

BEFORE THE ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

IN RE: EVERGREEN PACKAGING  
AS/EV #807, 808, 809, & 1594

ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, September 16, 2010. The petitioner, Evergreen Packaging, seeks a variance for the above-referenced conveyances.

FINDINGS OF FACT:

1. The petitioner, Evergreen Packaging (Evergreen), submitted a variance request to the Arkansas Department of Labor on June 14, 2010. This request is attached as Petitioner's Exhibit #1.
2. Evergreen seeks a variance for the four (4) above-referenced conveyances from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service.
3. Evergreen was represented by its attorney, Allen Dobson. Barney Burns (Burns) and Mickey DuBose (DuBose) testified on behalf of Evergreen Packaging, Inc.
4. In addition to the detailed information contained in Petitioner Exhibit #1, Burns testified that Evergreen has a stellar safety record; that the general public has no access to these conveyances; a stairwell exists to allow egress for employees; instructions to employees to avoid the use of these conveyances in the event of a fire emergency; safety plans with local first

responders; that installation of fire service would be cost prohibitive; and that dust produced by the manufacturing process could inhibit the effectiveness of the fire service measures.

5. DuBose testified that the projected cost of the fire service installation would be in excess of \$400,000.

6. Larry Smothers (Smothers), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of the variance. This report is dated July 8, 2010 and is attached as Agency Exhibit #1.

7. Smothers also testified at the hearing that the items in question are life-safety issues for employees and firefighters in addition to the general public. Smothers further testified that no exceptions exist in the applicable Code.

8. Smothers testified that a previously granted variance, Granite Mountain Quarries, was different from the Evergreen request because the Granite Mountain conveyance is essentially an outside elevator and the rock crushing nature of the business creates a significant amount of dust that would interfere with the fire service safety devices.

#### CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 20-24-106(d) provides that “[t]he board shall also have the power in any particular case to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.”

2. In the present case, the Board concludes that, based on the facts presented, the opinion of the board, reasonable safety will not be secured if this requested is granted and the staff recommendation be followed.

THEREFORE, the board denies the variance request from Evergreen Packaging.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By:   
James L. Salkeld, Chairman

Date: 3-2-11

Approved:  
Daniel Knox Faulkner, 2002168  
Staff Attorney  
Arkansas Department of Labor  
10421 West Markham Street  
Little Rock, AR 72205  
(501) 682-4504

# CROSS, GUNTER, WITHERSPOON & GALCHUS, P.C.

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All Others Arkansas Bar

June 14, 2010

## VIA HAND DELIVERY

Daniel Knox Faulkner  
Attorney at Law  
Arkansas Department of Labor  
10421 West Markham  
Little Rock, Arkansas 72205

### Re: Elevator Variance Request

Dear Mr. Faulkner:

Our law firm represents Evergreen Packaging. The purpose of this letter is to formally request a variance, pursuant to A.C.A. § 20-24-106(d) and § 010.05-016 of the Arkansas Elevator Safety Rules and Regulations, from the Arkansas Elevator Safety Board for four (4) elevators owned by Evergreen Packaging at its Pine Bluff facility.

The specific elevators for which a variance is requested are as follows:

AS# 807 Bleach  
AS# 808 Brown Stock Washer  
AS# 809 Digester  
AS# 1594 #4 Recovery

While Evergreen has specific reasons for a variance for each of the four elevators, described in detail below, there are some general facts that the Board should be aware of in considering the request for a variance. Evergreen has not experienced



any significant fires in the areas served by the elevators in several years. Moreover, Evergreen has a stellar safety record.

In 2009, Evergreen's OSHA total incidence rate was 0.67, compared to an industry rating of approximately 3.7. Further, Evergreen was an OSHA Star Voluntary Protection Program worksite for over ten (10) years. These facts demonstrate Evergreen's overall commitment to safety, which Evergreen has not abrogated or abated in seeking this variance.

The following is a brief description of each of the above elevators.

#### **AS# 807 Bleach**

Elevator AS# 807 Bleach is located next to the Bleach Plant Building. The majority of the elevator is constructed on the outside of the building. It is used primarily to transport workers and equipment and the hoistway of the elevator spans five (5) floors. Various pictures of Elevator 807, as well as detailed plans and specifications, are attached to this Request as **Exhibit 1**.

