

PETER C. HARVEY  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law 5th Floor  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for the Board of Examiners of Master Plumbers



By: Joseph Donofrio  
Deputy Attorney General  
Tel. (973) 648-2436

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF EXAMINERS OF MASTER PLUMBERS

IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

Administrative Action

JAMES BALLARD  
License No. 10737

PROVISIONAL ORDER  
OF DISCIPLINE

TO PRACTICE PLUMBING  
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Examiners of Master Plumbers ("Board") upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. James Ballard ("respondent") is a licensed master plumber licensed in the State of New Jersey and has been a licensee at all times relevant hereto.
2. The Board received a consumer complaint from A.S. dated May 29, 2003. In the complaint, A.S. asserted that respondent had signed between 760 to 775 permits pertaining to water sub-meters installed in an apartment complex located in Plainsboro, NJ. Complainant A.S. further asserted that neither respondent, nor any of his employees, performed the work. Instead A.S. claims that the work was done by Richard Klein. Mr. Klein is a Maryland master plumber, but

is not licensed in New Jersey. Additionally, according to A.S., Mr. Klein is not an employee of respondent. (Exhibit A, complaint of A.S., attached and made a part of hereto)

3. The Board sent a letter to respondent dated August 5, 2003. In the letter, the Board required respondent to provide an answer to the consumer complaint from A.S. In the letter, the Board also requested that respondent state his affiliation with Mr. Klein and advise the Board if Mr. Klein was an employee and, if so, provide proof of employment. (Exhibit B, Board letter to respondent dated August 5, 2003, attached and made a part of hereto)

4. The Board received respondent's answer to the complaint of A.S. in a letter dated August 29, 2003. In his answer, respondent asserts that he applied for the permits and that his company contracted with Richard Klein to install the meters. Respondent also indicated that he visited the job site on four occasions during the installation to ensure that the work was being performed to code. Respondent also provided an invoice regarding the contract he entered into with Richard Klein. (Exhibit C, respondent's answer to consumer complaint and invoice, attached and made a part of hereto)

5. The Board subsequently received a letter from respondent dated November 24, 2003. In this letter, respondent asserts that the permit for the work performed at Fox Run Apartments was obtained for Richard Klein. Respondent also indicated that Mr. Klein is not an employee of respondent but that the work was performed by Mr. Klein. Finally, respondent asserted that he visited the job site on four occasions and was paid directly by Mr. Klein for his time. (Exhibit D, respondent's letter to the Board dated November 24, 2003, attached and made a part of hereto)

6. The Board reviewed both the complaint of A.S., as well as the answers provided by respondent. After careful consideration, the Board determined that additional information was required by respondent under oath. The Board voted that a Demand for Statement in Writing Under Oath and for Production of Documents be sent to respondent. (Exhibit E, Demand for Statement in Writing Under Oath and for Production of Documents, attached and made a part of hereto)

7. The Demand for Statement in Writing Under Oath and for Production of Documents was sent to respondent at the address on record with the Board via certified mail on December 8, 2003. Respondent was required to provide the requested information to the Board no later than January 7, 2004. The certified mail was received by respondent on December 11, 2003 as

evidenced by the signed green postcard bearing the respondent's signature. (Exhibit F, copy of signed certified post card, attached and made a part of hereto)

8. On March 11, 2004, a letter dated March 8, 2004 was received from respondent. (Exhibit G, copy of letter by respondent dated March 8, 2004, attached and made a part of hereto). The letter was accompanied by fifty copies of permits pertaining to the job performed at the Fox Run Apartments, Plainsboro, NJ. (Exhibit H, copies of permits pertaining to the job performed at the Fox Run Apartments, Plainsboro, NJ, attached and made a part of hereto). Also included in respondent's submission was a copy of previous correspondence to the Board and a previously submitted invoice. (Exhibit C). Answers to the Demand for Statement in Writing Under Oath were not provided by respondent. To date, respondent has not provided the requested answers under oath.

