

# MEMORANDUM

Department of Building

RONALD L. LYNN  
Director/Building Official

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**TO:** Ronald L. Lynn, Director/Building Official

**FROM:** David L. Durkee, P.E., Principal Engineer 

**SUBJECT:** Complaint against Converse Consultants

**DATE:** January 9, 2009

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In accordance with Clark County Building Administrative Code (BAC) section 22.02.560 (A) I am filing a complaint and request that a hearing be held to determine if Converse Consultants is subject to sanctions.

## BACKGROUND

Converse Consultants is the special inspection agency for the Harmon Tower at the City Center project. (Permit number 07-19475). They are responsible to inspect the concrete, masonry and structural steel for the building. See page 83. (QAA Agreement)

On or about July 15, 2008, it was discovered that reinforcing bar hooks had been torched off and an un-approved tie system was being utilized in the Harmon Tower concrete construction. This was documented in Correction Notice 031253, page 80, issued to Perini Construction. Further investigations revealed that discrepancies in reinforcing steel placement were more prevalent than originally noted and that led to Notice of Violation 24844, page 81, being issued July 18, 2008. Upon recommendation of the project structural engineer, vertical construction on the Harmon Tower was stopped.

A review of the inspection reports revealed that inspectors from Converse Consultants had signed 62 daily reports indicating the steel was in compliance with the approved plans. Investigations performed using destructive and non destructive techniques revealed reinforcing steel did not meet the approved plans as stated in the Converse report. Notice of violations 24876 and 24874, pages 68 and 69, were issued to Converse Consultants.

## ENFORCEMENT ACTION

A mandatory meeting was held with representatives of Converse Consultants to ascertain the extent and cause of the issues identified in multiple Notices of Violation on the Harmon Lifestyles Tower project. The mandatory meeting concluded with an assessment of administrative fees issued to Inspectors Scott Edberg, page 4 and Joseph Glenn Laurente, page 3, as well as assessments to the Quality Control Manager and Engineering manager, see pages 5 and 6. It was determined in the meeting that the work in question was not

properly inspected, that the documentation of special inspections are materially incorrect and that a substantial lack of required supervision occurred on the site.

### **INCLUDED DOCUMENTATION**

Included with this memo are the following documents

- Letter and Summary of Administrative action taken against Converse Consultants, pages 2-6
- Daily inspection reports by Converse Consultants, pages 7-67
- Notice of Violations issued by Clark County in this matter, pages 68-81
- Halcrow Yolles letter dated July 13, 2008, page 82

### **RECOMMENDATIONS**

Based on the documentation enclosed we recommend that Converse Consultants be sanctioned in accordance with the provisions of the Building Administrative code.

DLD:jkp

cc: Gregory J. Franklin, Assistant Director  
Theodore L. Droessler, Manager of Engineering  
Jonathan Bahr, Sr. Engineer

**CLARK COUNTY BUILDING DIVISION  
IN THE MATTER OF A COMPLAINT FILED AGAINST**

**Converse Consultants Southwest, Inc.;**

and

**Scott T. Edberg;**

and

**Joseph G. Laurente;**

by

**David L. Durkee, PE  
Principal Engineer for the Clark County Building Division**

**RESPONSE TO THE COMPLAINT**

The Converse Professional Group, aka Converse Consultants (“Converse”), is submitting this Response to the Complaint filed on January 9, 2009, with the Clark County Department of Development Services - Building Division (“the Building Division”) by David L. Durkee, P.E., Principal Engineer for the Building Division.

The issue raised by the Building Division in the Complaint concerns apparently faulty rebar fabrication within link beam locations installed or constructed by the contractors at the Harmon Tower f/k/a Lifestyles Tower. The Harmon Tower is part of the Las Vegas CityCenter project (the “Project” or “CityCenter”). The steel subcontractor appear to have made an ongoing series of related and recurring errors with respect to how the link beam reinforcement bar was configured. It was discovered that the subcontractor failed to configure the reinforcement bar for the link beams pursuant to the plans and specifications (the “Link Beam Issue”). Converse’s special inspectors Scott Edberg (“Edberg”) and Joseph Glenn Laurente (“Laurent”) wrote reports for this work, indicating that the work they observed was per the plans and specifications.

Along with this Response, Converse is submitting appendices which include the following contents:<sup>1</sup>

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<sup>1</sup> For convenience, Converse is also supplying a CD containing the documents set forth in the Appendices.

**APPENDIX A**

<b>Tab</b>	<b>Beg. Doc#</b>	<b>End Doc#</b>	<b>Document Description</b>
1	A0001	A0005	Affidavit of Don Christiansen
2	A0006	A0016	Resume of Don Christiansen
3	A0017	A0020	Affidavit of Eugene Lee Miller III
4	A0021	A0022	Affidavit of Brian Godley
5	A0023	A0029	Expert Report of William Taylor
6	A0030	A0030	Resume/Qualifications of William Taylor

