

The Contractors Critic

Reporting on Safety, Productivity and Honesty in the Construction Industry.

BAY HARBOUR ELECTRIC, INC.

Corrupt Execs, Faulty work & Legal Problems

BREAKING NEWS:

Whistleblower bares Bay Harbour 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 manage-

ment practices.

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 specifically 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.

Whistleblower cont'd on pg 2

Other new woes beset Bay Harbour As 2 top execs are snared in tax lien

Two top executives in Bay Harbour Electric's stable decision-makers have been caught up in a huge federal tax lien.

Corporate president Jeffrey Anthony and board chairwoman Carolyn Dolak were named in a federal tax lien focused on property located in the 4800 block of Wolf Road in Erie, Pennsylvania, the *Daily Record* reported.

According to insiders, Anthony and Dolak are husband and wife.

Dolak is the sole owner of the company, having taken it over some 14 years ago when it the company was on the skids and she bailed her husband out with a large

infusion of cash, knowledgeable sources reported.

Both Dolak and Anthony are in the dock for \$153,654, the Department of Revenue's summary of lien filings indicated.

Further details are expected to emerge as official documents are released to LASER.

Inside this Issue

<i>Whistleblower cont'd.</i> . . . . .	.2	<i>Breach of Contract.</i> . . . . .	.8
<i>Tax Problems.</i> . . . . .	.2	<i>Violent Supervisor.</i> . . . . .	.8
<i>Debarred.</i> . . . . .	.2	<i>Dun & Bradstreet.</i> . . . . .	.9
<i>Walnut Creek cont'd.</i> . . . . .	.3,9	<i>NLRB.</i> . . . . .	.9
<i>Iroquois School Dist.</i> . . . . .	.4	<i>OSHA.</i> . . . . .	.10
<i>Affirmative Action.</i> . . . . .	.4	<i>LASER Praised.</i> . . . . .	.11
<i>Litigation.</i> . . . . .	.5-7	<i>Source Notes.</i> . . . . .	.12
<i>Electrocuted.</i> . . . . .	.5	<i>Corporate Information.</i> . . . . .	.12
<i>401(k).</i> . . . . .	.7	<i>LASER Information.</i> . . . . .	.12

NEWS FLASH

Dun & Bradstreet downgrades Bay Harbour's credit score - listing them as HIGH RISK.

SEE PAGE 9

Whistleblower

Cont'd from pg 1

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.

The significance Bay Harbour's swift retaliation and what it implies for potential Bay Harbour customers can be best be understood by looking at what, exactly, ISO is.

According to information posted on its web site, "ISO is a network of the national standards institutes of 147 countries, on the basis of one member per country, with a Central Secretariat in Geneva, Switzerland, that coordinates the system."

"ISO is a non-governmental organization: its members are not, as is the case in the United

Nations system, delegations of national governments. Nevertheless, ISO occupies a special position between the public and private sectors. This is because, on the one hand, many of its member institutes are part of the governmental structure of their countries, or are mandated by their government. On the other hand, other members have their roots uniquely in the private sector, having been set up by national partnerships of industry associations."

The explanation continues, "Therefore, ISO is able to act as a bridging organization in which a consensus can be reached on solutions that meet both the requirements of business and the broader needs of society, such as the needs of stakeholder groups like consumers and users."

ISO 9000 in particular is a, "... (F)amily of standards represents an international consensus on good management practices with the aim of ensuring that the organization can time and time again deliver the product or services that meet the customer's quality requirements.... These good practices have been distilled into a set of standardized requirements for a quality management system, regardless of what your organization does, its size, or whether it's in the private, or public sector.

LASER will report further details when they become available.

Tax man comes for Bay Harbour employees

The New York State tax investigators have decided to investigate Bay Harbour Electric workers, regarding Bay Harbour Electric's jobs in the Empire State. This is nothing but headaches for the workers. Bay Harbour Electric clients could also face repercussions, depending on the outcome of the investigation.

