

NEVADA STATE APPRENTICESHIP COUNCIL  
May 18, 2007

**LOCATIONS:**

**Las Vegas  
Reno**

**2310 Corporate Circle, Suite 200  
9670 Gateway Drive, Suite 100**

---

**Members Present:**

Kevin Christensen  
Clara Andriola  
Dana Wiggins  
Rebecca Massingill  
Dan Gouker  
Gregory Smith

Chairman, Public Member  
Employer Member  
Employer Member  
Employer Member  
Employee Member  
Employee Member

**Legal Counsel:**

Dianna Hegeduis

Deputy Attorney General

**Administrative Staff:**

Michael Tanchek

Secretary Director

Lleta Brown

Apprenticeship Training Representative

---

**Guests:**

Colleen Henry, Office of Apprenticeship, 600 Las Vegas Blvd. Room 520, LV  
Doug Howell, Office of Apprenticeship, 600 Las Vegas Blvd. Room 520, LV  
Michelle Cates, ABC of Southern Nevada, 5070 South Arville Street # 4, Las Vegas, NV  
Kara Arenas, ABC of Southern Nevada, 5070 South Arville Street # 4, Las Vegas, NV  
Don Akins, Elevators Local 18 JATC, 3305 Spring Mountain Road, Las Vegas, NV  
Ed Lackey, Elevators, 396 W. Washington Blvd., Pasadena CA  
Lou DeSalvio, Laborers Local 872, 4211 E. Bonanza Road, Las Vegas, NV  
Dan Rose, Sheet Metal Workers Local 88, 2540 Marco Street, Las Vegas, NV  
Victor Kessler, Sheet Metal Workers Local 88, 2540 Marco Street, Las Vegas, NV  
Rebecca Smith, Teamsters Local 631 JATC, 4601 E. Cheyenne # 103, Las Vegas, NV  
Stephen Baublitz, Roofers JATC, 4125 Arctic Springs # 44, Las Vegas, NV  
Madison Burnett, Electrical JATC, 620 Leigon Way, Las Vegas, NV  
Al Davis, Electrical JATC, 4322 E. Bonanza Road, Las Vegas, NV  
Charles Stetson, Electrical JATD, 4322 E. Bonanza Road, Las Vegas, NV  
Ralph Glidden, Local 669 JATC, P O Box 750027, Las Vegas, NV  
John Williams, No. Plumbers & Pipefitters JATC, 1110 Greg Street, Carson City, NV  
Ricardo Hipolito, Ironworkers JATC, 4125 Marco Street, Las Vegas, NV  
Audrey Edwards, So. NV Women's Correctional Center, 4170 Smiley Road, Las Vegas, NV  
Lesley Chaney, So. NV Childcare Apprentice, 701 N. Rancho, Las Vegas, NV  
David Klucka, General Delivery, Las Vegas NV  
Murray Dominguez, Plumbers & Pipefitters, 750 Leigon Way, Las Vegas, NV  
Share Porri, ABC Sierra NV Chapt, Reno NV

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

Chairman Christensen called the meeting to order at 9:00 a.m. inviting participation from all.

Roll call was taken to ensure a quorum.

**ITEM 1 – APPROVAL OF FEBRUARY 2007 MEETING MINUTES**

Ms. Brown asked for this item to be tabled.

Mr. Gouker motioned to table.

Mr. Wiggins seconded the motion.

**(M/S/C TO TABLE THE FEBRUARY 2007 MEETING MINUTES)**

**ITEM 2 – MGM GRAND – NEW PROGRAM**

Mr. Floyd Williams was present to answer questions regarding this new program. He said the program is a 2-year 4000-hour cook program.

Mr. Howell said this program had been submitted previously. He said there were some problems with the copies that the Council had received, which is why it was now back before the Council.

Ms. Andriola asked how the credit for previous experience worked. She asked if once credit is verified do the wages increase.

Mr. Williams said if the apprentice is given credit for previous experience, they will get a wage rate increase.

Ms. Andriola asked to make it clearer in the standards. She pointed out a missing word in Section 12.

Mr. Williams said he would change the first paragraph in Section 12 and add, “will be”.

Mr. Smith commented to the program that this was a good cleanup compared to what was presented in the previous meeting. He asked about page 14, records section. He said he is concerned the apprentice is required to keep both work and school records.

Mr. Williams says the record at Culinary Training Academy is only added because the student will have to sign off on them.

Mr. Smith stated that the records are required to be maintained by JATC.

Mr. Howell said this language is typical. Apprentices are just maintaining their own records. He said according to page 14 Section 18 states that JATC is also responsible for maintaining record

Ms. Massingill says there may just need to be a change in the wording.

Mr. Gouker said he doesn't have a problem with the language and commended the program on a great set of standards.

Mr. Gouker motioned to approve the standards

Ms. Andriola seconded the motion.

**(MSC TO APPROVE MGM GRAND'S NEW PROGRAM)**

**ITEM 3 – SMILEY WOMEN'S CORRECTIONAL CENTER OF SO NEVADA**

Dr. Audrey Edward, Deputy Warden, and Doug Howell, ATR, were both present to answer questions regarding this program.

Ch. Christensen asked if the Women's prison currently has training established.

Mr. Howell said they do have the cook's training program but the housekeeping program is new.

Ms. Andriola said the 5910 needs to have the last name of Chef Bill added to it under the instructor's list.

Dr. Edwards said she would submit with the names on a new 5910 form.

Mr. Gouker said he was concerned about the ratio being larger than normally allowed. He asked what the safeguards are.

Dr. Edwards said they have officers assigned to the culinary unit.

Mr. Gouker asked what other personnel would be present besides the chef.

Dr. Edwards said there are volunteers and others in the area as well. They have other people who can be licensed as journeyworkers.

Mr. Gouker asked how many apprentices and journeyworkers would be in an area at one time. He asked if there would be about five apprentices and five journeyworkers.

Dr. Edward said there were times when that may happen.

Ch. Christensen asked if the program was willing to change the ratio to one journeyworker to two apprentices.

Mr. Gouker says he is concerned about the safety of the people who are not inmates in that kitchen.

Dr. Edwards asked if the same concerned echoed for housekeeping.

Mr. Smith said he would be comfortable with the ratio being one journeyworker to two apprentices.

Mr. Gouker recommended that the Council try the programs. He says this is a good start for the inmates. Just wanted to make sure there is probation as it is currently written now.

Ch. Christensen asked if the program would have a problem with adding language to state that there will be additional staff for the in the area.

Mr. Howell says the program would like to keep the 5 apprentices to 1 journeyworker in the housekeeping area.

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

Mr. Smith said he is still concerned with housekeeping because the journeyworker may not be able to provide training to all the apprentices.

Mr. Howell said it's almost like a hotel with the journeyworker and apprentices all in the same area.

Dr. Edwards said they have maintenance staff around also. She says for the record they are not looking at the same violent environment that is in the male facilities. She says they have talented women who are already working on things in the program.

Mr. Gouker asked if the apprentice receives any type of credit through the prison system, which could help with their length of sentence.

Dr. Edwards said the apprentices would be applying for merit time.

Mr. Smith said the 5910 had a high number of journeyworkers listed differently. He asked which was correct.

Mr. Howell said the numbers on the form are incorrect. The 5910 form will be changed.