**APPENDIX B**

<b>Tab</b>	<b>Beg. Doc#</b>	<b>End Doc#</b>	<b>Document Description</b>
1	B0001	B0515	Quality System Manual
2	B0516	B0516	New Hire Document - Edberg
3	B0517	B0518	Training Timesheet – Edberg
4	B0519	B0528	Edberg Resume/Certificates
5	B0529	B0532	New Hire Documents - Laurente
6	B0533	B0533	Training Timesheet – Laurente
7	B0534	B0548	Laurente Resume/Certificates
8	B0549	B0566	Timesheet – Edberg/Laurente Overlap on Harmon
9	B0567	B0601	Training Records
10	B0602	B0620	Eugene Lee Miller - Resume/Certifications
11	B0621	B0627	D. Vance Smith - Resume/Certifications
12	B0628	B0644	David Selander - Resume/Certifications
13	B0645	B0655	Ray Smith - Resume/Certifications
14	B0656	B0658	Smeeta Thompson - Resume/Certifications
15	B0659	B0665	Daniel Hogan - Resume/Certifications
16	B0666	B0671	Eric Dezzani - Resume/Certifications
17	B0672	B0677	Mike Biondo - Resume/Certifications
18	B0678	B0681	Antonio Bandales - Resume/Certifications
19	B0682	B0686	Brian Godley - Resume/Certifications
20	B0687	B0726	Audits
21	B0727	B0755	Quality System Evaluations
22	B0756	B0767	IAS Assessment Report
23	B0768	B0771	Documents Received from County
24	B0772	B0825	NCRs
25			Audio CDs of 10/8/2008 Mandatory Meeting

Converse will provide any additional documentation or testimony that the Hearing Officer believes will help him to evaluate Converse's conduct and quality control measures. Converse respectfully requests that, after reviewing the record, the Hearing Officer recommend that no additional sanctions are necessary or appropriate. We believe this request is appropriate

given the significant sanctions already imposed on Converse by the Building Division, the remedial actions taken by Converse to continue to improve its protocols, and the quality control measures historically employed by Converse.

## **INTRODUCTION**

As described herein, the Building Division has already fined Converse and revoked the approvals of the two inspectors involved in the Link Beam Issue. Converse immediately and actively responded to the Link Beam Issue and has further strengthened its hiring, training, and auditing procedures to prevent a similar occurrence. Converse has advised the Building Division of each of these steps and updated its Quality Control manual to reflect these new procedures.

Converse requests that the Building Division and the Hearing Officer examine the purpose of further inquisition. If the Building Division is concerned about protecting the integrity of the QAA program, seeking to revoke Converse's QAA status will not achieve this goal. Converse is an established and experienced employer of special inspectors and has a distinguished tenure of service as a QAA in Clark County, Nevada. Just as the Building Division has learned from and modified its procedures, consistent with Converse's ongoing enhancement of its procedures, Converse has further modified its thorough policies to ensure quality and accurate inspections.

The Building Division and the Hearing Officer should consider the changes made by Converse and consider the practical effect of further action against Converse in this proceeding.

### **I. THE COMPLAINT IS DEFICIENT AND SHOULD BE DISMISSED.**

The Complaint should be dismissed for the following four reasons: (a) the Complaint is not verified as required by the Administrative Code, (b) the Complaint fails to identify a single unresolved issue that warrants additional sanctions, (c) the Complaint fails to identify grounds for additional sanctions, and (d) the Complaint fails to identify what sanctions it seeks.

#### **A. The Complaint Is Not Verified.**

As a preliminary matter, this proceeding is conducted pursuant to Section 22.02.560 of the Clark County Building Administrative Code ("Administrative Code"). Due to the grave implications of a complaint, section 22.02.560(A)(1) of the Administrative Code requires that the party submitting a complaint verify the complaint. This means the complaint must be in the form of a sworn affidavit by the person bringing the complaint. Pursuant to Nevada law, when a complaint is required to be verified, "the affidavit of the party shall state that the same is true of his own knowledge, except as to the matters which are therein stated on his information and belief, and as to those matters that he believes it to be true." NRS 15.010(1). Because the Complaint does not include the requisite affidavit attesting to the veracity of the allegations set forth in the Complaint, the Complaint is both procedurally and substantively deficient and does not comply with the Administrative Code, section 22.02.560(A)(1).

**B. The Complaint Fails to Identify A Single Unresolved Issue that Warrants Additional Sanctions.**

On October 8, 2008, Converse participated in the Building Division “mandatory meeting” (“October Meeting”). Under the Building Division guidelines, a matter should only be escalated from a mandatory meeting to the filing of an administrative complaint when outstanding issues remain unresolved following the mandatory meeting. Specifically,

7.6.2.3 A mandatory meeting letter is issued to either the quality control manager or the engineering manager in an effort to resolve recurring deviations to the special inspection process. A mandatory meeting letter is generated after the issues have been documented in correction notices and a notice of violation has been issued to the agency inspector, quality control manager or engineering manager. **Failure to resolve issues identified in the mandatory meeting may result in an administrative complaint filed by the Building Division inspection personnel.**

TG-16-2004 (emphasis added).

The Complaint completely fails to identify what, if any, “issues identified in the mandatory meeting” remain unresolved. In his written “Summary of Converse Meeting 10/8/08,” Durkee includes a conclusory statement that there were “issues left unresolved by the meeting.” Yet, the meeting minutes fail to identify any issues that Durkee no characterizes as unresolved. *See Appendix to Complaint at p.1.* Converse is truly in the dark about what outstanding issues exist that the Building Division claims are unresolved or what sanctions the Building Division now believes are warranted.

**C. The Complaint Does Not Identify Grounds for Additional Sanctions.**

The Building Division made an audio recording of the October Meeting and provided a copy of the audio files to counsel for Converse on a compact disc.<sup>2</sup> The “meeting,” which was more in the nature of a hearing, was broken up into two parts: questioning of Converse and questioning of Laurente. The audio of the County’s questions to Converse lasts over forty (40) minutes. The audio for the County’s questions of Laurente lasts nearly twenty (20) minutes. At the very beginning of the recording, a Building Division representative explains that the purpose of the hearing was to determine whether sanctions were warranted:

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<sup>2</sup> A copy of the audio files provided to Converse by the Building Division are included as part of Converse’s Appendix. The original .wav files that the Building Division provided are included on one disc, which included several minutes of dead air at the end of two of the files. Another disc provided by Converse in the Appendix includes the same files in .mp3 format without the dead air.

