BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of: **BRAGG INVESTMENT COMPANY, INC.** **6251 North Paramount Boulevard** **Long Beach, CA 90805** **Employer**	Inspection No. **1466722** **DECISION AFTER RECONSIDERATION**

The Occupational Safety and Health Appeals Board (Appeals Board or Board), acting pursuant to authority vested in it, renders the following decision after reconsideration.

Jurisdiction

Bragg Investment Company, Inc. (Employer) provides crane services. Beginning February 28, 2020, the Division of Occupational Safety and Health (the Division), through Associate Safety Engineer Arsen Sanasaryan (Sanasaryan), conducted an inspection arising from a collision at a construction site located at 898 South Prairie Street, in Inglewood, California (the worksite). (Day 1, pp. 18-19, 27 [Inspection commenced on February 28. 2020].[1]) The worksite involved the construction of the Los Angeles Rams stadium. (Day 2, pp. 105-106.)

On August 27, 2020, the Division issued two citations to Employer alleging violations of safety orders set forth in title 8 of the California Code of Regulations.[2] Citation 1 asserted a General violation of section 1509, subdivision (a), referencing section 3203, subdivision (a), requiring Employer to establish, implement, and maintain an effective Injury and Illness Prevention Program (IIPP) that includes training and instruction. Citation 2 asserted a Serious violation of section 1616.1, subdivision (t),[3] requiring the travel of cranes to be controlled to prevent collisions. (Day 1, pp. 22-24, Exhibit 1 [Jurisdictional Documents].)

Employer timely appealed both citations, contesting the existence of the violations, their classifications, the reasonableness of abatement requirements, and the reasonableness of the proposed penalties. Employer asserted affirmative defenses as to both citations.[4] (Exhibit 1.)

[1] The hearing in this matter consisted of three days and there are accordingly three days of transcript: "Day 1" is April 26, 2023, "Day 2" is April 27, 2023, and "Day 3" is April 28, 2023. Throughout this decision, we include citations to the record. These citations illustrate some of the evidence supporting the stated propositions, but they are not necessarily exhaustive of the evidence relied upon by the Board. The Board issues this decision based on a review of the entire record.

[2] Unless otherwise specified all references are to title 8 of the California Code of Regulations.

[3] In 2022, section 1616.1 was repealed and replaced by section 4991.

[4] Except where discussed in this decision, Employer did not present evidence in support of its affirmative defenses or otherwise did not preserve them by discussing them in the petition for reconsideration, and said defenses are

This matter was heard by Rheeah Yoo Avelar, Administrative Law Judge (ALJ) for the Appeals Board on April 26 through April 28, 2023. ALJ Avelar conducted the hearing with the parties and witnesses appearing remotely via the Zoom video platform. Michael Rubin, of Ogletree, Deakins, Nash, Smoak & Stewart, represented Employer. Lisa Wong, Staff Counsel, represented the Division. The matter was submitted on December 1, 2023

The ALJ issued a Decision on December 29, 2023, affirming the citations, the Serious classification for Citation 2, the penalties, and denying Employer's affirmative defenses.

Employer filed a timely Petition, asserting that the Division failed to establish the violation as to Citation 1 and that Employer established the Independent Employee Act Defense (IEAD) as to Citation 2.

Issues

1. Did Employer fail to ensure that employees were effectively trained on jobsite travel of the crane?

2. Did Employer establish the IEAD as to Citation 2?

Findings of Fact

1. Foreman Gary Bruns (Bruns) instructed employees James Jonathan Kimes (Kimes) and Dieter Bandorf (Bandorf) to move a Link-Belt HC-278H crane (278 crane) so it could serve another location at the construction site. (Day 1, pp. 55-58; Day 2, pp. 40-42, 138.)

2. The plan was for Kimes, a journeyman crane oiler, to drive the 278 crane and for Bandorf, a journeyman crane operator, to act as a spotter.[5] (Day 2, pp., 41-42, 51-53, 137.)

3. Both employees were experienced and both received generalized and on-the-job crane training.

4. Bandorf had operated cranes similar to the 278 crane more than a hundred times. (Day 2, pp. 196-197.)

5. Prior to moving the crane to its final location, Kimes and Bandorf observed obstructions and walked the expected path of travel to detect obstacles and hazards. (Day 2, pp. 55-60, 142-143, 176-177.)