Ch. Christensen asked about the committee composition.

Dr. Edwards said they would have someone from the trade and also a volunteer present on the committee.

Ch. Christensen explained the normal committee requirement. He suggested that they consider adding someone to represent the inmates.

Dr. Edwards said an inmate counselor is always at the meeting. They will make sure it is an equal number of representatives.

Ms. Andriola asked what would the average wage rate be when the apprentice completed the program and was released.

Mr. Howell said employers would set their own rates.

Mr. Smith asked if there was any type of completion certificates issued, other than what the apprentice will receive from NSAC. He also suggested that a few changes be made to the standards. He said on page 4 the program needed to delete "insert require", on page 17 add 1<sup>st</sup> aid language. He said he was concerned with page 20 and the awarding of the points awards. He asked if there was a written test.

Dr. Edwards said the test is administered as an objective way to review the applications.

Mr. Smith asked if there is a grand total that each applicant could receive.

Dr. Edwards said the maximum points available were 55.

Mr. Gouker motioned to approve the program with changes listed below:

- 5910 corrected
- clarify committee language
- Add 1<sup>st</sup> Aid to the classes listed in curriculum
- Monthly reports to BAT regarding the progress of the program

Mr. Wiggins seconded the motion.

**(M/S/C TO SMILEY WOMEN'S CORRECTIONAL CENTER OF SO NEVADA)**

**ITEM 4 – NEVADA ROOFERS & WATERPROOFERS JATC REVISION OF STANDARDS**

Mr. Steve Baublitz, Coordinator, was present to answer questions regarding the revisions.

Mr. Gouker asked why the committee felt that the apprentice needed 6 more months to get their GED. He also asked how well did the apprentice progress without the GED or high school.

Mr. Baublitz said the apprentice has three books to complete by the end of the program. Committee felt they were asking too much with the apprentice attending work full time and classroom training.

Ms. Massingill asked how the program assessed that an applicant possessed the natural aptitude as is required in the qualification.

Mr. Baublitz said they have a pre-apprenticeship program that they use first.

Ms. Massingill asked if there were classes for pre-apprentices.

Mr. Gouker asked if it was a requirement to start in the pre-apprenticeship program before the applicant could be registered in the program. And if so, is the committee willing to add GED to pre-apprenticeship

Mr. Marquez said the committee had no problem with that.

The suggested language would read as follows:

"If not granted credit for previous experience, the applicant would need to obtain their GED during their pre-apprenticeship with the program.

Ms. Andriola asked if the language for everyone else would be to extend to the end of the program only.

Mr. Gouker said this would be the apprentice's incentive since the apprentice wouldn't get journeyworker wages until they could get a GED and most GED programs run 6 months long.

Mr. Gouker motioned to approve the program with the changes noted above.

Mr. Wiggins seconded the motion.

**( M/S/C TO APPROVE THE NEVADA ROOFERS AND WATER PROOFERS JATC REVISION OF STANDARDS)**

**ITEM 5 – TEAMSTERS CONVENTION TRAINING REVISION OF STANDARDS**

Ms. Rebecca Smith, Training Director, and Mr. Howell were present to answer questions regarding this revision.

Ms. Smith said the revision was only to the curriculum. They added new classes, exhibits and graphics.

Ms. Massingill motioned to approve the Teamsters Convention Training revision of standards.

Ms. Andriola seconded the motion.

**(M/S/C TO APPROVE THE TEAMSTERS CONVENTION TRAINING REVISION OF STANDARDS)**

**ITEM 6 – MICHAEL KENNEDY VS. NO. PLUMBERS JATC APPEAL**

Mr. Kennedy did not show for the hearing.

Mr. John Williams, Program Coordinator, was present to answer questions regarding this appeal.

Mr. Gouker motioned to deny the appeal of Michael Kennedy.

Ms. Andriola seconded the motion.

**(M/S/C TO DENY THE APPEAL OF MICHAEL KENNEDY)**

**ITEM 7 - KIM MAXIM VS. SO. ELECTRICAL JATC APPEAL TRANSCRIPTS**

Mr. Gouker            Mr. Chair on item number seven I would like the opportunity to comment, but I not be voting on this item.

Ch. Christensen    All right Mr. Gouker. Let the record reflect. All right if you please identify yourselves for the record. From the appellants.

V. Perry              Mr. Chairman and members of the committee I'm Victor Perri. I am the attorney from Kimberly Maxim, the appellant.

Mr. Tanchek        You want to pull that microphone up please.

Mr. Smith           Mr. Chairman, if he could pull that microphone up please.

Ch. Christensen    If you could pull the microphone up. All right, okay go ahead.

Mr. Burnett         My name is Madison Burnett, Training Director for the Electrical JATC of Southern Nevada.

Ch. Christensen    Alright Mr. Perri you don't you go ahead.

Mr. Perri            My client Kimberly Maxim has appealed the decision of the Joint Apprenticeship and Training Council according to the termination of apprenticeship as of January 12, 2007. The apprenticeship, JATC, strike that. (Inaudible) as serious miscarriage of fairness and justice. In a clear error by the JATC. The decision of the JATC was arbitrary capricious and was an error of law without any factual support to it. The JATC is a matter law also in placing the burden of proof upon my client. The issues in the matter (inaudible) whether the JATC itself is accountable and responsible for abiding by its own policies and promises its stipulation to Ms. Maxim. Particularly the policy of the Southern Nevada Electrical JATC's substance abuse policy. That JATC whenever

possible will make reasonable efforts to assist an apprentice with a substance abuse problem and the policy states in the alternative that the failure to have a test, the refusal of a test will result in either entering a EAP program or discipline. But not both. The opposite occurred here. The opposite of helping Ms. Maxim occurred here. My client as totally abstained from the use of marijuana after refusing a drug test on November 27, 2006. And in spite of assurances from the JATC as reflected in the JATC's own records, the student history report, Ms. Maxim was terminated from the program anyway. Ms. Maxim has never claimed to be without fault. Since November 29, 2006, she has fully admitted that she has a problem that she is a habitually user of marijuana, was until the end of November 2006. The issue is whether Ms. Maxim ever used marijuana after November 29, 2006. That's what the JATC told her. If she did not use, that was at the meeting of December 13, 2006. She was not going to be terminated. Because she entered into and EAP program that was their promise. And there is no substantive evidence to support the conclusion that Ms. Maxim ever used marijuana again after November 29, 2006. Let me just go briefly to the facts. A brief rendition of the facts. Kim Maxim has been in the electrical trade since February of 1999. She began the JATC apprenticeship program in June of 2002. Leaving another program to become indentured. Her grades and time in program were excellent. Her average was a score of 92. Her work record was unblemished until November 27, 2006. She had very favorable evaluations. There's nothing in her record to show any problems with her performance, nothing ever. On November 27, 2006, Ms. Maxim unfortunately, got a sliver in her finger. And because of that sliver she has be deprived her life. She had got a sliver in her finger and that is an issue as a matter of law as to whether or not that was an accident which would require a mandatory testing. But she was told that she had to have a drug test because she had had a sliver in her finger. And she refused the test. On November 29, 2006 Kimberly Maxim voluntarily entered into an EAP rehabilitation program. And from that date on she has consistently stayed in the program. She has completed the program. And she has received some 17 or 18 negative drug screens. Maybe 19, I've lost count. She admitted on November 29, 2006 she was a habitual user of marijuana. In regards to the EAP program Kimberly Maxim gave a pamphlet. It's a program through the JATC called Toxin for Marijuana. Their own pamphlet within this program. And it specifically states in that pamphlet. It's an exhibit; (inaudible) that marijuana is stored in fat. Of the body. Of the person's body. It's stored longer than any other type of drug. And stays in the body for six to eight weeks. Up to two months that is still in the body. In your system. On December 13, 2006 Kimberly Maxim was required to attend a meeting before the JATC, and she was placed on probation. At the meeting, that's in the minutes, or is in the documents, its in the record the student history report. Stipulation the JATC said that for the record that any additional violations of substance abuse program, subsequent use, would result in her termination. (Inaudible) she would not be disciplined for further unless she used marijuana in the future. Now on December 20, 2006, Ms. Maxim had a positive drug screen through Intentions. She had a score of 96. That has never been an issue. Intentions recognized, Frank Karr recognized everybody had always recognized that drug screen on December 20<sup>th</sup> only showed use of marijuana prior to November 29, 2006. Its never been claimed and it shouldn't have been claimed, and correctly was not claimed to indicate that use of marijuana after November 29, 2006. Frank Karr, the drug counselor has recognized that consistently. It's never been an issue. On January 3, 2007, Ms. Maxim had a test through Consolidated Laboratories, (inaudible) and it was negative. She never was able to find out what the actual nanograms were. But it was a negative test. And she was informed at that point that she was going to be able to go back to work. On that basis, she was informed of who she should go to work with