Clark County Code section 22.02.540, which is the section that involves conditions, suspension or revocation of an approval of an agency and inspector. . . . The possible outcomes of this meeting really will be our findings based on the information established provided. They could include conditioning to suspend revoke approved status of special inspector and to issue administrative fees against both the inspector and the agency.

Appendix CD, file titled "tape 1, side A".

By the October Meeting, the Building Division had already removed Edberg and Laurente from its approved list of inspectors. Documents recently received from the Building Division prove that the Building Division removed Edberg as an approved inspector on August 13, 2008. And a September 16, 2008, notation in the Building Division's records state that Edberg was "Removed by agency request. Pending investigation." See Appendix at B0771. Both of these entries predate the October Meeting. Similarly, the Building Division had removed Laurente from its list by September 16, 2008 (listed as "inactive listing pending investigation"), but on October 8, 2008, his status was slightly changed to "summary judgment following mandatory meeting CC [reinforced concrete] approval removed, inspector restored to active list with R+P and GA+GB approvals." *Id.*

Furthermore, the Building Division indicated in its own minutes of the October Meeting that (1) the purpose of the "hearing meeting" was for "a recommendation to remove Converse Consultants from the QAA", and (2) Edberg and Laurente had been removed from the approved list:

This meeting is the first step to section 22.02.540. This hearing meeting was established to verify the facts that occurred on the Harmon Towers regarding special inspection responsibilities and a recommendation to remove Converse Consultants from the QAA program. At the time of the meeting, there was no recommendation given. However, a summary judgment was made to remove Scott Edinger (sic) and J. Glen Laurente from the approved list.

Appendix at B0768.

Under the Building Division Administrative Code, the sole purpose of filing a Complaint is to determine whether there exists "grounds to condition, suspend or revoke approval or certification . . ." 22.02.560(A)(1). As explained below, no further sanctions are warranted. As for Edberg and Laurente, the Building Division already unilaterally removed them from the list of approved reinforced concrete inspectors, without any notice or hearing whatsoever. As of today, in fact, Edberg has no Building Division certification at all that remain for the Building Division to "condition, suspend or revoke." Furthermore, the Building Division has already fined Edberg, Laurente, and Converse in the maximum amount allowed by the Administrative

Code. And Converse has continued to enhance its procedures in response to the issues on Harmon Tower and informed the Building Division of its enhancements. As explained herein, Converse's quality procedures and actions as a QAA on the Project do not warrant sanctions.

**D. The Complaint Fails to Identify the Sanctions It Seeks.**

Durkee, the Principal Engineer at the Building Division, was involved in the Building Division investigation concerning the issues raised in the Complaint and was involved in the process that resulted in monetary fines being assessed against Edberg, Laurente, and other individuals at Converse. Durkee drafted the document entitled "Summary of Converse Meeting 10/8/08" (Appendix to Complaint at p.1), and co-signed the "Assessment of Administrative and Investigative Fees" that accompanies the Complaint (Appendix to Complaint at p.2).

Despite having already investigated this matter and having been personally involved in the process, in the Complaint he signed, Durkee made no recommendation regarding what additional sanctions he believes are appropriate and never indicates whether he seeks conditions, suspensions, or revocations of QAA certification. If Durkee had provided such a recommendation, it is very possible that Converse and the Building Division could resolve this matter by agreement. Such an agreement could include new procedures, new reporting, new training, or conditions on certain inspectors or for Converse in general. In fact, Converse has already taken such enhancing steps and reported these steps to the Building Division.

Based on the Complaint's failure to suggest additional remedies, the Building Division's failure to inform Converse of its unresolved concerns, and the fact that the Building Division has already sanctioned and fined the parties, the Complaint appears to be motivated by an intent to subject Converse, Edberg, and Laurente to further inquisition.

**II. ADDITIONAL SANCTIONS ARE NOT WARRANTED**

Additional sanctions against Converse and its inspectors are not warranted because (1) the Building Division has already imposed sanctions and fines against both Converse and its inspectors and (2) Converse acted appropriately.

**A. The Building Division Has Already Imposed Sanctions and Fines.**

On November 10, 2008, the Building Division fined Edberg \$3,525.00 on the grounds that he "did not issue NCR for discrepant work". See Appendix to Complaint at page 4. More importantly, the Building Division removed Edberg entirely from all of its lists of approved inspectors.<sup>3</sup> When Converse attended the October Meeting (see Appendix to Complaint at p.1),

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<sup>3</sup> The Building Division Building Official maintains an Approved Listing of Special Inspection Personnel and an Approved Listing of Quality Assurance Agencies and Other Organizations. See Administrative Code section 22.02.520(A). The current lists are available on the Building Division's website at [http://dsnet.co.clark.nv.us/dsweb/bldg\\_qaa.html](http://dsnet.co.clark.nv.us/dsweb/bldg_qaa.html).



the Building Division informed Converse that it had revoked Edberg's approval for reinforced concrete inspections. *See* Appendix at page A0019, Affidavit of Miller, at ¶14. The Building Division revoked Edberg's approval unilaterally, without any notice or hearing. In the spirit of cooperation, neither Converse nor Edberg objected, and instead paid fines assessed. Since Edberg is no longer on any Building Division lists of approved inspectors and the Building Division has already fined him in the maximum amount permitted by the Administrative Code, the Administrative Code allows the Building Division no further recourse against Edberg. As a result, the Building Division has no basis to include Edberg within the scope of its Complaint. Edberg, in fact, no longer works for Converse, and no longer lives or works in Nevada. *See* Appendix at page A0019, Affidavit of Miller, at ¶14.