#### **AS# 808 Brown Stock Washer**

Elevator AS# 808 Brown Stock Washer is located next to the Brown Stock Washer Building. The majority of the elevator shaft is constructed outside of the building. It is used to transport workers and equipment and the hoistway of the elevator spans five (5) floors. The elevator shaft is constructed of fiberglass reinforced plastic (FRP). There is no concrete or other similarly fire resistant material enclosing the shaft. The elevator car has an open gate front and a ventilation hole/escape hatch in the ceiling. Various pictures of Elevator 808, as well as detailed plans and specifications, are attached to this Request as **Exhibit 2**.

#### **AS# 809 Digester**

Elevator AS# 809 Digester is located next to the Digester Building. The majority of the elevator shaft is constructed outside of the building. It is used to transport workers and equipment and the hoistway of the elevator spans only two (2) floors. The elevator is constructed of FRP and Transite. There is no concrete or other similarly fire resistant material enclosing the shaft. The elevator car has an open gate front and a ventilation hole/escape hatch in the ceiling. Various pictures of Elevator 809, as well as detailed plans and specifications, are attached to this Request as **Exhibit 3**.

#### **AS# 1594 #4 Recovery**

Elevator AS# 1594 #4 Recovery is located in the #4 Recovery Boiler Building. The majority of the elevator shaft is constructed outside of the building. It is used to transport workers and equipment and the hoistway of the elevator spans ten (10) floors. The elevator is constructed of FRP. There is no concrete or other similarly fire resistant

material enclosing the shaft. The elevator car has an open gate front and a ventilation hole/escape hatch in the ceiling. Various pictures of Elevator 1594 nearby the stairwell, as well as detailed plans and specifications, are attached to this Request as **Exhibit 4**.

### **Statutory Authority**

The Arkansas Code grants the Elevator Safety Board the power to grant exceptions and variances from the Regulations when it is clearly evident that they are necessary in order to prevent undue hardship or when the existing conditions prevent compliance with the literal requirements of the rules and regulations. A.C.A. § 20-24-106(d).

Pursuant to this Section and the interpreting Regulations, Evergreen is requesting a variance from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Safety Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service.

### **Reasons For The Variance Request**

The purpose of the Arkansas Elevator Safety Rules and Regulations is to establish "minimum safety standards for existing elevators..." Section 010.05-004(A)(1)(d), and are "intended to protect the general public, invitees, guests, employees, and all persons who could be reasonably expected to use an elevator...or other conveyance." Section 010.05-004(A)(2). Because of the unique nature of the construction of the elevators in question, Phase I and Phase II Fire Service would not serve the announced goals of protecting individuals reasonably expected to use these elevators.

Evergreen has estimated the cost of installing Phase I and Phase II Fire Service for the four elevators at approximately \$400,000.00, or \$100,000.00 per elevator. This sum represents an enormous capital expenditure for Evergreen. Plus, requiring Evergreen to undertake a \$400,000.00 capital expenditure during the current economic climate would create an undue hardship on the Company.

As is evident from the attached pictures, all four of the elevators have an open shaft construction, meaning that they have no concrete or other similarly fire resistant material enclosing the shaft. None of the elevators are wholly located inside buildings; rather they are attached to various buildings throughout the Plant.

As you know, Phase I fire protection is activated by a smoke or heat sensor located in a building. Once an alarm has been activated, the elevator automatically switches into Phase I and proceeds to a "Fire Recall" floor. The production processes at Evergreen Packaging, by their nature, emit a high volume of dust and particulates into the air. These particulates, combined with the open shaft construction, make it highly unlikely that any smoke or heat detector would function properly. The high probability of failure of Phase I fire service to function properly makes literal compliance

with ASME A17.3, Rule 3.11.3 impossible. As such, a variance from this requirement is appropriate.