and she took on January 8, 2007 a pre-employment drug test. That test was positive as Ms. Maxim found out two days later on January 10, 2007. Now that on January 10, 2007 Ms. Maxim contacted the MRO Medical Review Officer and he informed her that the score was 52 nanograms. There is no evidence in the record otherwise. That's all the evidence before the JATC, before this Council and that's all we know and that's all that's written. That score was 52 nanograms. Now the policy here says and that's the policy here says and that's the policy that the testing company in terms of operating under, was that I believe it's the initial screen, I don't know the technicalities of all that. But a score of 50, above 50, excuse me, is considered a positive score. So you have here a positive score of two nanograms over the (inaudible). So now, this hearing was actually. There was actually two parts to this hearing. We had a hearing on February 21, 2007 and a subsequent hearing on March 16, 2007, and that MRO Dr. Baber emailed me a letter March 16, 2007 because with a test also comes a split sample taken January 8, emailed me that to me. It was introduced into evidence at the hearing on March 16 and in that statement Dr. Baber clearly states that that positive score from that drug test on January 8 is only evidence that there had been use of marijuana within a period of six weeks before this sample was collected. Six weeks before puts you back to the end of November. Ms. Maxim was a habitual user. She used marijuana for a long time, prior to November 29, 2006. She's been very honest about that. Now that was in her system. They (inaudible) at one point I objected that Kimberly Maxim is not a doctor. One of the committee members commented that, "we're not doctors either. All we can do is go by what the MRO says". Well the MRO did say, he told, and this is documented evidence that that positive drug screen was not evidence of anything but using within the last six weeks. It's not evidence of use within a week. That's what he said it's only evidence that sometime within six weeks marijuana was used. On top of that on January 10, 2007 Ms. Maxim immediately went to Consolidated Laboratories within an hour, and this is documented evidence and had a drug screen taken. Right after she found that this was positive she went to Consolidated and had another test taken. And it was negative. And she has never had a positive test since then. January 10, and then on January 12<sup>th</sup> she went to Frank Karr her drug counselor, and he prepared in his on handwritten statement a letter which says, and it was read into the record on January 21<sup>st</sup> verbatim. It says that in his opinion, he's a certified counselor, that Kimberly Maxim had used marijuana between January 3, 2007 she hadn't (inaudible) and January 8 2007 she had a positive test. Her nanogram score would have been 500 or more. More than 10 times the score that she was informed was the score of the test. That's the evidence that the Council has. There is no evidence that she used marijuana after November 29, 2006. She provided all of this information to the JATC. The JATC first did not want to receive Frank Karr's letter. It was read into the record. She's never had another positive test. The statements of experts of Dr. Baber Mr. Karr, in the record, are consistent. (Inaudible) that the positive of January 8, 2007 only reflects Kim Maxim's use prior to November 29, 2007.

Ms. Brown            Mr. Perry...excuse me, I need the microphone to stay pretty close to you, because you are fading in and out.

Mr. Perri            I apologize. I'll repeat that. The conclusion from the statements that Dr. Baber and Mr. Karr are consistent. The conclusion is that the positive test of January 8, 2007 only reflect that Kim Maxim used marijuana prior to November 29, 2006. Mr. Karr also refers in his handwritten letter to the fact, and this is in that brochure that Kim Maxim was given from Intentions, that...I believe it was in that brochure...that body weight, that some factors will causes variances in our scores. If you loose weight other factors may

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

come into play here. And reflect itself in a difference in a few nanograms and how the score is. And that's what we're talking about here.

Ch. Christensen Mr. Perri do you intend to question your client, or have her make a statement today?

Mr. Perri I wasn't familiar with how this would proceed. I submitted the transcript, both transcripts for both prior hearings including the testimony of Kimberly Maxim. I asked her questions under oath on February 21, 2007. If the Chairman would like to hear.

Ch. Christensen If you would like to make any statements Kimberly, we'd be happy to hear it now.

K. Maxim Well I'd just like to point out that on the 14, 18 subsequent drug test that I've taken. That is a random test of urine, hair, blood, saliva the hair test goes back to 90 days would be December 28 that (inaudible) that is even more finite than the urine sample.

V. Perri Her test on January 10<sup>th</sup> that she had a Consolidated Laboratories within an hour or so of finding out about the positive test. That was a supervised drug sample that she (inaudible).

Ch. Christensen Is it your testimony before the Council today that you did not take an marijuana after the November 29, I'm sorry 27, 2006?

K. Maxim My testimony today is that as of November 29<sup>th</sup> in the a.m. I said goodbye to my long time friend called marijuana. And that's pretty much the way we say it after about four months of rehab.

Ch. Christensen And so you haven't had any marijuana since that day.

K. Maxim No, sir I have not. I have had no substance what so ever.

Ch. Christensen Can you tell us the circumstances surrounding the accident that resulted in the sliver and the discussion of that being a basis for the mandatory test?

K. Maxim The accident that day. I had a magnetic drill bit. Phillips head bit, that I was putting in my drill and I went to put my glove on when I put the drill bit, the magnetic Phillips head in my drill and I tighten up the drill and I got a metal sliver in my finger.

Ch. Christensen And what happened, that was on the job?

K. Maxim Yes, Sir it was.

Ch. Christensen so you sought some kind of medical treatment?

K. Maxim Well I went to the gang box and foreman and asked if we had some tweezers. We were told no that we had no first aid kits available at the gang box. We went down to the first aid office at the Venetian. That they held 100% control over. To which I knew that. Walking down the stairs that I was probably going to be drug tested. It ran through my head and yet I still walked down there. And the conclusion that I have come to is that a lot of times I need a reason to do things. Essentially be pushed. That was it. It was time to go. Time for that to stop. That behavior.