Similarly, on November 10, 2008, the Building Division fined Laurente \$1,125.00 on the grounds that he "did not issue NCR for discrepant work." *See* Appendix to Complaint at page 3. These fines represent the maximum allowable fines against Laurente. More importantly, Laurente no longer has reinforced concrete approval with the Building Division. At the October Meeting, the Building Division informed Converse that it had revoked Laurente's approval for reinforced concrete inspections. *See* Appendix at page A0019, Affidavit of Miller, at ¶14. The Building Division did this unilaterally, without any notice or hearing. However, in the spirit of cooperation, Converse and Laurente paid the fines assessed. As a result, the Building Division has no basis to include Laurente within the scope of the Complaint .

If the Building Division had not already unilaterally revoked Edberg's and Laurente's approval to inspect reinforced concrete and fined them the maximum amounts allowable under the Administrative Code, then the proceeding could reasonably adjudicate what type of available sanctions, if any, are appropriate in this matter. Of the available sanctions (condition, suspend or revoke), revocation is obviously the most severe. Here, the Building Division, without going through the formal process of filing a complaint and giving the respondent an evidentiary hearing and opportunity to appeal the decision to the Building Official, has already imposed the most severe sanctions available against Edberg and Laurente.<sup>4</sup> No further action is allowable under the Administrative Code.

#### **B. Converse Acted Appropriately.**

It is not Converse's responsibility as a QAA to be present in the field. Field work is the responsibility of special inspectors. Converse's responsibility, in summary, is to establish and follow approved procedures to ensure that the special inspectors in its employ are qualified and appropriately trained and supervised. Specifically, (1) Converse has a history of performing quality inspections in Clark County, (2) CityCenter is a large and unusual project for which Converse established a robust organizational structure, (3) Converse has extensive hiring and training practices, (4) Converse applied its hiring and training practices to the two inspectors at

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<sup>4</sup> The Administrative Code, section 22.2.540(E), enumerates limited circumstances that warrant revocation without a hearing, such as failure to pay fees or meet imposed conditions. None of those reasons existed when the Building Division revoked Edberg's and Laurente's status.

issue, (5) Converse quickly and appropriately responded to the Link Beam Issue, (6) Converse has robust quality control mechanisms, (7) the Link Beam Issue arose from a single misunderstanding, and (8) Converse is one of many parties that have learned from the Link Beam Issue.

### 1. Converse Consultants Provides Quality Service.

Converse has an established history as a QAA in Clark County, Nevada. Converse has continuously provided geotechnical engineering and construction materials testing and inspection services on thousands of projects for a variety of facilities throughout the State of Nevada. Converse was started in 1946 by Frederick J. Converse. Today, Converse is an employee-owned company with 11 national locations and over 300 employees. Converse's services include geotechnical engineering, materials testing/field services, environmental sciences, water resources management/protection and occupational/environmental health and safety. Appendix at page A0001, Affidavit of Christiansen, at ¶3.

Converse has maintained a full-service office in Las Vegas, Nevada since 1969. Converse's Nevada operations collectively employ nearly 80 engineers, geologists, scientists, drillers, technicians, and support personnel. Currently, the Converse Las Vegas office maintains a staff of approximately 75 full-time personnel who are permanent residents of Clark County. For several decades, Converse has provided special inspection services for projects in Clark County. Appendix at page A0002, Affidavit of Christiansen, at ¶4.

### 2. Converse Provided Quality Control on The Project.

**CityCenter Is a Massive Construction Project.** CityCenter Project has been touted as the world's biggest construction site, spanning roughly 76 acres of land.<sup>5</sup> Approximately 8,500 construction workers are working on the CityCenter Project.<sup>6</sup> CityCenter, once completed, may be the largest privately financed development project in United States at approximately \$9 billion.<sup>7</sup> Perini Building Company is the general contractor for the Project and Tishman Construction Corporation is the executive construction manager.<sup>8</sup> Gensler, the world's largest architectural firm, leads the design process and manages seven other architects, 90 interior designers, and hundreds of consultants for the Project.<sup>9</sup>

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<sup>5</sup> <http://www.lvrj.com/business/41973247.html>;  
[http://findarticles.com/p/articles/mi\\_m3601/is\\_42\\_54/ai\\_n27876875/](http://findarticles.com/p/articles/mi_m3601/is_42_54/ai_n27876875/)

<sup>6</sup> <http://www.lvrj.com/business/41973247.html> (MGM Makes CityCenter Payment, *Las Vegas Review-Journal* (Mar. 27, 2009))

<sup>7</sup> [http://www.citycenter.com/images/pressroom/CityCenter\\_goal.pdf](http://www.citycenter.com/images/pressroom/CityCenter_goal.pdf);  
<http://www.lasvegassun.com/news/2009/mar/28/financial-history-citycenter-project/>

<sup>8</sup> [http://www.perini.com/pbc\\_site/projects/active1.aspx](http://www.perini.com/pbc_site/projects/active1.aspx)

<sup>9</sup> [http://www.citycenter.com/press\\_room/press\\_room\\_items.aspx?ID=625](http://www.citycenter.com/press_room/press_room_items.aspx?ID=625)

**CityCenter Pushes An Aggressive Schedule.** The nature of the CityCenter's aggressive schedule is unprecedented. The Project has a fast-track schedule with workers building around the clock. Seven high-rise buildings are ascending simultaneously. Construction on the Harmon Tower was at an extremely rapid pace, with the contractor pouring concrete at the rate of one floor each five days.