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therefore deemed waived. (*RNR Construction, Inc.,* Cal/OSHA App. 1092600, Denial of Petition for Reconsideration (May 26, 2017); Lab. Code, § 6618.)

[5] The 278 crane required two operators. It is typical for the oiler to operate the truck and for the operator to spot for the oiler. The operator, in turn, will operate the actual crane, i.e., the upper works of the crane.

6. The jobsite was busy with active construction, parked vehicles, moving traffic, and other obstructions. (Day 2, pp. 47-49, 55, 144-145.)

7. Kimes and Bandorf observed that the boom of a stationary MLC 300 crane (300 crane) created an obstruction to the movement of the 278 crane. (Day 2, pp. 54-58.)

8. Kimes and Bandorf agreed that they would need to lower the boom of the 278 crane during travel to prevent a collision between the two cranes. (Day 2, pp. 42-43, 142-143.)

9. Despite recognizing that they would need to lower the boom of the 278 crane, Kimes and Bandorf neither made nor implemented a specific plan to avoid the obstruction created by the other crane. (Day 2, pp. 42-43, 67-68, 143, 151-152.) Kimes said that they would lower the crane based on "visual observation." (Day 2, pp. 45-46.) Bandorf likewise testified they were "eyeballing it." (Day 2, p. 143-144.)

10. After they discussed the need to lower the boom of the 278 crane, they did not speak again about that issue until after the accident. (Day 2, pp. 63-64.)

11. Within minutes of identifying the hazard, Kimes and Bandorf began moving the 278 crane. (Day 2, pp. 55-58.)

12. Neither Kimes nor Bandorf removed the hook blocks prior to the start of the crane's travel. (Day 1, pp. 156-157.)

13. The Operator's Manual contains at least two different charts specifying the boom angle for the 278 crane when traveling: a load chart for loaded cranes and a travel chart for unloaded cranes. (Day 1, pp. 85-86, 89; Day 2, p. 18.) The charts specify, among other things, the minimum and maximum boom angles for travel. (Day 1, pp. 63-64; Exhibit 25.)

14. Kimes and Bandorf were required to utilize the travel chart because the crane was unloaded. (Day 1, pp. 89, 93.) The travel chart dictated that the boom must be between 0 and 46 degrees. (Day 1, pp. 63-64, 73, 159-161; Exhibit 25.)

15. As Kimes drove the 278 crane with Bandorf spotting for him, the boom of the 278 crane was set at 69 degrees. (Day 1, pp. 62-63, 161; Day 2, pp. 184-185.)

16. The travel speed of the 278 crane exceeded one mile per hour.

17. As they neared the 300 crane, neither Bandorf nor Kimes could clearly see the 300 crane, nor could they see the trailing boom of the 278 crane, from their respective vantage points. (Day 1, p. 60; Day 2, pp. 47, 54, 155-156.)

18. The boom of the 278 crane and the boom of the 300 crane made contact, causing the boom of the 300 crane to collapse. (Day 1, pp. 33-34, 47-50, 61; Day 2, p. 54.)

19. The falling boom and its components caused damages to multiple objects and a building. (Exhibits 4-14.)

20. Neither employee could recall why they failed to lower the boom of the 278 crane as they had intended. (Day 2, pp. 48, 152.)

21. Kimes and Bandorf did not receive effective training on the movement of the 278 crane.

Analysis

1. Did Employer fail to ensure that employees were effectively trained on jobsite travel of the crane?

Citation 1 alleges a General violation of section 1509, subdivision (a), which requires:

> (a) Every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program in accordance with section 3203 of the General Industry Safety Orders.

The citation includes a reference to section 3203, subdivision (a), which requires:

> (a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Illness and Injury Program (Program). The Program shall be in writing and, shall, at a minimum: […]
> (7) Provide training and instruction:
> (A) When the program is first established; […]
> (B) To all new employees;
> (C) To all employees given new job assignments for which training has not previously been received;
> (D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;
> (E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,
> (F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

The alleged violation description states,

> Prior to and during the course of the inspection, including, but not limited to, on February 28, 2020, the employer did not ensure employees assigned to move the LinkBelt HC-278H crane were effectively trained on all hazards of the job site travel of the crane.[6]

The Division bears the burden of proving an alleged violation by a preponderance of the evidence. (*Guy F. Atkinson Construction*, *LLC*, Cal/OSHA App. 1332867, Decision After Reconsideration (Jul. 1, 2022).)