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

- Ch. Christensen All right, so you went to the office and who insisted upon the drug test?
- K. Maxim I believe it was our EMT. Well their EMT gal that sat in the office at the desk, hollered back to her supervisor, who was sitting in another room, and asked if I needed to be drug tested. And with that, he answered back yes. And she replied and stated to me, "I'm sorry Kim, we're going to have to ask you for a drug test."
- Ch. Christensen Was your union representative summoned at that point?
- K. Maxim No, not until later on in the day.
- Ch. Christensen After the test was conducted?
- K. Maxim Yes, Sir. After the test was refused.
- Ch. Christensen Was refused?
- K. Maxim Yes, Sir.
- Ch. Christensen Any other questions for Ms. Maxim from the Council?
- R. Massingill Mr. Chairman, this is Rebecca Massingill. Kim on the test that came up positive and you gave a split sample, was that re-tested? And what was that result?
- K. Maxim The split sample was re-tested. I would have no reason to believe that it wouldn't come back positive. As the first one did at 52. It came back positive, we have no nanogram count. Just a confirmation that there were detectable levels.
- V. Perri And if I may comment on that. At the hearing of February 21, 2007, the JATC requested with my client and she agreed to have this split sample tested. And my client has no explanation. We agreed to that, I agreed with the understanding, and unfortunately, I wasn't supposed clear enough about this. This was my belief, let me put it that way, this way my belief at that time. That we were going to do, they were going to have a test conducted of the split sample to find out the nanogram scores. Otherwise I maintained at the time on February 21, and reiterated that vigorously I wrote a letter to Mr. Burnett follow up. That the split sample was irrelevant. I mean they already had a positive test. And just to confirm another positive test with split sample proves nothing more than they already had. So my understanding was that they wanted to test the split sample to find out the nanograms. That was not done. That's what I believed they were going to do. That was not done. We never found out the nanogram score from the split sample. There is no indication one way or the other. There is no indication one way of the other. Typically that second step is even more specific and reliable and I don't know that. I think there is specification, policy that we (inaudible) more expensive (inaudible).
- Ch. Christensen Are there other questions for this appellant?
- D. Gouker Just so we're a little bit clear here. And again I'm not going to be voting here. I would like to comment. That the sliver as in every construction job, if you have any kind of a first aid requirement a form had to be filled out. That's mandatory. Whether you seek medical treatment on the site or off the site. Because of the potential for follow-up

medical requirements. Is that right? Is that your understanding with this sliver situation? It could have been infected, it could have gotten worst, it could have led to amputation. I mean we're talking bad scenarios here granted it was just a sliver. But just a sliver sometimes can get a lot worst. So at the point there wasn't a drug test taken. You effectively refused to provide a sample for drug testing, is that correct?

K. Maxim Yes sir.

D. Gouker And you were, what contractor were you were working for at the time?

K. Maxim G & G Systems.

D. Gouker And is that not a policy of G & G System that if you refuse a post accident test, that's termination of employment.

K. Maxim Yes sir.

D. Gouker Let me explain, I just want to make sure that everybody understands. You're looking at JATC policy contractor policy and all the things I know they all tie together and of course you are bond by both sets of directions. But in our world, in the construction world, if you have an accident and you are required for a post accident test and you refuse the test, you are basically terminating yourself from employment. Is that correct?

V. Perri No, under these circumstances of this test that not correct. And the reason why Sir with all do respect. There was a meeting on December 13, 2006. And there's a student history report. In that meeting the JATC stipulated that if she entered into an EAP program. She was going to rehabilitation and she would not be terminated unless she used in the future. That, it says, that because of violation of the JATC substance abuse policy. As a stipulation (inaudible) an official note the complete of mandatory rehabilitation. I quote " It is also added that any additional violation of the substance abuse policy during the remainder of her indentureship will result in her immediate termination of indentureship. And if, I think at this point an error of law, to go back now and say that despite of promises and representation of the JATC on December 13, 2006, we're going to treat this as a matter of terminated prior to November 29, 2006.

D. Gouker Mr. Perri, I think you may have misunderstood what I said. I'm not talking about termination from the program. I am talking about termination from G & G Systems as an employee of G & G Systems because she refused a post accident test. They are two separate and distinct issues here.

V. Perri Okay

D. Gouker Okay, and Mr. Burnett can certainly elude to this, but at one point in time, if an apprentice in the Electrical JATC program either voluntarily quit a employment or was fired, that was tantamount to being removed from the program. And that's in their policies. You can not quit your job. You are assigned by the JATC committee, through Mr. Burnett. You are given a training assignment, not a job referral. Your training assignment are handed out by the JATC and not by the local union. Because is a training assignment and not a referral. And that was my clarification. To make sure we understood. And again I understand your. I've read the transcript several times on your JATC meeting what we are talking about here was on the date that she received

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

the sliver and required medical attention from the on site medical people. She refused the drug test, which resulted in her termination from employment from G & G Systems. And if the JATC tantamount to removing yourself from the program. Is that correct?

- V. Perri Sir if I understand your position correctly. Correct me if I'm wrong. My response to your position, look at what actually happened. The JATC itself, the first week of January 2007. That regardless of your point that could be considered tantamount as being terminated from the program. (Inaudible). But what actually happened here and what was promised is in fact exactly what I said before. She was promised that if she did not use again she would not be terminated from the program. And she was in fact (inaudible) that she was going to be back in the program. She was going back to work. It would be improper. It would be contrary to the promises and representation of the JATC to ms. Maxim on December 13, 2006 to go back now and say as of November 29, she was terminated from the program. The JATC could have said that on December 13, 2006. They chose to make promise (inaudible) that your still in the program.
- Ch. Christensen We understand. Now let me just ask a couple of questions. Kimberly what percentage of apprentice are you now?
- D. Wiggins (inaudible)
- L Brown I'm sorry, we didn't hear that.
- Ch. Christensen Mr. Wiggins needs to be excused. By rules of order we still have a quorum however, so we can continue. Kimberly what percentage of apprentice were you?
- K. Maxim 85% I would have completed the program May 8<sup>th</sup> of this year.
- Ch. Christensen And what number of on the job training hours have you completed and or been credited for?
- K. Maxim there are actually two different answers. If you go back to the ABC's apprenticeship program there is another 4500 hours that I've not been credited for. So in total, I have 16000 hours in the electrical trade. JATC IBEW JATC has credited me with 11500 hours.
- Ch. Christensen This is a 10000 hour program?
- K. Maxim I believe it's an 8000 hour program.
- Ch. Christensen How about on the job training. I'm sorry how about classroom instruction. How many hours of classroom instruction have you completed.
- K. Maxim I have not done math on that. I've got 4 ½ years with the Southern Nevada JATC 357. I sat another 3 ½ years with Associated Builders and Contractors. I believe that their schooling is 140 hours per year and IBEW is 190 of instruction per year.
- Ch. Christensen it would have been a minimum of 144 so, eight years of at least 144 hours, so you have well over 1000 hours.