**The Project Required 50 Inspectors.** Necessary inspections on the Project were so numerous, that two Building Division monitors and roughly 50 private third-party inspectors worked on the Project. Converse's inspection responsibilities at the Harmon Tower have been substantial.

Even in the face of these extreme and unusual circumstances, Converse followed its established organizational supervisory procedure by requiring all on-site inspectors to regularly communicate with supervisors/block leaders. Converse's policy requires inspectors to report any issues, questions or concerns regarding inspections to their supervisors or block leaders. Converse's block leaders and supervisory inspectors who were assigned to the CityCenter Project were, at all times, on site at the CityCenter Project and were available to meet in-person to discuss any issues, questions or concerns of inspectors. For this Project, Converse created an organizational hierarchy to ensure that on-site workers always had access to information and supervision when needed.

Converse's Quality System Manual ("QSM") is filed herewith at Appendix pages B0001-B0515. Converse's organizational chart showing the chain of command and supervision for its Las Vegas office is included in its QSM. Appendix at page B0026-B0027. Notably, due to the large scope of the CityCenter Project, Converse added supervisory levels and increased its typical quality-control measures beyond what is reflected in the QSM. Appendix at page A0002, Affidavit of Christiansen, at ¶7.

The roles and responsibilities of the people within Converse's organizational structure that work on CityCenter are as follows: Christiansen is the Engineering Manager. Appendix at page A0002, Affidavit of Christiansen, at ¶9. Don Christiansen is Vice President and serves as the Managing Officer for the Geotechnical Engineering and Material Testing Departments at the Las Vegas office of Converse Consultants. He has 25 years experience in civil engineering, geotechnical engineering and material testing, including more than 12 years with Converse. Appendix at pages A0001, A0002, Affidavit of Christiansen, at ¶2, 9. A true and correct copy of Christiansen's work history can be found in Converse's QSM. See Appendix at pages B0059-B0065.

D. Vance Smith ("V. Smith"), Vice President, Regional Construction Manager, reports directly Mr. Christiansen. Appendix at page A0002, Affidavit of Christiansen, at ¶9. V. Smith has over 18 years of experience in construction inspection, and is responsible to manage all of Converse's materials testing and inspection projects in southern Nevada. See Appendix at pages B0066-B0068.

Eugene “Lee” Miller (“Miller”), Converse’s Quality Manager, and Smeeta Thompson (“Thomas”), Converse’s Project Manager, report directly to V. Smith and, for purposes of special inspections, report to Christiansen. Ray Smith (R. Smith) is Converse’s lead inspector on CityCenter, and he reports directly to Miller and Thompson. R. Smith is then in charge of four Block Leaders and one steel supervisor. The four Block Leaders and steel supervisor then directly supervise approximately forty Special Inspectors on the Project. Each of Converse’s Special Inspectors working on the Project are assigned solely to CityCenter and work on no other projects. Appendix at pages A0002-A0003, Affidavit of Christiansen, at ¶9. Pertinent resumes of Converse’s key employees can be found at Appendix pages B0602-B0686.

Converse performs quality control audits of its inspectors, examples of which can be found at Appendix pages B0687-B0726. Converse also performs Quality Systems Evaluations, copies of which can be found at Appendix pages B0727-B0755.

### 3. Converse Has Robust Hiring and Training Practices.

Converse’s standard hiring and training practices contain the following components to ensure thorough evaluation of potential employees and careful orientation and training for work on specific projects.

**Effective Screening.** Prior to hiring a new technician or inspector, Miller reviews the applicant’s resume for job history, certification, and experience. He also personally interviews each applicant to check qualifications and ensure that the applicant has the expertise needed for the work to be performed. Appendix at page A0017, Affidavit of Miller, at ¶3.

**Thorough Interviews.** After Miller’s initial review, qualified applicants are referred to the attention of V. Smith and/or Christiansen – Christiansen has particular expertise in geotechnical issues, and V. Smith has particular experience in materials issues. The next step in the hiring process will often require a more comprehensive interview of the applicant in the office with Christiansen or V. Smith and Miller. Converse also frequently checks references provided by applicants. Appendix at pages A0017-A0018, Affidavit of Miller, at ¶4.

**Active On-the-Job Orientation.** On-the-job performance is important to Converse. During the first few weeks of a new employee’s work for Converse, Converse scrutinizes job performance. Each new employee spends his first few weeks working with Miller or another experienced inspector to become familiar with Converse’s paperwork and policies. During this first few weeks, Miller or other trainers explain and ensure that the employee understands his/her job duties. For special inspectors, Miller ensures that the employee understand the Clark County requirements and technical guidelines. Miller also provides the employee example forms and reports that are required for the type of work that the employee will later perform in the field. Appendix at page A0019, Affidavit of Miller, at ¶8. Christiansen approves new hires. Appendix at page A0003, Affidavit of Christiansen, at ¶10.