This investigation came after complaints to the New York officials that Bay Harbour Electric was not paying the legally required overtime rate and not deducting New York state and local taxes while working in New York State.

The New York Department of Labor ordered Bay Harbour Electric to pay over \$30,000 in back wages to its employees who were underpaid on two Bay Harbour Electric jobs in New York, including the Cuba-Rushford Central School.

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.

Public records reveal problems on a Bay Harbour job

Bay Harbour Electric won the bid for some work on the Walnut Creek Middle School in Millcreek Township. By the time the job was completed, it had been riddled with problems and was over deadline.

Electrical fixture problems

There were also problems with the electrical fixtures at the school, according to one memorandum sent to Bay Harbour Electric from the job architects, “The personnel at the school have notified me that the light fixtures in the lobby are loose and in danger of dropping out of the ceiling.... I would like your prompt attention to this as it could be a safety problem and someone could be seriously injured if a fixture dropped out.” Bay Harbour Electric had done the original electrical work at the school.

Just a few weeks later, the architects noted more concerns with the paint spray booth adjacent to the Industrial Arts rooms “...the breakers are throwing after a few minutes of running the hood fan.... it is something Bay Harbour should look at...”

There was another problem when the scoreboard was installed in the gym. According to Job Conference Report #31, which was released under the State Public Records Act Request, “the scoreboard... was not angled the way the old one was... it cannot be seen from the bleachers. Bay Harbour to remount it.”

On another occasion, Job Conference Report #18 commented in the section for discussion of Bay Harbour Electric, “...Problem with location of Penelec power pole 150’ away from

planned location ... Bay Harbour has a location for the electrical power service which is considerably different from what we have installed and will result in a lot more underground work.” Part of the difficulty was apparently caused by Bay Harbour Electric installing the underground utilities before the service location was verified.

Job Conference Report #20 noted, “Problem with mezzanine level above PE storage Room R-137 controls for sound system and dimming control and spot lighting and so on.”

Bay Harbour Electric’s proposal for a security demonstration was unacceptable with the school district

and had to be rescheduled, according to Job Conference Report #39.

There was a danger that the pace of the electrical work was going to delay other portions of the job. “Electricians must continue to put access floor raceways and wood in Areas 3 and 4, if we have any hope of staying ahead of access floor panels being installed,” said Job Conference Report #43.

Delays on the middle school job

Job Conference Report #50 also named Bay Harbour Electric’s work progress as a major concern, “...crews are being reduced and... the completion date cannot be met and is delaying the ceilings already. Failure to add manpower will be reason for delaying payments – this

applies to Bay Harbour ... in particular who have work to do which is holding up ... doing [the] ceilings.” Again in Job Conference Report #53, “BH has been unable to complete electrical work in [the demountable partitions] because they are just now being installed ...” and a section on Dukane Plates noted, “Still not here – need them. Bay Harbour – note!” (*Emphasis in original*)

Manpower problems apparently continued. In the section of Job Conference Report #55’s discussion of Bay Harbour Electric, it



By the time the job was completed, it had been riddled with problems and was over deadline.

said, “Architect called Jeff Anthony [President of Bay Harbour Electric] after the meeting and asked for more men.”

Glitches in Bay Harbour’s work kept occurring, just scant days before school was supposed to open. Job Conference Report #60 noted, “one garbage disposal not working” and Job Conference Report #64, “[Bay Harbour Electric] continu[ed] to trouble shoot circuits and lights.” There were more problems. According to Job Conference Reports #65 and 66, “Commercial Kitchens – walk-in cooler and freezer not ready to operate – one switch wired wrong – blew out and [Bay Harbour]

Walnut Creek cont’d on pg 9

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

The Iroquois School District filed a blistering answer and counter-claim 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 counter-claim 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 allegedly 'coordinate and administer' such contract and, therefore, denies such averments," the answer and counter-claim 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 counter-claim, 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 counter-claim 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."