Here, the Division does not allege that the Employer's written Injury and Illness Prevention Plan (IIPP) is inadequate. Rather, the Division asserts that Employer failed to adequately implement effective training. The Division may prove a violation of section 3203, subdivision (a)(7) by showing that the implementation of the training required by this section was inadequate. (*Bellingham Marine Industries, Inc.,* Cal/OSHA App. 12-3144, Decision After Reconsideration (Oct. 16, 2014), citing *Contra Costa Electric*, *Inc*., Cal/OSHA App. 09-3271, Decision After Reconsideration (May 13, 2014); *HHS Construction*, Cal/OSHA App. 12-0492, Decision After Reconsideration (Feb. 26, 2015).)

"Training is the touchstone of any effective IIPP[…]." (*Cranston Steel Structures*, Cal/OSHA App. 98-3268, Decision After Reconsideration (Mar. 26, 2002).) It is not enough for employers to simply provide employees with training. For training to be considered effective, the training must also be of sufficient quality to make employees "proficient or qualified" on the subject of the training. (*Siskiyou Forest Products*, Cal/OSHA App. 01-1418, Decision After Reconsideration (Mar. 17, 2003) [discussing definition of training].) The Appeals Board has found that the purpose of section 3203, subdivision (a)(7), "is to provide employees with the knowledge and ability to recognize, understand and avoid the hazards they may be exposed to by a new work assignment through 'training and instruction.'" (*Timberworks Construction*, *Inc*., Cal/OSHA App. 1097751, Decision After Reconsideration (Mar. 12, 2019), citing *Siskiyou Forest Products*, *supra*, Cal/OSHA App. 01-1418; see also *NDC/Tri- State Staffing*, Cal/OSHA App. 12-0391, Decision After Reconsideration (Oct. 5, 2015).)

Sanasaryan issued Citation 1 because he concluded that Kimes and Bandorf made several serious operational errors during the movement of the 278 crane, some of which contributed to the collision. (Day 2, pp. 20-23.) Sanasaryan concluded that the two employees proceeded with an incorrect boom angle because they improperly relied on the load chart rather than the travel chart, traveled above the maximum recommended travel speed, and failed to remove the hook blocks. Sanasaryan concluded that these operational errors demonstrated the ineffectiveness of the training Kimes and Bandorf had received.

[6] The parties stipulated to an amendment to the alleged violation description in Citation 1 wherein the crane model number "275" is corrected to "278."

The Decision found that the evidentiary record supported Sanasaryan's conclusions and affirmed the citation. The ALJ's Decision stated:

> The Crane was not loaded but testimony and investigation interviews demonstrated that the crew applied the load chart rather than the travel chart. The crew's reliance on the wrong chart reflected their unfamiliarity with the manual's requirements, indicating ineffective training.
>
> The evidence also demonstrated that the crew failed to adhere to other requirements in the manual. (TR Vol I 86; Vol II 22.) (Exhibit 15.) The travel chart sets a clear and broadly applicable speed limit of one mile per hour for unloaded travel. Employer's accident investigation report shows that the crew did not know their Crane's speed, estimating it to be "walking speed" or "two to three miles per hour." (Exhibit 19.) […] Finally, the travel chart requires the hook block to be stowed or removed when the Crane travels. However, the inspection interview notes establish that the crew left two hook blocks on the boom.
>
> The crew's ongoing focus on the load chart shows their inability to distinguish between the manual's charts. Their other failures to recognize or understand the significance of the manual's requirements, demonstrate deficiencies in Employer's training.

(Decision, p. 7.)

