had been filed against them in federal court in Erie County only weeks before, on Dec. 1, 2003. Or that Bay Harbour had only a month before lost a civil action complaint filed against them in state court by one of the company’s most senior (and apparently former) executives.

As result of *Dennis McCullough v. Bay Harbour Electric, Case*

#14619-2003; *Erie (Pa.) County Court of Common Pleas*, Bay Harbour was ordered to pay \$4,721.16 upon proven allegations that the company had unsuccessfully tried to weasel out of paying certain benefits it has promised McCullough.

The memo goes on to pontificate on how Bay Harbour continued to be “a viable, solvent ongoing business concern” and enjoys a “reputation of unrivaled quality and service.”

Perhaps the most inflated contention in Bay Harbour’s reply to the well-documented case made against it comes in the darkly worded prediction made at the start of the final paragraph.

“Organizers of terrorist tactics, such as these, continually underestimate the intelligence of the public.”

The names of Carolyn Dolak, chairman, and Jeff Anthony, president are typed there under in the usual signature box, all right.

But – so confident are they that “the intelligence of the public has been underestimated” – the two affronted executives craftily forget to place their John Hancocks on the potentially incriminating document.

Corporate Information

Bay Harbour Electric, Inc.

1606 Harper Dr.
Erie, PA 16505
(814) 833-3429

Carolyn Dolak, Chairman
Jeff Anthony, President

Source Notes

All sources are in date order, with most recent sources appearing first.

LITIGATION:

Cases filed in the Erie County Court of Common Pleas, PA unless otherwise noted.

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Cuyahoga County Court of Common Pleas, OH.

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OSHA Information obtained through OSHA website: <http://www.osha.gov>

OSHA Statistics on Worker Injuries/Illnesses/Fatalities. OSHA website. 5/26/04. <http://www.osha.gov/as/opa/oshafacts.html>

CORRESPONDENCE:

Letter to Newco Electric Co., Inc. from Bay Harbour Electric, Inc. Received 1/21/04.

Anonymous Cover Letter with The Majority Speaks newsletter. 12/24/03.

Letter to Fanning/Howey Associates, Inc. from John Chisolm, Bay Harbour Electric. Re: Highland Local School District, Package #28- Electrical. 12/24/03.

Letter to Bay Harbour Electric from Michael C. Jirele, The Ruhlin Company. Re: Highland Local School District, New High School, Claim Against Subcontractor Payment/Lien. 12/18/03.

Letter to "Dear Al" from Jeff Anthony, President of Bay Harbour Electric, Inc. 12/12/03.

Letter to Jason Dinger, Bay Harbour Electric from Michael Deiwert, The Ruhlin Company. Re: Highland Local School District, New Highland High School, Ruhlin Project 6374. 12/11/03.

Letter to Michael Deiwert, The Ruhlin Company from Bay Harbour Electric. Re: Highland High School, Change Order Number: 028-003. 12/10/03.

Memo to Bay Harbour Electric from Brady Oaks, The Ruhlin Company. Re: Highland Local Schools, New High School, Canopy and Interior soffits (Area A) Lighting. 12/1/03.

Memo to Bill Skiles, The Ruhlin Company from Fortney & Weygandt. Subject: Canopy EFS Finish/Interior drywall soffits. 11/24/03.

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Letter to Bay Harbour Electric, Inc. from the Ohio Dept. of Administrative Services, Equal Opportunity Division. Re: Conditional Certificate of Compliance. 5/12/03.

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Bay Harbour Electric Hiring Policy. 8/1/00.



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Information contained in *The Contractor's Critic* does not reflect a complete history of the business practices of Bay Harbour Electric, Inc. and/or its related companies. LASER is publishing information that contractors do not and will not publish about themselves. LASER has relied on the public record to present this information to the public in an effort to promote safety, productivity, honesty, and environmental compliance in the construction industry.

Bay Harbour Electric, Inc. has been given the opportunity to review this material for errors and inaccuracies. As of publication, Bay Harbour Electric, Inc. has not made any suggestions or refuted any of the information in this publication.

LASER, Inc. will continue to seek and publish additional data.

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