

Testimony of Eric Frumin
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UNITE HERE

Before the Subcommittee on Workforce Protection
House Committee on Education and Labor

Hearing on

Workplace Tragedies:
Examining Problems and Solutions

January 14, 2008

Linden City Hall
Linden, NJ

Mme. Chairwoman, Mr. Payne, other members of the Committee:

UNITE HERE greatly appreciates the opportunity to testify about the terrible tragedy at the North East Linen Co. that killed Victor Diaz and Carlos Diaz on December 1, 2007. We also appreciate your interest in holding this hearing to bring the facts to the public's attention.

For too long, when dangerous conditions and bad management result in workers' deaths, the workers die alone. Few people pay any attention other than their families, their co-workers and the crew on the ambulance or in the emergency room.

The situation at North East Linen was different, at least because some people in the news media paid a lot of attention for a few days. And because you are here today focusing your own attention on these events.

But that does not make this tragedy any less terrible for the families of Victor Diaz and Carlos Diaz. No matter how much attention anyone pays today and tomorrow, they are gone – ripped from their families in a sudden, brutal moment.

We do not know exactly how this brutality came about.

We do not know who at North East Linen gave an order for Victor or Carlos to go into the tank.

We do not know who among the managers told them anything, or nothing at all, about the extreme dangers from entering tanks like the one at the laundry in Linden.

We do not know whether anyone in a position of authority at North East Linen took any of the strict measures which OSHA requires to protect people assigned to jobs inside tanks.

But we do know something about the laundry industry.

We know enough about this industry to believe that managers in this industry are keenly aware of the dangers of so-called “confined spaces” – like water tanks.

We have laundry workers here with us today. Every day, workers like them confront equipment that is considered confined spaces: huge washers, and equally huge dryers.

Indeed, at North East Linen's sister plant in New Haven, CT – called New England Linen and both run by President John Ryan – workers filed a complaint with OSHA's Bridgeport office in January, 2006. OSHA's inspectors found dozens of violations, and cited the company for violation of the standard on confined spaces.

In addition to the confined space violation, OSHA also found potentially life-threatening violations of OSHA's standards on safe equipment maintenance, machine guarding, and chemical hazard training.¹

¹ Other “serious” violations in New Haven included fire and electrical hazards, storage of flammable or combustible liquids, and employee training. See OSHA inspections #123161820 and 309375582.

OSHA considered those hazards bad enough to cause “death or serious physical harm.” Total penalties amounted initially to nearly \$25,000.

So it should have been crystal clear to the owners and managers of New England Linen – the same owners who run North East Linen – that OSHA rules are serious obligations for employers.

More important, it should have been crystal clear to the owners and managers that OSHA’s standard on confined spaces was important. In New Haven, OSHA required the company to do the kind of survey of possible confined space hazards that trigger all the protective requirements that would have saved the lives of Victor Diaz and Carlos Diaz.

What’s the lesson here? Based on our years of experience in this industry, we believe that this was not just a so-called “freak accident.”

The hazard from confined spaces is so well-understood and predictable that it was no surprise that these conditions would kill these workers—it was only a matter of time before the dangers killed them.

So in my opinion, this was no accident at all. From what we have learned from the news reports, these deaths were completely preventable. Victor Diaz and Carlos Diaz would probably be alive if the company had complied with the law and given these workers all the protections that OSHA’s standard requires²:

The standards require:

- A careful survey of the workplace to determine where these hazards are lurking – the very survey that OSHA required from New England Linen after the workers complained there in 2006.
- A strict permitting system to prevent anyone from even starting a tank entry without a complete set of protective measures.
- Careful tests on the air inside the tank, and proper ventilation to make sure that enough clean air was present.
- Strict rescue procedures, including full body harnesses and lifelines, as well as proper standby hoist equipment and fully-trained stand-by rescue personnel who know how to use it.
- Full necessary protective equipment and communication equipment
- Proper breathing apparatus in case of problems with the available air supply.

Compliance with these standards would have assured that Victor Diaz could do this job safely, and that Carlos Diaz or anyone else helping him would know exactly how to rescue him in case of a problem.

These are the requirements that the law of our land clearly imposes on the company – not on the workers, or the government, but squarely on the shoulders of the managers of plants like North East Linen.

² OSHA Standard: 29 CFR 1910.146

Sadly, according to press reports, instead of receiving the protection from their managers that these detailed rules require, the only so-called “protection” they had was plastic wrapped around their legs.

At times like this, as painful as it is, some people will speculate about whose fault this is.

Many workers want to trust in their managers to protect them.

And when workers suffer injuries -- or even death -- because they do not receive the legal minimum protection, workers sometimes ask whether the workers themselves were at fault.

Despite tragedies like this, many workers will continue to trust their employers to protect them. They are especially vulnerable, because they trust the wrong people. They are vulnerable because they simply don't know how dangerous the work really is. And worst of all, many workers who know about the dangers believe they have no choice but to accept these hazardous assignments.

And many managers like it that way. No problems from troublemakers.

But the experience here in Linden proves one more time that dangers on the job are too important and widespread to leave it up to individual workers to object, or to complain to OSHA.

Because despite what many of us want to believe, employers who should be responsible are not responsible, and we can't trust them to protect us.

That's why these workers need a union – OSHA's not enough.

Union members can find out how to deal with these kinds of employers – and get the support they need to protect themselves.

But at the same time, we also know that until every worker has a voice, until every worker is free to be a “troublemaker,” we know that the only protection they have is a strong and vigilant OSHA.

An OSHA armed with plenty of resources, and the strongest standards we can design.

Standards like the one on confined spaces that would have protected the lives of workers here in Linden, if only their managers had done the right thing.

On behalf of the 150,000 workers in the laundry industry, we again thank the Subcommittee for holding this hearing, and for recognizing the importance of supporting workers who speak up, who protest dangerous conditions.

We urge the Subcommittee to take immediate action to help OSHA get the tools and resources it needs to protect workers. I will be happy to answer any questions you have.

Respectfully submitted,
Eric Frumin