Employer's Petition disputes any conclusion that Kimes and Bandorf were ineffectively trained. (Petition, pp. 3-8.) Employer argues that it has a well-devised, multi-dimensional safety program that includes training. While Employer acknowledges that the boom of the 278 was set at an incorrect angle during travel, Employer asserts that this error did not arise from ineffective training. Employer asserts that Bandorf knew the requirements of the travel chart and knew the boom angle exceeded the maximum angle permitted by the travel chart, but "nevertheless consciously ignored the rule" so he could avoid some obstructions. (Petition, p. 8.) Employer asserts that Bandorf's conscious disregard of the rule does not demonstrate ineffective training. Employer next argues that there is no credible evidence that they were traveling above one mile per hour. Finally, Employer's Petition asserts that the failure to stow the hook blocks was a discrete, one-time departure from the manual. (Petition, pp. 6-8.)

After a careful review, we conclude that the record supports the ALJ's affirmance of Citation 1. The record supports the conclusion that several operational errors occurred during the movement of the crane, indicating the training was insufficient.

First, it is undisputed that Kimes and Bandorf were aware of the hazard created by the 300 crane, meaning they were aware of a new hazard, and yet failed to make or implement a specific plan to avoid a collision. Prior to moving the 278 crane, Kimes and Bandorf walked the expected path of travel, observed that the boom of the stationary 300 crane created an

obstruction, and agreed that they would need to lower the boom of the 278 crane to prevent a collision. Despite knowledge of the hazard, they never made or executed a specific plan to avoid the hazard. During the movement of the 278 crane, they also failed to ensure that either of them had a clear view of the obstruction created by the 300 crane. This failure to both devise and implement a specific plan to avoid the obstruction, by itself, supports a strong inference that their training on movement of the 278 crane was deficient.

Second, the record demonstrates that the employees were unfamiliar with which chart to apply when moving the 278 crane. The Operator's Manual includes two relevant charts that apply to movement of the 278 crane: a load chart for moving the crane with a load, and a travel chart for moving an unloaded crane. Here, the travel chart was applicable because the 278 crane was unloaded. The travel chart required the boom angle to be placed between 0 and 46 degrees during travel. (Exhibit 25.) Kimes did not know the correct boom angle and left that to Bandorf. (Day 2, pp., 65-67.) Next, Bandorf's testimony demonstrated unfamiliarity with, and a marked vacillation, on which of the two charts applied. Bandorf initially, and repeatedly, testified that they relied on the load chart, not the travel chart. Bandorf testified that the appropriate boom angle is determined "by looking at the load chart and knowing the load chart." (Day 2, p. 149 [underline added].) To determine the angle, Bandorf said, "You can look at the bulge in the tires to see how balanced the crane is. You can look at your load chart to see your working range, what is safe to travel with your boom and what angle it is safe to travel." (Day 2, p. 148 [underline added].)[7] It was only after making references to the load chart that Bandorf corrected himself and said he relied on the travel chart. (Day 2, p. 150.) This vacillation demonstrates unfamiliarity with the charts. Indeed, even after correcting himself, Bandorf could not initially state whether the 278 crane's boom angle exceeded that permitted by the travel chart. (Day 2, p. 178.) Ultimately, Bandorf's repeated reference to the load chart and vacillation on which chart applied support an inference of ineffective training. As the ALJ concluded, the crew's repeated reference to, and reliance on, the wrong chart reflected their unfamiliarity with the manual's requirements, indicating ineffective training. (Decision, p. 7.)

Third, the record supports a finding that Kimes exceeded the speed limit for movement of the 278 crane. The travel chart sets a speed limit of one mile per hour for unloaded travel. (Exhibit 25.) Sanasaryan concluded, and the ALJ's Decision found, that Kimes and Bandorf exceeded the maximum speed limit. (Day 1, pp. 155-156, 180-182.) The evidence supports that conclusion. Employer's Initial Investigation Analysis and Summary, which was admitted without objection,[8] states that the crane proceeded at a "walking speed." (Exhibit 19.) A walking speed is most commonly understood to be greater than one mile per hour. Further, Sanasaryan's interviews with Kimes and Bandorf supplement the conclusion that the referenced walking speed exceeded one mile per hour, and that the crane exceeded one mile per hour. Kimes told Sanasaryan that they were traveling at a walking speed of two to three miles per hour. (Day 1, pp. 181-182, Exhibit 15 [Kimes Interview].) Bandorf likewise told Sanasaryan the crane proceeded at a "walking speed." (Exhibit 16 [Bandorf Interview].) Ultimately, this evidence

[7] Next, the record also contains other indications supplementing the conclusion that the crew followed the load chart, rather than the applicable travel chart. (See Exhibits 15 and 16 [discussing load chart].) Even if the notes pertaining to the interview of Kimes and Bandorf were hearsay, they are still admissible, and may be relied upon herein, to the extent that they supplement and explain other evidence. (§ 376.2.)