LASER will release more details of this breaking story in its next issue as Erie County court documents become available. (*Case #GD 11722-03*)

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 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's legal problems

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

Chris Watkins, IBEW Local No. 306 v. Bay Harbour Electric, Inc.

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..." (Case #6-CA-32166)

The Regional Cancer Center v. Bay Harbour Electric, Inc., North Coast Building Company, et al.

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. (Case #14332-00)

Bay Harbour Electric, Inc. v. M&K Electrical Company, Inc.

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. (Case #11439-1999)



Bay Harbour had
"been discriminating
in regard to the hire
or tenure or terms
or conditions of
employment of its
employees..."

Man electrocuted, sues for \$25,000

David M. Allen v. Bay Harbour Electric, Inc., et al.

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 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. (Case #1469CA)

Litigation cont'd on pg 6



Litigation

Cont'd from pg 5

Doretta R. Leach v. Bay Harbour Electric

Doretta R. Leach was suing Bay Harbour in a dispute involving \$14,731, in Washington County, Pennsylvania. The suit, which was filed on July 6, 2000, is still pending. (Case #00-3062)

Carolyn Dolak v. Edinboro University of Pennsylvania

In this case, Edinboro University rejected Bay Harbour Electric's low bid for electrical work, after discovering that Bay Harbour Electric's filings regarding minority and women hiring was "unresponsive." Bay Harbour Electric's response was to sue. But the court ruled against Bay Harbour Electric, stating that Bay Harbour Electric had failed to include an actual bid quote from one of their alleged women contractors and therefore was properly rejected. (Case #209-MD-1995)

Louis Kosan & Joy Kosan v. Bay Harbour Electric, Inc., et al.

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 temporary 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. (Case #2271-A-88)

Bay Harbour Electric, Inc. v. H. Platt Company

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. (Case #10518-1999)

Bay Harbour Electric, Inc. v. Aerotech Mechanical Contractors, Inc.

In this case, Aerotech Mechanical Contractors hired Bay Harbour Electric to install wiring for a heating, ventilation and air condition unit at the Lowes 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. (Case #12048-1996)

Bay Harbour Electric, Inc. v. Union Station Development Corporation

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

Litigation cont'd on pg 7



Litigation

Cont'd from pg 6

the court records, Bay Harbour Electric sued Union Station Development, claiming they were owed \$105,000 on a note.

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. (Case #12920-1997)

Lyle R. Lee v. Alan D. Hartley and Bay Harbour Electric, Inc.

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. (Case #104-26-1988)

The First National Bank of Pennsylvania v. Carolyn Dolak Anthony & Jeffrey Anthony

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. (Case #1353-J-1989DSB)

Problems with the 401(k) retirement plan at Bay Harbour

For millions of working people, their 401(k) Retirement Plan insures that they won't be reduced to eating dog food and living in cardboard boxes when they are

came as a surprise. The biggest shock was that Bay Harbour Electric was not obligated to contribute one penny into their employees' 401(k) plan; all their contributions are entirely discretionary!

peared to reduce the vested percentages of some employees. This change could possibly violate IRS codes.

Questionable was a change in vesting requirements that appeared to reduce the vested percentages of some employees. This change could possibly violate IRS codes.

Although Bay Harbour Electric claims that it has always made these contributions, Tucker Arensberg's report stated that it wasn't clear if Bay Harbour Electric had made any contribution in 1999, even though the company's tax filings did

Despite a questionable 401(K) plan, Bay Harbour president is a high roller

Jeff Anthony is the President of Bay Harbour Electric. He cuts corners by not agreeing to contributions to his employees' 401(k) plan. Other times he cuts corners by hiring temporary employees and concealing that fact from his construction customers. However, Anthony doesn't apparently cut too many corners for his own housing. According to the *Daily Record*, he was able to obtain a mortgage for the grand sum of \$1,600,000 for his home on Wolf Road in Mill Creek Township.

too old to work. The heart of the 401(k) plan is that the employer adds to the contributions made by each employee.

However, an analysis of the Bay Harbour Electric 401 (k) plan, prepared by Tucker Arensberg, PC, of Pittsburgh

list a contribution.