**Project-Specific Training.** On the CityCenter project, when Converse first assigned a new employee to the job site, the employee was required to participate in safety training,

orientation, and other mandatory testing such as drug testing. Each employee was then placed with a Block Leader and assigned to a specific area. The Block Leader then showed the employee the plans, permits, and other relevant contract documents necessary for the technician to become familiar with the Project and to understand his job duties as a special inspector. Appendix at page A0019, Affidavit of Miller, at ¶9.

**Additional and Specialized Training.** Converse regularly provides training to its employees. For instance, once a month, Converse holds a mandatory training meeting at its facility. Miller and the project managers review and distribute any pertinent literature to the inspectors. The training meetings consist of a wide variety of topics including all aspects of inspections. For example, as the winter months approach, Converse addresses cold weather concrete issues including inspections, and what impact the colder weather has on the work in progress and any applicable sampling required. Converse's monthly training meetings are mandatory. Converse also periodically sends inspectors to outside training and seminars to earn continuing education units. Appendix at page A0019, Affidavit of Miller, at ¶¶10-11.

**Employee Performance Evaluations.** Converse also audits individual employees on a quarterly basis. Additionally, Converse monitor each employee in the field at least once a year to ensure that their inspections are accurate. For example, Miller performs on-site field monitoring of inspectors and technicians, including those on CityCenter. Converse also audits each project on a quarterly basis. Appendix at page A0019, Affidavit of Miller, at ¶12.

#### **4. Converse Hired and Trained Laurente Consistent with Its Protocol.**

Edberg and Laurente were both hired and trained according to Converse's standard hiring and training practices. Both exceeded the clear criteria for education, certification, and experience (see Edberg's and Laurente's resumes and certifications, at Appendix pages B0519-B0528 and B0534-B0545, respectively). Specifically, Edberg was more than qualified and had work experience that exceeded requirements for a special inspector. Edberg attended a community college and Wilrick Institute of Technology, a construction inspection training program in California for special inspectors. Edberg was I.C.C. Certified in the following areas:

- Structural Masonry Special Inspector,
- Structural Steel & Welding Special Inspector,
- Reinforced Concrete Special Inspector, and
- Spray-Applied Fireproofing Special Inspector.

Edberg was also A.C.I. (American Concrete Institute) Certified as a Concrete Field Test Technician – Grade I.

Additionally, Edberg was registered Nuclear Gauge – Safety and Gauge Operation, and Cal-Trans Certified. At the time Converse hired Edberg, he had over five years of experience as

an inspector for residential, public works, and commercial projects as a field testing technician performing field sampling and soils testing, structural steel erection, welding, high strength bolting, reinforcing steel, spray applied fireproofing, structural masonry, epoxy installation, asphalt, and reinforced concrete.

Laurente's education and qualifications made him an appropriate candidate as special inspector. Specifically, Laurente received a B.S. in Civil Engineering in 1984. Prior to working for Converse, Laurente worked as a Special Inspector for GeoTek, Inc. in Las Vegas Nevada. Laurente had also worked as a facilities engineer in California, a field engineer in the Philippines, a project engineer in the Philippines, and a site engineer in the Philippines. In addition, Laurente had the following registrations and certifications:

Philippines Society of Civil Engineers  
ICC, Reinforce Concrete Special Inspector  
ACI Concrete Field Testing Technician – Grade I  
Nevada Alliance for Quality Transportation Construction – SD, AS  
Nuclear Gauge Use and Safety Training

Converse provided Edberg and Laurente with job-specific orientation. In accordance with Converse's hiring and training practices outlined above, Converse provided each Edberg and Laurente on-the-job training before allowing either inspector to perform inspection work. Edberg's and Laurente's training time is reflected in time cards located at Appendix pages B0517-B0518 and B0533, respectively. Also, both Edberg and Laurente attended the Converse mandatory in-house training sessions discussed in detail above. Examples of some of the training that Converse hosts, including sessions attended by Edberg and Laurente, can be found at Appendix pages B0567-B0601.

Prior to being assigned to work at the Harmon Tower, Converse assigned an experienced inspector to monitor Laurente's prior inspection work. Appendix at page A0003, Affidavit of Christiansen, at ¶14; Appendix at page A0022, Affidavit of Brian Godley. Laurente also was assigned to assist and to work with Edberg on inspecting several of the floors. Subsequently, Edberg was reassigned to another location on the Project. Edberg performed inspections of the Harmon Tower up through floor 16. Edberg and Laurente performed inspections together for several floors. Converse's goal in overlapping inspection responsibilities was for Edberg to train and orient Laurente. Laurente inspected the Harmon Tower beginning with the 18th floor. Edberg's and Laurente's Time Card records show that this period of overlap. See Appendix at pages B0549-B0566.

At all times during the Project, Converse assigned a senior-level inspector to monitor Edberg and assigned a Block Leader to supervise the senior-level inspector. Appendix at page A0023, Affidavit of Christiansen, at ¶9. Likewise, a senior inspector also inspected Edberg's work after Edberg was reassigned from the Harmon Tower, but before the Link Beam Issues was discovered, including rebar and concrete placement. Appendix at page A0021, Affidavit of Brian Godley. Based on his inspection, the senior inspector believed that Edberg was

knowledgeable of verifying proper spacing, splice, and placement of both reinforcement and concrete as required by the County-approved plans. *Id.*

Prior to the Link Beam Issue, Laurente and Edberg had each performed other inspections on the Project, and had in fact each prepared a series of noncompliance reports, properly noting non-compliant work. The entire project file for CityCenter is voluminous. But examples of some of the Non-Compliance Reports written by Converse inspectors on the Project, including Laurente and Edberg, prior to the Link Beam Issue can be found at Appendix pages B0772-B0825.