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

- K. Maxim Yes Sir.
- Ch. Christensen So why are you an 85% apprentice if you have over 11000 hours of on the job training and over 1000 hours of classroom?
- K. Maxim When I was in ABC of 3 ½ years I had never been on a job site that had power on it. I did not feel that I could walk in to IBEW and command a \$30 an hour wage. I chose to try and better myself and my trade skills before I could walk in and command that wage.
- Ch. Christensen What do you consider yourself now?
- K. Maxim I am a journeyman wireman.
- Ch. Christensen Other questions for the appellant before we hear from Mr. Burnett? Anything from the Council? Al right Mr. Burnett would you like to submit a rebuttal of the appeal of Ms. Maxim?
- M. Burnett Yes I would. The committee, and I'll speaking on their behalf was following its rules and regulations. If I could just go back a lot has been covered. I was trying to do a time line of what the committee had to work with. On 11/27/06 Ms. Maxim was terminated from G & G Systems for non compliance of company policies. Okay and that dealt with the post accident drug test that she refused to take. Per our policy there are some stipulations in there that says you could be terminated for that. On that day Ms. Maxim came into my office and stated that she refused the post accident drug test do to using marijuana. She asked for and was referred for drug counseling. On 11/29 she was assessed by MHN and sent to an outpatient program. On December 13, 2006 she appeared before the committee and at that time, with all the stipulations in her contact history. She was placed on six months pre-term probation for violation of the JATC'S substance abuse policy with the stipulation that she must complete the mandatory rehabilitation program that is set by MHN including aftercare. It was also added that any additional violation of the substance abuse policy during the remainder of her indentureship will result in immediate termination of indentureship. On 1/5 she completed the intensive outpatient program with Intentions. The drug test recorded came back negative. At that time I would then do a job referral for the next contractor. She was able to still continue her schooling and on the 7<sup>th</sup> of January of 2007 she was referred to Mojave Electric for her next training assignment. On January 8, 2007 she took a pre-employment drug test by Consolidated Lab. On the 10<sup>th</sup> of January 2007 we were notified that her training assignment was being canceled for cause by Mojave Electric for failure to comply with company policy. On 1/10/2007 Ms. Maxim came into the JATC office and asked for me. I went up front she stated that her pre-employment drug test came back positive for marijuana. On January 17, 2007 she was scheduled to appear before the committee. The committee upheld it's decision from December 13, 2006 to terminate for violation of JATC substance abuse policy. She appeal within the 30 days. We held an appeal hearing on February 21, 2007 before the Committee. The hearing was tabled until the results of a split sample were confirmed and back from the MRO. All the issues that Mr. Perri and Ms. Maxim brought up were addressed at that time and they are all in the transcripts. The Committee was very sensitive and understood that argument. She agreed to have that split sample tested with that understanding. And the Committee at that next meeting, once we got that back, reconvened and make that decision. On March 16, 2007, we continued the appeal hearing before the committee. The split sample test results were submitted. The

Committee upheld its decision of January 17, 2007 to terminate her indentureship. In the minutes of that meeting for March 16, 2007 was mailed to her on the 27<sup>th</sup> of March via certified mail. They were signed for and that kind of gives you a time line there. But I would like to also do if I could is answer the questions on the appeal request that was submitted before you. And I believe there were five items. It states here "the basis for the appeal are as follows", number one "the decision to terminate Ms. Maxim is contrary to the facts and contrary to the credible evidence of Maxim, her drug counselor and an expert as there is evidence that Kimberly Maxim", I'm sorry, "expert that there is no evidence that Kimberly Maxim violated the substance abuse policy after being notified by the JATC on 12.13.2006 to enter into a rehabilitation program and that unless Ms. Maxim engaged in subsequent use she would not be terminated." And my answer to that was that there was evidence. After completing the intensive outpatient program Ms. Maxim was in violation of JATC policy due to her violation of company policy which occurred during that probation period. Again, I'm not a doctor, the committee isn't nor are they. We only can go with the fact of what we had and what we had to see. Number two.

Ch. Christensen What was your personal opinion?

M. Burnett My personal opinion?

Ch. Christensen Do you believe that she used between the time that she came in.

M. Burnett My personal opinion was that she did. And my reason for that was this. She released her whole transcript from Intentions to us. And there was a positive drug test in between that time. Then there was a negative and that's the one we acted upon. There was a negative. Going to the same Lab now there is a positive drug test that took place. Again this is my own opinion. I felt that there was some use that took place.

Ch. Christensen What's your experience then, with the calculation of the test. The 52 nanograms that was indicated was a positive test, could that consider to be boarder line positive? Or from your experience is it usually, Mr. Perri indicated perhaps 10 times as much if it's recent use of marijuana.

M. Burnett I have no experience with that. Those results of 52 is what she had stated. I know there is a scientific term that I won't even try to pronounce. That they actually do that is more thorough. It's my understanding when you are dealing with a Lab that meets the Department of Transportation guidelines and all these federal laws. These companies are not going to risk their businesses on these. But again, I'm not sure. I'm not educated on this matter. But I felt with all the same labs being used, now we have a positive test on a pre-employment that there was grounds.

Ch. Christensen Did anyone ask, I think you referred to them, with the Mr. Baber or Mr. Karr? Did anyone ever ask these gentlemen whether they thought, did they think there was subsequent use?

M. Burnett No. I didn't. My understanding, since it was her test the only communication that took place was between those two. But I did call this morning, he is available by telephone if there is any questions for him, Dr. Babel the medical review officer,.

Ch. Christensen All right.

NEVADA STATE APPRENTICESHIP COUNCIL  
May 18, 2007

- D. Gouker Mr. Chair I'd like to comment. I'm kind of familiar with that policy. The JATC policy. And the level of nanogram really is, I understand their argument. It's only 52. Well the lights on or the lights off. Either it's above the cut off or it's not. Now and Madison, excuse me, Mr. Burnett you can certainly jump in here and interrupt me. If I understand, unless your policy has changed, when an apprentice is given a management referral for outpatient care, the intensive care, and then the follow-up. There are random test that are involved with that.
- M. Burnett Yes.
- D. Gouker And one would expect in this particular case that an initial test when you first started treatment would still be fine. Because it's not out of your system yet.
- M. Burnett And that happened.
- D. Gouker And that's understandable. But as you progress through the program, for your treatment that cutoff level doesn't change but the amount of deltenine cannabinoids that's in your blood, in urine, will progressively reduce because you are no longer using.
- M. Burnett That sounds logical.
- D. Gouker And that's been the norm with all drug test. So then at some point, and I assume from your comment, that it's still JATC policy that if there's one test or 300 test until such time as there is a confirmed negative test presented to your office, she is not eligible for dispatch. To make sure that if she goes back to a contractor that there is not another pre-employment positive because of lingering use from November 27, 2006. So you got in your office then from your drug counselors a clean test?
- M/ Burnett I have it. It's in the hearing.
- D. Gouker And the level is immaterial. It was something below 50?
- M. Burnett Yes.
- D. Gouker Okay, so now two days later, and I think you said, you received a negative test on January 3<sup>rd</sup>, which her treatments working, everything is fine we're staying away from our friend and we're doing everything we need to do. Now you write the training assignment to Mojave who at that point, Mojave using the same Lab, the same Consolidated Lab returned her to you as cancellation of training assignment for violation of company policy and she told you I had a positive test. Which means the cut off level has now been exceeded again. Which could've mean okay we didn't go out a smoke a whole bunch, we could have taken a couple of hits. And caused it to go back up. But that's immaterial. The fact of the case here that I understand is we had positive, positive, positive, clean negative, dispatched and positive again. Now unless you went on a crash diet and lost a whole bunch of weight, and I'm familiar with the drug testing policy, its not going to test positive again in two days.
- M. Burnett Right, and my understanding, you're hitting it right on. The manager, I believe and his name is Paul Strickland, who runs Consolidated, I kind of understanding the drug procedure and how it all works. He explained it just that way. And the medical review

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

officer considers the who packet. He already knows that this is what you have. If you see a certain level that could be residue or something dealing with weight loss, it would still come back negative. But he withheld, and if you look at his results with the split sample he confirmed the positive test with the information he had.