The Tucker report also found discrepancies in the age at which employees were eligible for the plan, and inconsistencies in the service eligibility requirements. Also questionable was a change in the plan's vesting requirements that ap-

Anthony, Dolak sued for fraud, breach of contract

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.

Violent Bay Harbour supervisor attacks and injures employee

Clifford Bennett v. Ellwyn Reynolds, Jr., Bay Harbour Electric

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, 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

Bay Harbour knew he was "confrontational, ill tempered and [that he] frequently engaged in fighting."

protect other employees from Reynolds's violent conduct, which rendered him incompetent as a supervisor.

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. (*Case #10585*)

Walnut Creek

Cont'd from pg 3

putting in temporary switch” and “2000 [linear feet] of Cable must be replaced from Communications Room to Wire closets...”

Did Bay Harbour Electric miss a construction deadline?

Even though the Job Conference Reports showed that Bay Harbour Electric was still working on this job well into August, the contract between Bay Harbour and the Millcreek Township School District states that, “The Contractor shall achieve Substantial completion of the entire Work not later than July 25, 1993...”

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.

NLRB find Bay Harbour guilty of unfair labor practices

Who is Bay Harbour hiring instead of experienced electricians?

In January 2002, the National Labor Relations Board (NLRB) issued an order that required Bay Harbour Electric to post a notice admitting past violations of federal labor law and pledge not to violate those laws in the future. Among Bay Harbour Electric’s violations was coercing its employees regarding their legally protected activities.

Since then, another complaint was filed against Bay Harbour Electric, charging that the company had fired one of their experienced workers because of his membership in the Electrical Workers union. In the last two years, similar complaints have been filed against Bay Harbour

Electric on at least two other occasions, alleging that Bay Harbour Electric has refused to hire, or to keep on staff, at least ten highly experienced electricians, because of their union membership.

If Bay Harbour Electric is rejecting and even firing experienced electricians, who is working now at Bay Harbour Electric?

On March 6, 2001, Mark Norcia, Operations Manager of Construction Labor Contractors Corp., filed an Affidavit for Claim with the Cuyahoga County, Ohio Records Office. He charged that Bay Harbour Electric had failed to pay his company \$16,821.17 for wages for temporary workers that were supplied to the Orange Elementary School project in Pepper Pike, OH. Construction

Labor Contractors was named in the NLRB complaints that also named Bay Harbour Electric.

One Construction Labor Contractor employee testified that he was told to say he worked for Bay Harbour Electric if anyone asked, because Bay Harbour Electric did not want the customer

One temporary employee testified that he was told to say he worked for Bay Harbour Electric, because they did not want anyone to know they had imported temporary employees.

to know they had imported temporary employees.

In other words, it appears that Bay Harbour Electric is rejecting applications from and firing experienced electricians. Meanwhile, they are arranging for the hiring of electricians off of the street and are using temporary workers, but not paying for them.

Although Bay Harbour Electric is attempting to operate with non-union employees, this does not mean it doesn’t have its share of labor disputes. In addition to these NLRB charges, the NLRB issued other charges against Bay Harbour Electric in past years and some employees went on strike a few years ago.

OSHA cites Bay Harbour for safety violations

OSHA issued a two-count serious violation notice and proposed a \$1,925 fine against Bay Harbour Electric for non-compliance with job safety laws at a St. Clairsville, Ohio construction job site. Even though Bay Harbour Electric is an electrical contractor, OSHA found that Bay Harbour Electric failed to protect electrical cords and cables from damage, thus exposing workers to potential fire and electrical hazards. Bay Harbour Electric employees also were not even provided with stairways to enter two material storage trailers, meaning the employees had to jump up and down to get in and out of the trailers every time they needed equipment or supplies. (*Inspection #018183301*)