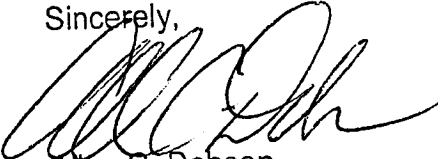
Phase II Fire Service allows firefighters to override Phase I and take the elevator to whichever floor they choose. This allows firefighters to use the elevator to rescue trapped individuals in the event of a fire. Because of the open construction of the elevator shafts, and lack of fire resistant materials with which the shafts are constructed, these elevators would not be used by firefighters in the event of a fire. Each of the buildings that the above described elevators serve has a functional stairwell that can, and should, be used in case of a fire. Indeed, Evergreen instructs its employees and fire-teams not to use the elevators in case of a fire, but instead to use the available stairwells. As such, Phase II Fire Service would never be used by Evergreen fire response teams in these particular elevators. Therefore, installation of Phase II Fire Service would not serve any safety purpose whatsoever.

The Board has a history of granting a variance from the requirements of ASME A17.3, Rule 3.11.3 in a similar situation. In 2007, the Board granted a variance to Granite Mountain Quarries, a Company with an elevator similar to those at Evergreen Packaging. This elevator was also located in an open structure and not located in a building. Furthermore, the Board concluded that the dust from that Company's operations would prohibit the Phase I and Phase II service from functioning properly. See Exhibit 5. Like the situation at Granite Mountain Quarries, literal compliance with ASME A17.3-2005, Rule 3.11.3 would not be practicable, and perhaps not possible for Evergreen, and would certainly create a financial undue hardship on the Company.

## Conclusion

In conclusion, because of the undue hardship that the cost of installing Phase I and Phase II fire service would impose on Evergreen, coupled with the lack of usefulness that such service would have, a variance is appropriate under Arkansas Elevator Safety Rule 010.05-016. Accordingly, Evergreen Packaging formally requests that it be granted a variance from the fire service requirements of ASME A17.3-2005, Rule 3.11.3.

Sincerely,



Allen C. Dobson

ACD/ljt

Enclosure

cc: Bo Loftis (via e-mail)

**BEFORE THE ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS**

**IN RE:                   GRANITE MOUNTAIN QUARRIES  
                              AS # 2168**

**ORDER**

This matter came before the Elevator Safety Board on Thursday, January 11, 2007 on a request for a variance from Granite Mountain Quarries. There was no representative of Granite Mountain Quarries present at the hearing. Based on the evidence presented at the hearing the board makes the following Findings of Fact and Conclusions of Law.

**Findings of Fact:**

1.       On or about November 8, 2006, Granite Mountain Quarries petitioned for a variance on Elevator #AS 2168, located at its plant in Sweet Home, Arkansas. Specifically, Granite Mountain Quarries requests that it not be required to install Firefighters' Service on AS #2168.
2.       AS #2168 is a freight elevator installed in 1972. It is not located in a building, but is located in an open metal structure known as Shaker Tower Plant 1. The elevator itself is open and has a capacity of 2500 pounds.
3.       On December 8, 2006, the Chief Elevator Inspector, Larry Smothers, issued a report and recommendation to the board with respect to this variance request. Mr. Smothers recommended that the variance be granted, noting that it was his opinion that Firefighters' Service would not properly operate due to the dust generated by the mining operation and the open nature of the elevator. Mr. Smothers' statements to the board were the same on the date of hearing.



**Conclusions of Law:**

1. ASME A7.3, Rule 3.11.3 (2005), which requires Firefighters' Services was adopted by the board on September 26, 2007. Elevator Safety Board Rule 010.05.13 (Sept. 2006). This rule further provides:

Notwithstanding the provisions of ASME A17.3-2005, the owner or operator of any elevator without Phase I and Phase II fire service shall have a period of five (5) years from the effective date of these regulations or until alteration to install Phase I and Phase II fire service, whichever occurs first.

Elevator Safety Board Rule 010.05-13(A)(2).

3. Ark. Code Ann. § 20-24-106(d) authorizes the board "to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby." *See also* Elevator Safety Board Rule 010.05-016(A).