[8] Day 2, pp. 34-35, Day 3, p. 67; Exhibit 19

supports the conclusion that Kimes and Bandorf drove the 278 Crane in excess of the one mile per hour speed set forth in the travel chart.[9]

Finally, the Operator's Manual required the hook blocks to be removed during the 278 crane's travel, but the evidence demonstrates that they were not removed. (Day 1, pp. 156-157.)

The preponderance of the evidence here supports a finding that Kimes and Bandorf were not effectively trained on the jobsite travel of the 278 crane, requiring affirmance of Citation 1. It is undisputed that Kimes and Bandorf moved the 278 crane while the boom was set at an incorrect angle and that the hook blocks were not removed. It is also undisputed that both Kimes and Bandorf were aware of the hazard created by the 300 crane but failed to make or execute a definite plan to avoid the collision. It is also found that the crane exceeded the maximum travel speed. These errors, particularly when considered in aggregate, support the conclusion that Kimes and Bandorf were not effectively trained on job site travel of the 278 crane.

2. Did Employer establish the IEAD as to Citation 2?

Citation 2 alleges a Serious violation of section 1616.1, subdivision (t), which at the time required that the travel of cranes be controlled to prevent collisions. Employer's Petition does not appear to dispute the existence of the violation but asserts that it established the IEAD, a complete defense to the citation.

The elements of the IEAD defense are: 1) The employee was experienced in the job being performed; 2) the Employer has a well-devised safety program which includes training employees in matters of safety respective to their particular job assignments; 3) the Employer effectively enforces the safety program; 4) the Employer has a policy of sanctions against employees who violate the safety program; and 5) the employee caused a safety infraction which he or she knew was contrary to Employer's safety requirements. (*Mercury Service*, *Inc*., Cal/OSHA App. 77-1133, Decision After Reconsideration (Oct. 16, 1980); *Sacramento County Water Agency Department of Water Resources*, Cal/OSHA App. 1237932, Decision After Reconsideration (May 21, 2020).)

The IEAD is an affirmative defense, thus Employer bears the burden of proof and must establish all five elements of the IEAD. (*Sacramento County Water Agency Department of Water Resources*, *supra*, Cal/OSHA App. 1237932.)

[9] The Board recognizes that Kimes testified at hearing that he never exceeded one mile per hour. (Day 2, pp., 80-82.) However, like the ALJ, we give more weight to the Employer's Initial Investigation and Analysis as supplemented and explained by the interviews of Kimes and Bandorf, which, on balance, indicated that crane proceeded at a walking speed of two to three miles per hour. Even Kimes admitted that his recollection of the speed of the crane and the gears he was using would have been better closer to the time of the accident. (Day 2, p. 114.) While not necessary to our conclusion, we also observe that there is other evidence that supports the conclusion that the crane exceeded one mile per hour. Employer's Accident Report states that the "gear reduction was in deep low, gearbox was in low and transmission was in 2nd gear." (Exhibit 19 [Accident Report].) Sanasaryan testified that he reviewed the Operator's Manual and that a crane traveling in the aforementioned gear can travel above one mile per hour. (Day 1, pp. 186-187; Day 2, pp. 8-9; Exhibit A, p. 9.)

The ALJ found that Employer failed to prove elements two, three, and five. We find that the second and fifth elements are dispositive here.

Second Element:

The second element of the IEAD requires Employer to have a well-devised safety program, which includes training employees in matters of safety respective to their job assignments. "This element should be analyzed by taking a realistic view of the written program and policies, as well as the actual practices at the workplace. [Citation.]" (*Sacramento County Water Agency Department of Water Resources*, *supra*, Cal/OSHA App. 1237932 [other citations omitted].)