- D. Gouker           The split sample, what test was the split sample?
- M. Burnett           That was the test with Mojave.
- D. Gouker           The pre-employment test with Mojave.
- M. Burnett           And per our policy that's the only thing we can test. Mr. Perri alludes to her taking her own test. That's irrelevant to the Committee's decision.
- D. Gouker           And that's Department of Transportation requirements. And I assume you still have under the Department of Transportation directive?
- M. Burnett           Yes.
- D. Gouker           So that's not an option. I mean you are referred by and that's the way it works.
- M. Burnett           And with Mojave Electric, I have a couple of letters from them because the medical review officer, Dr. Baber, upon that positive test called Mojave Electric to get in contact with Ms. Maxim. So I do have two letters that deal with that contact that she did. But again, through confidentiality I don't know took place between Ms. Maxim and Dr. Baber, but they did talk. And he still upheld his decision. So that's why I came to the conclusion myself that there was some use.
- D. Gouker           And it's only just recently, for the committee's edification, that those cutoff, those actual numbers of the substance in the system wherever released. It was simple test, either it's positive it's a lab positive which means there is a prescription drug that's causing a positive, but it's legitimate. Or it's negative. I mean that's the reports that we back for years before they started sign confidentiality agreements. So just so I understand we've had difficulties at the tail end of 2006. Referred several test. Finally came up clean. Referred to employment and tested positive after a negative test.
- M. Burnett           Exactly.
- D. Gouker           That's all thank you.
- Ch. Christensen    Now did the employer's policy specify a certain level? Did it say a positive was anything above 50?
- M. Burnett           Yes, it mirrors ours. It's the same policy as ours.
- Ch. Christensen    Did they, I guess the conclusion was resubmitted, there was not a split sample test under the (inaudible)?
- Mr. Burnett           That I'm not sure. I believe there would be yes.
- Ch. Christensen    That's what's required under your policy.

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

Mr. Burnett Yes and that would have taken place.

Ch. Christensen That is the more precise test?

Mr. Burnett Yes, and I'm sure that is what they did.

Ch. Christensen We don't have those results before us.

D. Gouker That's drug testing protocol. You have initial screening that determines something there is and then they go with the TTSM test for verification of exact amounts.

Ch. Christensen Why don't we have the other test results?

M. Burnett The other test results on the split samples?

Ch. Christensen Yes

M. Burnett They are in your appeal packet, under the exhibit I believe C.  
  
(Inaudible)

L. Brown We can't hear you.

V. Perri I apologize. That is attached to the hearing March 16, 2007. (Inaudible)

M. Burnett Its exhibit B. And this is I believe a reconfirmed positive on the split sample. Above where Dr. Baber signed his name, he highlighted it and capitol letters. And that's what the committee made its decision on.

Ch. Christensen I've got an exhibit B in front of me. (inaudible)

M. Burnett One taken on Friday the March 16<sup>th</sup>. You may be looking at the one February 21<sup>st</sup>.

Ch. Christensen "The results of DOT Controlled Test"?

M. Burnett Yes.

Ch. Christensen Collection date 1/8/08 2007 the result for marijuana is positive but there are no nanograms (Inaudible). Signed by Dr. Baber March 5, 2007. "Re-Confirmed Positive" we have all the dates from the other test. And all of the different levers, you don't we have them for this one?

Mr. Burnett You would have to ask him. Like I said, we have his phone number, I think it would be better to ask that question of him.

D. Gouker We need to clarify Mr. Burnett that the split test was did the JATC ask for that or did Ms. Maxim?

M. Burnett Ms. Maxim.

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

- D. Gouker So.
- V. Perri I don't agree with that. The JATC requested that we agree to that. AT the hearing on February 21, 2007, they specifically told us that they wanted the retest and they wanted the hearing to be tabled.
- M. Burnett I disagree with that.
- D. Gouker If I could finish before you interrupt me. Okay, who paid for the test? The second test, the split test, who paid for it?
- M. Burnett We didn't pay for it.
- D. Gouker Okay, that's exactly my point. Then as regardless of who asked for it. The one who paid for the test is the only one who can receive the levels.
- M. Burnett We didn't pay for it.
- D. Gouker Well somebody paid for it. The not free. Well at some point, someone had to sign off and say you can release all of the data from this test to whoever. Did you sign and release that information of the nanogram levels to whoever needs to see it.
- V. Perri Yes we did. And my client was requested to sign a release at the hearing on February 21, 2007, and I advised her to do so. As I previously indicated, with the believe and understanding that the test would result in the obtaining of a nanogram score. There was no nanogram score obtained. And yes she did sign a release.
- D. Gouker Okay, typically, if you don't specifically spell out that you want the nanogram levels released, they don't release them. They only tell you if it's a confirmed positive or negative.
- V. Perri The JATC prepared the document that my client signed. I assumed that the JATC, they were using their source to obtain the test, would follow through on that. I was wrong.
- D. Gouker Based on my previous and this will be my last comment. From Consolidated, through their medical review officer, drug test are pretty cut and dry. Either they are positive or they're not. That's the bottom line here. They're positive or they're not. The levels would reduce during your treatment program but at some point when you started getting negative drug test. And I admire you for doing that, I know how difficult that could be. But at that point, you should not have a positive come back and you did. You had a negative drug test or you would not have been dispatched to work. At some point, I think you said on whatever day you sent you to Mojave, a positive appeared again. Now we can do split samples or we can banter back and forth, but the fact is it was above the cutoff or it wouldn't have been positive. That's the difficulty. That's the problem.
- M. Burnett That's correct.
- Ch. Christensen I'm not sure we can, it's positive to say things like that. We don't have before us a policy of the company. The test came under the company's policy. They may have a different positive or negative cutoff. Is there anybody that can talk about that policy?