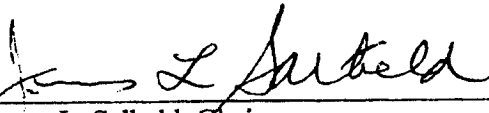
4. In the present case, the board concludes that the dust generated from the owner's mining operation and the open nature of the elevator prevent literal compliance with ASME A7.3, Rule 3.11.3 (2005) and that it would constitute an undue hardship to require installation of Firefighters' Service when, in the opinion of the Chief Elevator Inspector, it would not operate properly.

5. The board concludes that reasonable safety will be assured by granting this variance due to the fact that the elevator serves an open metal structure and is not located in a building. This elevator does not have the same risk factors as an elevator located in a building which makes Firefighters' Service in those locations vital.

THEREFORE, the Elevator Safety Board grants a variance from the requirement of ASME A7.3, Rule 3.11.3 (2005) to Granite Mountain Quarries with respect to the elevator permitted as AS #2168. The board has the authority to revoke this variance if there is a material change in conditions upon proper notice and opportunity for hearing.

This decision being made on January 11, 2007 is issued now for that date.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By:   
James L. Salkeld, Chairman

Date: 4/15/07

Approved as to form:

Denise P. Oxley, 84-117  
Chief Legal Counsel  
Arkansas Department of Labor  
10421 West Markham  
Little Rock, AR 72205  
(501) 682-4504



STATE OF ARKANSAS  
ARKANSAS DEPARTMENT OF LABOR  
ELEVATOR SAFETY DIVISION

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Phone: 501-682-4538 Fax: 501-682-1765 TRS: 1-800-285-1131

**STAFF REPORT/RECOMMENDATION**

TO: Elevator Safety Board  
FROM: Larry Smothers, Chief Elevator Inspector  
DATE: July 8, 2010  
RE: Variance: EV# 807, 808, 809, 1594

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**APPLICANT:** Cross, Gunter, Witherspoon & Galchus, pc.  
for Evergreen Packaging  
500 President Clinton Ave. Ste. 200  
Little Rock AR 72201  
**TYPE VARIANCE:** Fire Service Phase I and Phase II  
**APPLICABLE CODE SECTION:** 1987 Fire Service Rule 211.3A; 211.3B;  
211.3C  
**STAFF RECOMMENDATION:** Deny Variance

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**COMMENTS:**

I recommend that the variance be denied. State Rules and Regulations adoption of ASME A17.3 -2005 requires that all elevators having a travel of 25 feet or more above or below the designated level shall conform to the requirements of the 1987 Firefighter Service.

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cc: Denise Oxley, Chief Counsel, Arkansas Department of Labor  
Daniel Faulkner, Legal Division, Arkansas Department of Labor  
Ron Baker, Labor Code Enforcement Administrator  
Allen C. Dobson, Attorney Cross, Gunter, Witherspoon & Galchus, P.C.

BEFORE THE ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

IN RE:       BAD BOY MOWERS, INC.  
              EV #2482

ORDER

This matter comes before the Elevator Safety Board on Thursday, January 20, 2010. The petitioner, Bad Boy Mowers, Inc. (BBMI) requests a variance for EV#2482.

FINDINGS OF FACT:

1.       BBMI, 200 General Street, Batesville, Arkansas 72501, requests a variance for EV#2482, located at the same address. The conveyance is currently "red-tagged" and not in service.

2.       Specifically, BBMI submitted a request on September 30, 2010 seeking a variance from Regulation 010.05-013(A) which requires that:

Any conveyance which is out of operation or without an operating permit for twelve (12) months or more shall have a safety test or leak down test and a pressure test performed in the presence of a licensed elevator inspector in the employ of the department or its authorized representative before a new operating permit can be issued or before such can operate. Additionally, such conveyance shall conform to the standards established by Rule 010.05-011 or have a variance issued pursuant to Rule 010.05-016 before an operating permit can be issued or before it can operate.

3.       The current standard established by Rule 010.05-011 is the American Society of Mechanical Engineers Safety Code for Elevators and Escalators, ASME A17.1 - 2007.

4.       There is no dispute that the conveyance has been out of service longer than the twelve (12) months referenced in Regulation 010.05-013(A). However, BBMI purchased the building with the conveyance already past the twelve (12) month period.