The Decision states, "Employer's safety program was lacking because the crew was not sufficiently trained in the operation of the Crane." (Decision, pp. 9-10.) The Decision, therefore, found that the Employer could not satisfy the second element. We agree. As discussed in the preceding section, the multiple operational errors made during the movement of the 278 crane, particularly when considered in aggregate, support the conclusion that Kimes and Bandorf were not effectively trained on matters of safety respective to their job assignments. As such, Employer failed to satisfy the second element.

The failure to prove any one of the elements negates the IEAD in its entirety. (*Sacramento County Water Agency Department of Water Resources*, *supra*, Cal/OSHA App. 1237932.)

Fifth Element

The fifth element requires Employer to demonstrate that the employee(s) causing the infraction knew the action was contrary to Employer's safety requirements. (*Synergy Tree Trimming*, *Inc*., *supra*, Cal/OSHA App. 317253953, Decision After Reconsideration (May 15, 2017).) The Appeals Board has held that inadvertence or an error in judgment is insufficient to demonstrate a knowing violation of Employer's safety program. (*Ibid*.)

The Decision found that there was no intentional violation of a safety rule. (Decision, pp. 10-11.) The Decision states,

> Bandorf deliberately raised the Crane's boom higher than usual to avoid construction site obstructions such as other cranes, streetlights, and construction in progress. (TR Vol II 145, 176.) When prompted, he testified that he was aware that the travel chart did not permit the higher angle of the boom. (TR Vol II 185-186.) However, as discussed above, the crew was unfamiliar with the travel chart. Bandorf believed he could safely move the Crane relying on tire bulges, the load chart, and years of experience. (TR Vol II 144-145, 148.) Kimes was accustomed to these informal practices. The evidence in the records does not support a finding that the crew acted willfully to violate safety rules. Employer thus failed to establish the fifth element of the IEAD.

(Decision, p. 11.)

In contrast, Employer's Petition argues that the evidence demonstrates an intentional and knowing violation of the safety rule. Employer argues that Bandorf testified he knew the boom angle was 23 degrees higher than the maximum boom angle but did not lower it. (Petition, pp. 10-11.)

Employer is correct that Bandorf testified that he knew the boom angle was above the maximum angle at one point. (Day 2, p. 186.) However, Bandorf's testimony also demonstrated confusion, uncertainty, and vacillation on multiple major points, indicating that he did not engage in a knowing violation.

For example, while he testified that he knew the boom angle was too high (Day 2, p. 186), he had earlier testified that he did not know if it was higher than the maximum angle (Day 2, pp. 177-178, 184). Next, as previously mentioned, while Bandorf did say they were following the travel chart, he also testified that they were following the load chart.

Due to the inconsistent nature of Bandorf's testimony, and vacillation, we conclude that Employer failed to establish a knowing violation of the safety order.[10] This conclusion is bolstered by the fact that Bandorf testified that in his mind he believed he was operating the crane in a safe manner up until the time of the accident. (Day 2, p. 186.)

Moreover, even if Employer proved that Bandorf knowingly failed to follow the travel chart, that would not necessarily establish the IEAD. Where there are two actors involved, the employer must prove all elements for both employees. (*Fedex Freight Inc*., Cal/OSHA App. 1099855, Decision After Reconsideration (Sept. 24, 2018); *Paramount Farm, Kings Facility*, Cal/OSHA App. 09-864, Decision After Reconsideration (March 27, 2014).) Although Kimes did not operate the upper works of the crane, there is no doubt that he shared responsibility for hazard identification and amelioration, and the record does not support any finding that Kimes knowingly violated the safety order. Thus, the fifth element fails.

[10] The marked vacillation in Bandorf's testimony leaves us in doubt as to whether he engaged in an intentional violation. As we have previously observed, if the existence of an essential fact upon which a party relies is left in doubt or uncertainty, the party upon whom the burden rests to establish that fact should suffer, and not its adversary. (*Webcor Builders*, Cal/OSHA App. 02-2834, Decision After Reconsideration (May 24, 2005).)

DECISION

For the reasons stated herein, the ALJ's Decision is affirmed and the penalty sustained.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

/s/ Ed Lowry, Chair
/s/ Judith S. Freyman, Board Member
/s/ Marvin Kropke, Board Member

FILED ON: 10/09/2025