In September 2000, OSHA cited and fined Bay Harbour Electric again, for the serious violation of exposing its workers to a fall hazard at the Best Buy store construction site in Erie, Pennsylvania. The proposed fine was \$675. Not only were Bay Harbour Electric employees working within a few feet of an unshielded hole in the floor, others were using an aerial lift, which could have tipped over if one of its wheels fell into the floor hole. (*Inspection #122174683*)

These are some of the 32 total OSHA citations issued against Bay Harbour Electric over the last several years. Bay Harbour Electric's past violations have ranged from a sloppy work site at the Austinburg Convalescent Center

in Ohio, to multiple violations and fines for exposing their employees to multiple sources of asbestos during work at the Union Station in Erie, Pennsylvania. The Union Station violations were for not monitoring for asbestos, not providing respiratory protection for the Bay Harbour Electric workers, not training its employees in the hazards of asbestos and for not providing protective clothing to its employees working in the vicinity of asbestos. Those violations were especially serious, since Bay Harbour Electric had previously been cited for a similar violation, four years earlier. (*Inspection #'s 121932685 & 113335137*)

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

LASER: Praised by Faint Damnation

Jim Pease apparently never tires of reminding HVAC contractors that the best way to respond to LASER's criticisms is to straighten their act. In a 2003 issue of the ABC of Wisconsin newsletter, Mr. Pease reiterated his expensive advice that, "The best preparation for LASER is for an employer to get its house in order."

"Damned by faint praise" is a timeless expression summarizing the tactic of praising someone so modestly as to cast doubt on both the sincerity and intent of the compliment. How LASER has had the good fortune of experiencing the reverse: it seems we've been "praised by faint damnation."

We point to a recently discovered opinion column by Jim Pease published way back on June 13, 2001 in the Wisconsin-based construction industry news organ, *The Daily Reporter*. (More later on this tardy discovery.)

Officials of the construction companies we report on sometimes criticize LASER. By and large, we ignore them. The occasional complaint is only to be expected, considering the natural antipathy between the watchdog and the watched. After all, the alert bulldog can generally rely on poor reviews from the cat burglar.

If the criticism has merit — happily a rare occurrence — we respond. Otherwise, we ignore them.

However, in this case, because Mr. Pease's article is so unintentionally complimentary to LASER's goals and services, we think it deserves special mention.

In his article, Mr. Pease first lays out his premise: research organizations — also known as "think tanks" — compile data on specific issues, analyze the data, write reports and distribute them to concerned parties.

Mr. Pease, who is affiliated with construction industry management, concludes that some of these groups are "pro-union," because the final reports issued are not always flattering to non-union construction employers. He calls these reports, "attacks."

You can tell by the title, "Are you ready for LASER?" he is particularly worried about us.

He correctly points out that the information we collect on companies includes:

- complaints, citations, charges and

lawsuits involving the employer

- claims that prevailing wage obligations have not been met
- Fair Labor Standards Act, tax, licensing and safety violations
- criminal activities; names and addresses of current and former employees
- past and present clients
- a list of all hazardous or toxic materials used
- copies of all financial statements,

““The best preparation for LASER,” Mr. Pease says, “is for an employer to get its house in order.””

profits and losses, liabilities and inventories of vehicles and equipment

- environmental permits issued to or applied for by the employer
- complaints of poor workmanship, delays, mistakes and overruns on job sites
- breakdowns of all minority employees versus nonminority employees by craft, man-hours, hourly wage, health benefits and pension benefits
- reports of fires, accidents and injuries
- bankruptcies of the employer or any of its owners or officers
- violations of immigration laws

"An example of one of these pro-union research organizations is already operating on the borders of Wisconsin and may soon be operating within the state. It's called Labor and Safety Employer Research or LASER," Mr. Pease warns.

Mr. Pease's implied argument seems to be that the mere act of broadcasting facts taken from the public record to the wider community so informed decisions can be made is somehow reprehensible.

Reprehensible, perhaps, in the same way a watchdog barking at a midnight prowler constitutes a public nuisance because we also wake the neighbors.