5. That the applicable Code had the conveyance been properly permitted would be the standards for existing elevators found in Regulation 010.05-013(A):

All conveyances shall be maintained by the owner or lessee in a condition that conforms to the standards established by the board which were in effect on the date of installation or the provisions of ASME A17.3-2005, whichever are more stringent.

6. Larry Smothers (Smother), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board on October 27, 2010 and recommended denial of the variance since the elevator had been out of service longer than the twelve (12) months referenced in Regulation 010.05-013(A).

7. That Jamie Barber of BBMI appeared at the November meeting of the Arkansas Elevator Safety Board, but the matter was not heard because the Board did not have a quorum to conduct business.

8. That Jamie Barber or BBMI submitted a letter by facsimile that he would not attend the January 24, 2011 Board meeting due to inclement weather but that he would like for the meeting to proceed.

9. That Smothers amended his recommendation orally that the variance be conditionally granted provided that BBMI makes the required Code corrections to bring the conveyance up to the standards for existing elevators found in Regulation 010.05-013(A) within sixty (60) days of Agency inspection and third-party testing of the conveyance. The time period shall commence when Smothers submits the final list of corrections to BBMI after inspection and third-party testing. Should BBMI fail to make the required corrections within the specified time period, the standards of Regulation 010.05-011 shall apply (ASME A17.1 – 2007).

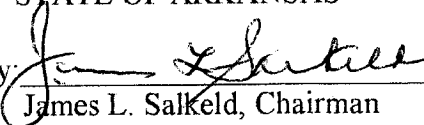
CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 20-24-106(d) provides that “[t]he board shall also have the power in any particular case to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.”


2. In the present case, the Board concludes that an undue hardship exists to BBMI due to: (1) BBMI purchased the conveyance that was already past the twelve (12) month period and (2) cost involved in updating the conveyance to the standard for new elevators due to the conveyance’s status at the time of the building purchase. Further, the Board concludes there is no safety risk present in granting this request. The Board concludes that BBMI shall receive a conditional variance from Regulation 010.05-013(A) provided the conditions in Paragraph 9 above are met.


IT IS SO ORDERED.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By:   
James L. Salkeld, Chairman

Date: 3-2-11

Approved:  1/25/11  
DATE  
Daniel Knox Faulkner, 2002168  
Staff Attorney  
Arkansas Department of Labor  
10421 West Markham Street  
Little Rock, AR 72205  
(501) 682-4504

Approved:  1-24-11  
DATE  
Jamie Barber  
Transportation Manager  
Bad Boy Mowers, Inc.  
200 General Street  
Batesville, AR 72501  
(870) 307-6616

BEFORE THE ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

IN RE:           THREE R INVESTMENTS  
                  AS/EV #858

ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, September 16, 2010. The petitioner, Three R Investments, seeks a variance for the above referenced conveyance.

FINDINGS OF FACT:

1. The petitioner, Three R Investments, submitted a general variance request to Denise Oxley on July 6, 2010. This request was amended on August 2, 2010. The amended request is attached as Petitioner Exhibit #1.

2. The amended request sought a variance from four (4) items noted on an inspection report performed by Elevator Safety Inspection Services, Inc. dated April 15, 2010: stop switch in the elevator cab to be key operated; no car stop switch; no car inspection station; and replace flat bottom jack.

3. R. Theodor Stricker (Stricker) testified on behalf of Three R Investments. Stricker also introduced a pamphlet "Breathing New Life into an Old Building." This pamphlet is attached as Petitioner Exhibit #2

4. Stricker testified that the conveyance is generally only for disabled clients; that employees always escort these clients; that making these corrections would disturb the historicity

of the building; that the repairs are cost prohibitive; and that the flat bottom jack safety issues are less likely to occur in Arkansas than coastal areas.

5. Stricker also orally amended his request during the hearing to alternatively request a variance to allow the installation of a cathodic protection device in lieu of the flat bottom jack. This request was later tabled by Stricker in order to allow the Agency to determine compliance with the applicable Codes.

6. Larry Smothers (Smothers), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of the variance. This report is dated August 19, 2010 and is attached as Agency Exhibit #1.