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

- M. Burnett            We have the chairman of the JATC.
- C. Stetson            Good morning, I'm Charles Tom Stetson; I'm president of IBEW Local 357. I'm also chairman of the JATC. The Electrical JATC. And with regards to your question, there is a mutual agreement with the signatory contractors that are signatory to the IBEW and NECA, that is the National Electrical Contractors Association agreements. And it's IBEW/NECA drug policy. So all these contractors are signatory to that are also signatory to the policy. The cutoff are exactly the same. The Department of Transportation have cutoffs and standards and guidelines, and that's what they all abide by.
- Ch. Christensen    Did, so if they are signatory to the same policy did the (inaudible) the second split test as required in your policy?
- C. Stetson            The split sample, you have to understand, cannot be tested until it has been requested by the individual that provided the sample. If the individual did not (inaudible) the sample the policy states, or did not request the test, excuse me, the policy states that the individual that who provided the sample in this case Ms. Maxim has 48 hours to make a written request to test the split sample. That did not occur within the 48 hour time period. Consequently, that split sample was stored in a warehouse, or wherever they store them, and they store them for I believe a year the test did not occur until we requested of her at the JATC to get her authorization to test the split sample in February? March?
- Unknown            February 21, 2007.
- C. Stetson            So Sir in answer to your question, that test did not occur of the split sample in a timely fashion that way it should have. Again, she had 48 hours to respond to have the split sample re-tested.
- Ch. Christensen    Well is that not timely according to your policy, or not timely scientifically, because the question is did the split sample test follow the policy which required the Gaspectromically (inaudible) and was it reliable? I'm pretty sure that your policy says that the second test has to be the more expensive more reliable test. And we don't have any paperwork that shows that happened.
- C. Stetson            That's correct.
- Ch. Christensen    The second question is, would the sample storage, in this situation reduce the probability that is was reliable because it was taken three months later. I don't know if that's the case or not.
- C. Stetson            I can't answer that question, I'm not an expert in that department, I'm an electrician.
- R. Massingill        Mr. Chairman, this is Rebecca Massingill, and I have some questions. In one of my many hats with the company, I've been the designated company official for our drug and alcohol program. So i just had a couple of questions that I wanted to ask Ms. Maxim if I might. When the MRO called you and told you your test was positive did he not at that time tell you as well that you the option to request the second test?

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

- K. Maxim                    It was an agent for the MRO and no, I was not informed of that.
- R. Massingill            The MRO never told you, you had the opportunity to retest?
- K. Maxim                    No.
- R. Massingill            Did you challenge the results of that first test to the person that called you? The MRO.
- K. Maxim                    I don't know exactly what challenge is. I had told the MRO that I just had a clean test done on January 3<sup>rd</sup> at Consolidated Lab and that I had been through a rehab program.
- R. Massingill            Did you tell the MRO that or the agent? Cause you just said you told the MRO that. Did you tell the agent?
- K. Maxim                    The MRO's agent. I'm sorry.
- R. Massingill            Okay, so you told them you passed it and what was their response?
- K. Maxim                    She said that they did not have that on file.
- R. Massingill            Did you do anything else with them? Any other conversation, did you ask why a test now is positive came back two weeks before?
- K. Maxim                    I had discussed about the levels. She said I was tested at 52 and that's where I got the number 52 nanograms was from the agent of the MRO. And we had discussed about the cutoff being 50 or below for a negative score and she said we cut down to a 5 and 4 for the gastrospectromology test. To which I said ok, I was under the opinion that my test was negative and I didn't know how to answer except I know I didn't have a prescription for Marinal. That was at 9 a.m. on the 10<sup>th</sup>.
- R. Massingill            Thank you.
- Ch. Christensen        Mr. Stetson would it be impossible at this point to get a statement from the people who were in charge of the second sample test to find out what kind of test was conducted and what the nanogram levels were. Because I'm a little, I don't agree that these test are scientifically precise. We go in to courtrooms over and over again over whether somebody is impaired or whether they have levels or drugs and alcohol sufficient to impair their performance and the experts disagree at what point somebody is impaired. And so if your talking, there's been an arbitrary decision to say at 520 nanograms that a positive test. That doesn't necessarily mean impairment. There is also the question about whether there was entitlement to test her in the first place. Having just that little sliver. We're talking about. I need to see what the real result of that second test was. The content (inaudible) have all the information to make an informed decision here.
- C. Stetson                    Mr. Chairman, I would assume. And this is strictly an assumption, and you know what they say about that one. But based on the testimony that Madison gave just shortly before, the only one that could answer that I think would be the MRO Dr. Baber. Apparently, he's available via telephone. I can't answer your question in that regard. Again, I'm not a professional in that line, but the committee deems it necessary, that might be a route to consider.

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

- Ch. Christensen Well if that testimony is available; I'd like to hear it. I don't know about the rest of the Council but if he's available and we can have him testify about what he did and what he found. And there is basically a waiver from you and he could testify about what he found. That's what we're here for.
- K. Maxim Exactly and I guess if there's a waiver I would give that approval but I'm not arguing the fact of the 52 nanograms. I'm arguing the fact that I have not used. I'm arguing the fact that it goes back to the use they have before it stopped. Which there is no way that I would be coming up with a 52 nanogram score. If I went back off of the wagon. I would be smoking joints a day. Which would put me at 500 or plus nanograms. I would be extremely dirty and I would have not have had a clean test which was witnessed within 24 minutes of leaving the job site on January 10<sup>th</sup>. And I agree, I mean I disagree with Madison's opinion that they've used reason and understanding. Because they have not shown any reason or any understanding whatsoever. Or they would have realized that there drug counselor said the exactly those things that I just stated right now. I would be a lot higher than 52 nanograms.
- V. Perri And if I may comment there was a question Mr. Burnett as to did anyone say that there was not subsequent use after November 29, 2006. And the answer to that question is absolutely this. Mr. Frank Karr in his letter dated January 12, 2007 states he does not believe that Ms. Maxim used after November 29, 2006. That's what he said.
- Ch. Christensen Did Mr. Baber share that same opinion.
- V. Perri Mr. Baber's opinion. Dr. Baber's opinion and let me respond to that. Mr. Burnett says well this is the company, they would not put themselves at risk (inaudible) is positive unless (inaudible). But what dr. Baber said, he said what he said and it's in his email to me dated March 16, 2007. He said in that email, that's in the evidence and he said this is a positive test and all this means is that sometime within six weeks of her (inaudible) she used. That's all it means. And Dr. Baber is very clear about that. That is all the proof that they have. From a positive test on January 8, 2007 and in accordance with the statement of their own expert it proved that sometime within six weeks of January 8, 2007 Ms. Maxim used marijuana. And that's it. It doesn't proof...
- Ch. Christensen Mr. Stetson does your committee have within the drug and alcohol policies, does it have an intention to try and rehabilitate apprentices (inaudible). What I'm seeing here is somebody that apparently is clean now. And I believe an offer from the JATC to go through the rehabilitation process and what I see is not clear evidence that (inaudible).
- C. Stetson Okay, and with answering your question. Absolutely, without a doubt our committee policy is to take and offer help. Without a doubt. It's our intention to provide a qualified drug free alcohol free employee or apprentice on the training sites. So we always offer that. Provided certain stipulations have occurred. Repeat offenders. We tend to be awfully strict. A first time, this was Ms. Maxim's first time. There is no question about it. And the information and testimony provided by Mr. Perri with regards to her being an exemplary student, no argument. An outstanding student. Outstanding student. We offered her that opportunity. And we were completely, we were doing right by her, by the JATC and by the industry giving he that chance to get things in order for herself so that she could be a good employee and a good apprentice and turnout to be a good journeyman for the industry. Yes we do provide that. That is our intention. This is a

little bit irrelevant, kind of off topic. But even with our journeymen, which is outside of the JATC, it's our policy to do the same thing. Because they have problems as well, like everywhere else in the world. We want to get them the help they need so they can be productive members of our industry and be good for society as well. But absolutely, we want to help them out. Again, based on the information we were provided, it appeared that there was a second violation within the six-month pre-termination probation that was prescribed by the committee. Which means that as you heard in the testimony on the time period. Gotta be on the straight and narrow, well what appeared to be a violation that occurred within that six-month time period. And we reacted upon that based on the evidence presented. Again, we're not doctors. I'm an electrician if somebody ask me how to wire and splice, I'll answer that question for you. But about drug test, I can only tell you what's in the policy.