**5. Converse Quickly and Appropriately Responded To The Link Beam Issue.**

Upon discovery of the Link Beam Issue, Converse took immediate action. Converse immediately commenced an internal investigation and reviewed what caused the Link Beam Issue and how to prevent a similar oversight in the future. Further, the inspectors who conducted the inspections in question were re-assigned to other projects and phased out of duties related to rebar inspections pending the investigation by the Building Division. Appendix at page A0004, Affidavit of Christiansen, at ¶15.

Converse also reassigned inspection personnel at the Project by rotating them to other parts of the construction site, where they re-inspected all areas allowing visual access. Converse also increased its audit process overall, and in particular with new employees, and is currently arranging for X – Ray of reinforced concrete at random locations on the Harmon Tower. Appendix at page A0004, Affidavit of Christiansen, at ¶16.

Converse also implemented the following policy and procedure for new technicians, and added the policy to its QSM, in a further effort to increase quality and guard against future problems:

**Mandatory 90 Day Probation for New Technicians**

In addition to the above technician training program and the competency verification below all new employees to Converse will be put on probation and monitored as follows:

1. A technician will be subjected to performance audits weekly including all applicable tasks required by the technician including but not limited to report writing, inspections, plan reading, code knowledge, and compliance with local jurisdictions. These audits will be performed by the Quality Manager, Project Manager, or Field Supervisor.

2. Prior to any major activities onsite (concrete pours, structural welding, elevated deck inspection, etc ...) pertaining to the technicians duties, the specific inspection area will be checked by the Quality Manager, Project manager, or Field Supervisor.

At the conclusion of the 90 day probation period, the technician will be interviewed by the Quality Manager to determine if further probation is needed or if the technician is qualified to inspect independently. If an additional probation period is required, another interview will occur at the end of the probation.

Appendix at page A004, Affidavit of Christiansen, at ¶17.

In cooperation with the structural engineer and client in an effort to remedy the structural problems created by the Link Beam Issue, Converse performed ferroskan investigations of the link beams on other floors. Converse then monitored jack-hammering of concrete to expose the reinforcing steel, documenting the actual location of the reinforcing steel in written reports and photographs. Appendix at page A0005, Affidavit of Christiansen, at ¶18.

At the October Meeting, Converse explained that it had taken additional steps to further refine and enhance its quality control measures, such as rotating its inspectors on the Project. This allowed a fresh set of eyes to view the work already inspected by other special inspectors. Also, Converse explained that it was increasing its efforts to audit inspection work on the Project.

#### **6. Converse Takes Effective Quality Control Measures.**

Converse asked William W. Taylor, P.E., of GeoTek, Inc., to review the facts surrounding the Link Beam Issue and Converse's QSM, procedures, and documents, and to interview the Converse employees involved in the Link Beam Issue. Mr. Taylor's resume showing his extensive experience in Las Vegas and elsewhere can be found at Appendix page A0030. Converse gave Mr. Taylor access to its documents, and Mr. Taylor's review of documents included the following: the Complaint; Converse's QSM; Converse's agreement for the Project; the International Accreditation Service, Inc. (IAS), Certificate of Accreditation for Converse Consultants; the IAS Scope of Accreditation for Converse; the IAS On-Site Assessment Reports for Converse; Converse responses to IAS assessment corrective action requirements; training files including certifications, resumes, and audit/competency verification records for several employees (Edberg, Laurente, Selander, R. Smith, Miller, V. Smith, Thompson); training meeting minutes and attendance records; and requested time records documenting training and supervision. Mr. Taylor also interviewed Miller, Christiansen, V. Smith, Selander, R. Smith, and Laurente.

Mr. Taylor's full report can be found at Appendix pages A0023 to A0029. As Mr. Taylor explains, Converse's quality control measures meet or exceed industry standards:



Converse had inspectors who met industry standards for certification and whose competency had been verified by Converse. Converse had a good supervisory structure in place with individuals who were qualified supervisors and performed their supervisory duties. Converse had a Quality System that met or exceeded industry standards, and it is documented internally and by third parties that they not only comply with but in some cases exceeded those requirements.

Appendix at page A0028.

With respect to the actions of Converse in response to the Link Beam Issue, Mr. Taylor opines that Converse acted appropriately, has made the right changes, and that its quality systems meet industry standards and are being followed:

Measures taken by Converse to investigate this issue, removal of inspectors in question, auditing other City Center inspectors and inspections through rotating work assignments, and review of their quality systems were appropriately responsive. I found no evidence that Converse attempted to cover-up any issues, but worked to resolve them.

With respect to Converse as a Quality Assurance Agency and their managers, supervisors, and engineering manager, the local standard of care is being achieved or exceeded. Their quality systems meet industry standards and are followed. Their management, supervisory, and engineering staff are qualified, have a clear understanding of their duties and responsibilities, and are performing at least at a level of industry standard and standard of care.

Appendix at page A0029.

**7. The Link Beam Issue was a Single Misunderstanding Compounded by Design Issues and Escalated by an Aggressive Schedule.**

**The Link Beam Issue Stems From A Single Misunderstanding.** The two Converse inspectors who performed the inspections at issue, Edberg and Laurente, were properly qualified to perform work on the Harmon Tower. Upon request, Converse will provide timesheets documenting the number of hours that each of its inspectors were on the Project site. Further, the County violations issued to Edberg and Laurente related to a single continuous misunderstanding regarding the rebar construction that appears to have continued for approximately two months. Edberg and Laurente inspected several items each day. The noncompliant issue concerns a single construction contractors' error (the rebar construction) that

stems from a single misunderstanding. The noncompliance does not involve all, or even a few, of the areas within Converse's inspection responsibility.