"Attacks by these research groups can be very insidious because a targeted employer may not know the attack is occurring," Mr. Pease alleges.

He goes on to claim that, "Organizations like LASER hide behind a shroud of secrecy."

Mr. Pease is not being entirely frank here. He knows that, in the interests and spirit of fairness, accuracy and full disclosure, LASER has a strict policy of

providing notice well in advance of everything we expect to report about the employer. We give the parties ample time to respond and, if necessary, point out any errors that may have been made.

Mr. Pease reveals this later in his article when he advises his construction industry readers to make sure they "Carefully review LASER's correspondence..."

Those most interested in maintaining secrecy are clearly the employers with all those "complaints, citations, charges and lawsuits" hidden in their closets.

And here we'd like to point out the sweet irony of Mr. Pease's accusation. We only learned about his article in May 2003, two years after it was first published in the construction industry newspaper.

Had he followed our policy of open disclosure in the interests of fairness and accuracy, we would have gotten a letter from him and a copy of his article several weeks before June 1, 2001. But that is water under the bridge.

Where we take the greatest pleasure in Mr. Pease's left-handed compliments is in his final recommendation to construction employers on dealing with what he ominously calls, "The threat of LASER."

"The best preparation for LASER," Mr. Pease says, "is for an employer to get its house in order and to avoid the type of conduct that LASER can use in an apparent effort to destroy an employer's reputation. An employer should develop and maintain a serious safety program designed to eliminate violations of all safety laws. Pay practices should be administered to strictly comply with federal and state wage and hour laws and federal, state and local prevailing wage laws. Violations of environmental, immigration, labor and employment, taxation and other business laws should be avoided. And, positive personnel practices that encourage a diverse work force that is treated with respect should be developed and implemented by the employer. If these things are done, LASER won't have anything to write about." (*emphasis added*)

We wholeheartedly agree. It is, indeed all they have to do.

So in the final analysis, it appears LASER may have had some influence upon the construction industry over the last decade — and that impact seems to be for the good. Of that we are proud.

Mr. Pease, we offer you our belated thanks. And, please keep up the good work.

Source Notes

WHISTLEBLOWER:

Interview with former Bay Harbour project-coordinator. Interviewed by a LASER investigator. 10/4/03.

"Who ISO Is." International Organization for Standardization website. 10/24/03. <http://www.iso.ch>

"ISO 9000 For Busy Managers." International Organization for Standardization website. 10/24/03. <http://www.iso.ch>

WALNUT CREEK MIDDLE SCHOOL INFORMATION:

Standard Form of Agreement Between Millcreek Township School District and Bay Harbour. 6/5/92.

Job Conference & Reports prepared by Hallgren, Restifo & Loop Architects. Report #18, 9/22/92. Report #20, 10/6/92. Report #39, 2/16/93. Report #43, 3/16/93. Report #50, 5/4/93. Report #53, 5/25/93. Report #55, 6/15/93. Report #60, 7/20/03. Report #64, 8/17/93. Report #65, 8/24/93. Report #66, 8/31/93.

LITIGATION:

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

Bay Harbour Electric v. Iroquois School District, North Coast Building Co., et al. Case #GD 11722-03. 6/19/03.

Clifford W. Bennett v. Ellwyn Reynolds, Jr., Bay Harbour Electric, Inc. Case#10585 of 1998. 4/22/98. Beaver County Court of Common Pleas, PA.

Chris Watkins, International Brotherhood of Electrical Workers Local No. 306 v. Bay Harbour Electric, Inc.: Case # 6-CA-32166 & #6-CA32167. 5/2/01. U.S. National Labor Relations Board, Region 6.

NLRB Charges. Bay Harbour Electric v. International Brotherhood of Electrical Workers. Case #8-CA-33157. 2/14/02. Case #6-CA-32343. 10/5/01. Case #6-CA-32167, formerly 8-CA-32380. 5/10/01.

Construction Labor Contractors, Bay Harbour Electric v. International Brotherhood of Electrical Workers. Case #8-CA-30933. 9/24/01.