- V. Perri                    The irony of this situation is based upon what the committee itself is (inaudible)
- L. Brown                    We can't hear him.
- V. Perri                    she had tested positive having a nanogram score of 50 or more on January 3, 2007 she would have never been eliminated from the program. The only reason that she was eliminated from the program is because there was a negative test and then a positive test. But the facts before the committee and this council are that positive test was 52 nanograms. And I'm not a doctor my wife knows much more about this than I do. And she's not here. She's a medical technologist but it everybody knows these test you know you have blood test, you have sugar diabetes they are little changes in what a person may have in their blood stream from day to day. It's not hard to believe that if you are talking about a difference in a nanogram or two that it so (inaudible) it does not lead to the conclusion that there was a subsequent use. And Dr. Baber, when he was asked the question he responded by saying all this showed was use within six weeks. He's telling us that this does not show use within a shorter period of time.
- Ch. Christensen        Okay. Is there any other testimony from either the program or the appellant? Do you have anything else that you'd like to say Kim?
- K. Maxim                    No. (inaudible)
- Ch. Christensen        Is your microphone on?
- K. Maxim                    This is my livelihood now. Like I said, I have done numerous drug tests since November 29. Random different things. I am currently working for a different contractor in a different field. That is not contrary to my union beliefs. And you know, he's given me a letter of recommendation said that they would hire me again. I passed that drug screen. I have done absolutely everything that I can do to follow the guidelines and the policies that have not been set forth. And I promised to adhere to. Detoxification I can't control. I can't control that. You know the body eliminates what the body eliminates. And I don't think that I should be found guilty and punished a second time was doing what the body naturally does. And that will be all.
- M. Burnett                I would just like to add on behalf of the committee. They are following their rules and procedures. They feel that they have followed all the guidelines that stipulated in the registered standards. This is not the first time we're ever had this happen. We deal with this probably monthly. Sadly with the monitoring of over 600 apprentices at our

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

committee meetings we have two or three that go through that same issue. This is a first for us. Most go through counseling I get the negative drug test they go back out on a training assignment get the pre-employment drug test everything is fine. This is the first for the committee, so I hope you guys look at the whole picture. Again this is not their first rodeo they've seen it. They evaluate it and they make (inaudible).

Ch. Christensen If the Council were to determine that you should give her one more choice. One more chance obviously there would be a very strict and short leash, but you wouldn't. your full intention would be to complete her apprenticeship and to (inaudible).

M. Burnett Again, speaking on their behalf, we don't want to ever loose an apprentice. We want them of course to follow our rules and guidelines if they are broken again, I think always give them that second chance. Always. It's not like a group of men and women that just going after someone to just kick out. So basically I would say that the committee would abide by whatever decision this Council decides. I would hope there would be a stipulation on that any further use would incur termination. But this is a problem that we have in our society especially and I hope you guys would consider that.

Ch. Christensen Anything further Mr. Stetson.

C. Stetson No sir Mr. Chairman. But just to cap on what Madison said, if it was the determination of the Council there will be no argument. No discretion. We would take your determination and act on it as such. Again, with strict stipulation as Madison said. But we would agree abide by the finding of the Council.

Ch. Christensen Any discussion by the Council before I call for a motion? Comments from Council members. Does anyone want to ask for Dr. Baber's testimony?

R. Massingill Ms. Maxim it's with a heavy heart. I want to congratulate you on how well you have done. However, I'd like to make a motion that your appeal be denied and that we support the JATC's decision. Based strictly on the fact that you are following the policy.

Ch. Christensen Is there a second to the motion to deny the appeal?

G. Smith Second.

Ch. Christensen Those in favor of that motion say Aye.

Massingill, Smith, Andriola  
Aye

Ch. Christensen Opposed say Nay please. All right so there is a three zero vote. Showing you abstained right? Okay the motion is carried to deny the appeal in support of the JATC. You have a right to appeal to the Labor Commissioner and I believe you have a period of 30 days to do that. You can get with a member of staff to find out what your options are. Alright. I would like to direct the Attorney General's office to prepare an order on that. It will be 30 days from the date of that order.

L. Brown I'll contact Mr. Perri with the details of that appeal. Ms. Hegeduis will draft that appeal and once we get it signed we will make sure Mr. Perri gets it as soon as possible.

Ch. Christensen Thank you.

**ITEM 8 – REPORT OF THE STAFF A) REVISION OF APPRENTICESHIP AGREEMENT**

Ms. Brown said that she had changed the apprenticeship agreement language at the bottom. She said the change was made to show that the apprenticeship committee was not an employer, but simply to show that the committee is offering training to the apprentice.

Mr. Gouker motioned to approve the change to the apprenticeship agreement.

Ms. Massingill seconded the motion.

**(M/S/C TO APPROVE THE REVISION TO THE APPRENTICESHIP AGREEMENT)**

**B) QUARTERLY STATISTICS**

Ms. Brown reported that there were 214 registered apprenticeship programs. There were 10,122 registered apprentices, 9% female, 44% minorities, with 7% veterans.

Mr. Gouker asked about the programs that have zero apprentices in the programs.

Ms. Brown said she is still working on cleaning up the program. She said the report shows both occupations and programs.

**ITEM 9 – REPORT OF OFFICE OF APPRENTICESHIP**

Mrs. Henry thanked the Council for approving the Smiley Women's Correctional Center. She said her office has worked with the program and had cooperation from other approved programs in assessing the needs of the program. She said there was a 60% decrease in re-conviction on the apprentices released with some sort of formal training such as apprenticeship. She said there was one new apprenticeship occupation approved. It is accounting technician which is a hybrid program based on both competency and time. They have a new apprenticeship system that will be used by Staff to enter data. The new system is requiring North American Industrial Classification System and get away from the SIC code. The employer identification number may be required additionally.

Mr. Gouker asked if the prison program has any partnerships with outside employers.

Mr. Howell said they have been meeting with outside employers to develop partnerships.

Mr. Gouker asked if the apprentices are close to being released from the prison.

Mrs. Henry said that one of the selection criteria is for the women who are close to being released. She said they have been meeting with the Culinary Union and also with their advisory board regarding all the needs for the program.

**ITEM 11 – REPORT OF SECRETARY DIRECTOR**

Mr. Tanchek said that after July 1<sup>st</sup>, the Council would need to start working on making the temporary regulations permanent. There is one outstanding issue, which is the recalculation of the apprentice minimum wage. He reported that Ms. Maxwell retired in April. He is in the process of

**NEVADA STATE APPRENTICESHIP COUNCIL**  
**May 18, 2007**

hiring a deputy. The deputy will be located in the Las Vegas office. He said the deputy would work with the apprenticeship program. He thanked Ms. Brown for helping with all aspects of the office.

**ITEM 12 – PUBLIC COMMENT**

Ms. Andriola extended congratulations to all of the graduates who had completed their apprenticeship-training program. She said SB 167 still needs support.

Ch. Christensen said AB 110 has gone to the Senate floor for approval. This bill also needs support.

**ITEM 13 – ADJOURNMENT**

Mr. Gouker motioned to adjourn.

Mr. Smith seconded the motion.

**(M/S/C TO ADJOURN)**