**Many Parties Did Not Report the Link Beam Issue.** Converse was not the only party to encounter the Link Beam Issue. Even the structural engineer failed to report the Link Beam Issue to the County (until late July 2008). The contractors in question, not Converse were the parties who actually performed the work found to be non-compliant. The steel subcontractor's quality assurance representatives also appear to have failed to report the Link Beam Issue. The County's two on-site monitors failed to report the Link Beam Issue. A project team inspection of each floor was conducted before each pour on the fifteen floors of the Harmon Tower at issue. No party working at the Harmon Tower ever "reported" the Link Beam Issue.

**Design Problems Contributed to the Link Beam Issue.** The general contractor on the Project contends that "design conflicts contributed to the Harmon Hotel structural issues and that portions of the structural drawings, as designed and permitted, contained elements of reinforcing steel that could not be installed as drawn."<sup>10</sup> The contractor also contends that its steel subcontractor acted improperly by "modifying the placement of the reinforcing steel as it was installed." Yet, neither general contractor nor the subcontractor reported that the drawings were problematic or requested that the engineer clarify or modify the plans.

**The Aggressive Schedule Contributed to the Link Beam Issue.** The fact that the Link Beam Issue continued for several floors was a function of the rapid schedule, not a failing of Converse's procedures. While Converse implemented an appropriate quality assurance program as QAA, it is not unreasonable that a single issue could have gone undetected by Converse for two months—especially in light of the fact that the issue was not so plain that it was observed by many other direct participants in the Project.

#### **8. Many Parties, Including Converse, Learned Important Lessons from the Link Beam Issue.**

As discussed in more detail above, Converse learned an important lesson from the Link Beam Issue. As part of Converse's normal best practices, Converse has continued to strengthen its hiring, training, and auditing protocols.

Converse reassigned the inspectors who had inspected the rebar on the Harmon Tower to other projects with duties unrelated to rebar inspections pending the investigation by Clark County. Converse reassigned inspection personnel at the Project and instituted a rotation process by which inspectors rotated to other parts of the construction site, where they re-inspected all areas allowing visual access. Converse also increased its audit process, particularly auditing of new employees, and Converse is currently directing x-ray testing of reinforced concrete at random locations in the Harmon Tower.

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<sup>10</sup> "Perini redirects blame for errors at Harmon," LAS VEGAS SUN, February 9, 2009.

Converse understands that, prior to the Link Beam Issue, the Building Division had two full-time monitors at CityCenter. Now, the Building Division has four full-time monitors at CityCenter. As a result of the Link Beam Issue, not only Converse, but also the Building Division, has strengthened inspection procedures, which the Building Division originally thought were adequate.

### III. CONCLUSION

The Building Division's own Technical Guidelines explain that its enforcement process is meant to be a tiered approach whereby enforcement action will be escalated only if outstanding issues are not resolved:

Resolution of an enforcement action is an effort between the party notified and the person who issued the document. Progressive enforcement commences when little or no resolution to the issues have been obtained.

TG-16-2004 § 7.6.2.

The Building Division does not appear to be trying to obtain any resolution of any issues. It is simply attempting to punish Converse. The Building Division has already used its own internal procedures to (1) issue notices of violation to Converse; (2) hold the October Meeting; (3) unilaterally revoke Edberg's and Laurente's approvals without notice and hearing;<sup>11</sup> (4) fine Edberg, Laurente, Converse, Miller, and Christiansen; and, now, (5) file an administrative Complaint.

Additionally, the Building Division has filed a complaint with the State of Nevada Board of Professional Engineers and Land Surveyors seeking discipline against Christiansen, alleging that he failed in his duties as engineering manager. In addition, the Building Division has filed a complaint against Converse with the International Accreditation Service ("IAS"), requesting IAS to revoke Converse's IAS accreditation. Thus, at the same time the Building Division is re-writing its code to require that all QAAs have IAS accreditation,<sup>12</sup> the Building Division is seeking to have Converse's IAS accreditation revoked.

The Link Beam Issue appears to result from a recurring problem with contraction and design work that went unreported in the field for a period by the two inspectors. The Building Division has already revoked Converse's inspectors' County-approval to perform reinforced concrete inspections, and the County revoked all of Edberg's special inspection approvals. In light of Converse's performance when viewed as a whole, and Converse's prompt and attentive response to the Link Beam Issue, the Building Division fails to present any evidence in support

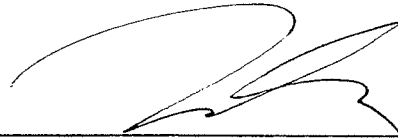
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<sup>11</sup> This was actually done without any procedure, advanced notice, or process.

<sup>12</sup> See CCDSD-BD Quality Assurance Agency (QAA) Meeting Minutes, November 19, 2008, available on the Building Divisions' at [http://dsnet.co.clark.nv.us/dsweb/bldg\\_qaaminutes.html](http://dsnet.co.clark.nv.us/dsweb/bldg_qaaminutes.html).

of its Complaint that evidence any unresolved concerns that justify further sanctions against Converse. Therefore, Converse requests that this Hearing Officer dismiss the County's complaint without further action.

DATED this 9th day of April, 2009.



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