7. Smothers also testified at the hearing that the items in question are life-safety issues for conveyance passengers and mechanics and required by the applicable Codes listed on his recommendation.

#### CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 20-24-106(d) provides that “[t]he board shall also have the power in any particular case to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.”

2. In the present case, the Board concludes that, based on the facts presented, the opinion of the board is that reasonable safety will not be secured if this requested is granted and the staff recommendation shall be followed.





**STRICKER LAW FIRM, P.L.L.C.**  
ATTORNEYS AND COUNSELORS AT LAW

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408 North Jackson Street  
El Dorado, Arkansas 71730  
Telephone: (870) 864-9594

\*R. Theodor Stricker  
Licensed - Oklahoma  
and Arkansas  
  
\*\*R. Theodor Stricker, II  
Licensed - Missouri

August 2, 2010

Ms. Denise P. Oxley  
Arkansas Department of Labor  
10421 West Markham  
Little Rock, AR 72205-2190

Re: Three R Investments/A.S. #858

Dear Ms. Oxley:

I respectfully request a variance for continued operation of the above elevator.

This elevator is in a building on the National Register of Historic Places. The elevator is an historic elevator that has been in operation for over 50 years. During that time it has been under a regular maintenance contract. It passes all tests including pressure testing. It has never had an accident in the years it has been in operation. The elevator travels a maximum of three floors but it is actually used to travel only two floors as the third floor is my personal residence. The elevator is in a law office and has limited usage. Its primary use is to transport handicapped clients to the second floor office of the attorney. It is not open to use by the general public. A staff member accompanies the client when on the elevator. When the building was restored the elevator met all of the inspection requirements and has until the latest inspection.

Specifically I request a variance on some of the following areas:

- 1-02: Stop switch in the elevator cab to be key operated. At all times an employee escorts the client onto and rides with the client to the 2<sup>nd</sup> floor office. At no time is the public allowed to use the elevator unattended.
- 1-05: Emergency lighting. Emergency lighting will be installed. No variance requested.
- 3-01: No car top stop switch. Variance requested.

Blumberg No. 9736  
**PETITIONER'S EXHIBIT**  
**1**

**RECEIVED**

AUG 05 2010

305  
1 SAFETY



STATE OF ARKANSAS  
ARKANSAS DEPARTMENT OF LABOR  
ELEVATOR SAFETY DIVISION

James Salkeld  
Director

10421 WEST MARKHAM • LITTLE ROCK, AR 72205-2190  
Phone: 501-682-4538 Fax: 501-682-1765 TRS: 1-800-285-1131

**STAFF REPORT/RECOMMENDATION**

TO: Elevator Safety Board  
FROM: Larry Smothers, Chief Elevator Inspector  
DATE: August 19, 2010  
RE: Variance: EV# 858

**APPLICANT:** Strickler Law Firm P.L.L.C.  
for Three R Investments  
249 S Main St/PO Box 660  
Jonesboro, AR 72403-0660

**TYPE VARIANCE:** Stop Switch, Car top switch, Car  
Inspection Station, Flat Bottom Jack

**APPLICABLE CODE SECTION:** ASME A17.3-2005, 3.10.4 (t); 3.10.3;  
2.14.1.6-2.14.1.7.3,  
AR Rules & Regulations 010.05-  
013(a)(3) and ASME A17.3-2005 4.3.3

**STAFF RECOMMENDATION:** Deny Variance

**COMMENTS:**

I recommend that the variance on the Stop Switch, Car Top Stop Switch and Car Top Inspection Station be denied. These violations are a life safety issue and are in violation of ASME A17.3-2005 codes. I also recommend that the variance on the Flat Bottom Jack be denied this is a violation of ASME A17.3-2005 Section 4.3.3. On September 1, 2006, regulation 010.05-013 (a)(3) was passed allowing a period of five (5) years for this correction.

cc: Denise Oxley, Chief Counsel, Arkansas Department of Labor  
Daniel Faulkner, Legal Division, Arkansas Department of Labor  
Ron Baker, Labor Code Enforcement Administrator  
R. Theodor Stricker, Attorney, Stricker Law Firm, PLLC