The Regional Cancer Center v. Bay Harbour Electric, Inc., Others: Case #14332-00. 12/18/00.

David M. Allen v. Bay Harbour Electric, Others. Case# 1469C.A. 12/1/99. Clarion County Court of Common Pleas, PA.

Bay Harbour Electric, Inc. v. M&K Electrical Company, Inc.: Case #11439-1999. 5/3/99.

Ohio Edison Co. v. Bay Harbour Electric, Inc. Case #97-CV-970. 3/24/97. Trumbull County Court of Common Pleas.

Bay Harbour Electric, Inc. v. Aerotech Mechanical Contractors, Inc.: Case #12048-1996

Carloyn Dolak v. Edinboro University of Pennsylvania: Case #209-MD-1995. Commonwealth Court of Pennsylvania.

Lyle R. Lee v. Alan D. Hartley & Bay Harbour Electric, Inc.: Case #104-26-1988. 3/15/88.

The First National Bank of PA v. Carolyn Dolak Anthony & Jeffrey Anthony: Case # 1353-J-1989DSB.

Louis Kosan & Joy Kosan v. Bay Harbour Electric, Inc., Others: Case #2271-A-88. 7/24/95.

Bay Harbour Electric, Inc. v. H. Platt Company: Case #10518-1999

Bay Harbour Electric, Inc. v. Union Station Development Corporation: Case #6224-1992, filed 5-26-92 & #12920-1997

Alfred C. Hodas v. Jeffrey M. Anthony and Carolyn Dolak.

LIENS:

Federal Tax Lien. Case #03-30982.

OSHA:

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

Inspection #018183301. 11/9/98. St. Clairsville, OH.

Inspection #122174683. 9/29/00. Erie, PA.

Inspection #121932685. 2/20/96. Austintburg, OH.

Inspection #113335137. 11/25/94. Erie, PA.

TAX PROBLEMS:

New York Tax Audit. Letter from Bay Harbour Electric to employees. 4/25/96.

New York Prevailing Wage. Case #93-5458. 1/26/96. & Case #94-0278(A). 10/24/96.

Letter from Bruce Parment to the New York State Taxation Dept. 11/3/95.

CORRESPONDENCE:

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

List of Employers Ineligible to Bid On or Be Awarded Public Work. New York Department of Labor. 11/15/96.

401(K):

Letter from Tucker Arensberg, P.C. Re: Bay Harbour Electric 401(k) Retirement Plan. 3/19/02.

Mortgage to Jeffrey M. Anthony. *The Daily Record.* 12/31/01.

AFFIDAVIT FOR CLAIM:

Mark Norcia. #200103060575. 3/6/01. Cuyahoga County, Ohio.

ARTICLES:

"Are You Ready For LASER?" Jim Pease. *The Daily Reporter.* 6/13/01

"School in use, but problems remain" *The Courier-Express.* 1/15/96.

CORPORATE INFORMATION:

Company Information Report on Bay Harbour Electric, Inc. Dun & Bradstreet. 10/7/03. <http://www.dnb.com>

Comprehensive Report on Bay Harbour Electric, Inc. D&B #15-378-2214. Dun & Bradstreet. 10/18/02. <http://www.dnb.com>

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

Corporate Information

Bay Harbour Electric, Inc.

1606 Harper Dr.

Erie, PA 16505

(814) 833-3429

Carolyn Dolak, Chairman

Jeff Anthony, President



LASER, INC.

LEGAL AND SAFETY EMPLOYER RESEARCH

654 Kentucky St., Gridley, California 95948 Ph. 530-846-6352

...n 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 LASER has relied on the public record to present this information to the public in an effort to promote safety, productivity, and environmental compliance in the construction industry.

...ven the opportunity to review the information for errors and inaccuracies. As of publication, ...s not made any suggestions or corrections of the information in this publication.

...R, Inc. will continue to seek additional data. ...e contact James Wilson at ...online at laserinc@manznet.com ... Visit LASER's website at ...