#### CONCLUSIONS OF LAW

1. The above preliminary findings of fact provide grounds for disciplinary action against respondent's license based on professional or occupational misconduct pursuant to N.J.S.A. 45:1-21(e) in that respondent has failed to cooperate with the Board's investigation in contravention of N.J.A.C. 13:45C-1.3(a)(4).

ACCORDINGLY, IT IS on this 27 day of May, 2004,

ORDERED that:

1. Respondent's license to practice plumbing in the State of New Jersey is hereby provisionally suspended unless or until he furnishes the Board with the information requested in the Demand for Statement in Writing Under Oath and for Production of Records.

2. Respondent shall be assessed a penalty in the aggregate amount of \$2,500 for his failure to cooperate with the Board's request for information pursuant to the Demand for Statement in Writing Under Oath and for Production of Records. The penalty shall be paid by money order or certified check made out to the State of New Jersey and delivered to the Board of Examiners of Master Plumbers, P.O. Box 45008, 124 Halsey Street, Sixth Floor, Newark, NJ 07101, no later than 15 days after entry of any Final Order of Discipline in this matter. In the event respondent fails to make a timely payment, a certificate of debt shall be filed.

3. Any practice in this State prior to formal reinstatement of license by the Board shall constitute grounds for a charge of unlicensed practice. In addition, the Board reserves the right to place restrictions on respondent's practice should his license be reinstated.

4. The within Order shall be subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry hereof unless respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to Barbara Cook, Executive Director, State Board of Examiners of Master Plumbers, 124 Halsey Street, Sixth Floor, P.O. Box 45008, Newark, New Jersey 07101.

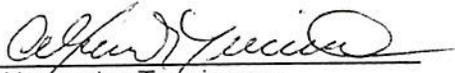
b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor or offered in mitigation of penalty.

5. Any submissions will be reviewed by the Board, and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that submitted materials merit further consideration, a Final Order of Discipline will be entered.

6. In the event that respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein may serve as notice of the factual and legal allegations in such proceeding.

NEW JERSEY STATE BOARD OF  
EXAMINERS OF MASTER PLUMBERS

By:   
Alexander Tucciarone  
Board Chairman

OP. L2K 23106 R/P  
7/17/03

CLOSED L2K \_\_\_\_\_

BOARD OF MASTER PLUMBERS  
LOG  
JUN 15  
A11:18

Alan Sare  
4015 Fox Run Drive  
Plainsboro, NJ 08536

May 29, 2003

State of New Jersey  
Board of Master Plumbers  
P.O. Box 45008  
Newark, NJ 07101

Re: Fox Run Apartments

Dear Board members,

Roughly six months ago, 760 to 775 water sub-meters (check-meters) were installed in most of the 776 apartments of the Fox Run Apartments, Plainsboro, New Jersey 08536. There was one water sub-meter installed in each apartment.

760 to 775 permits were issued, one for each apartment. Each permit was signed and sealed by James Ballard, Sr., a New Jersey licensed master plumber. The work was not done by either Mr. Ballard or any of his employees. The work was done by Richard (Rick) Klein. Richard Klein is a Maryland master plumber, but is not a New Jersey master plumber. Mr. Klein is not an employee of Mr. Ballard. I witnessed Mr. Klein installing the water sub-meter in my apartment. I spoke with him while he was doing the work. Mr. Klein's present telephone number is (717) 359-8000.

In addition to a water check-meter, an after-burn gas check-meter was installed in each apartment. Mr. Nordeen recognized only the wire and electrical box as work requiring an electrical permit. He added this work onto each plumbing permit. The gas check-meters were installed after the water check-meters had been installed.

The Plainsboro Building Department to date has not inspected the majority of the work. Mr. Nordeen, the Construction Official for Plainsboro reports that only one of the sixty buildings had been inspected to date. Mr. Nordeen reported that the Building Department had not been given notification to inspect any of the units not inspected. Therefore, the inspectors did not have an opportunity to ask Mr. Klein if he was qualified to do the water sub-meter work.

I am a New Jersey licensed professional engineer, no. 33985. It is my opinion that both water check-meters and after-burn gas check-meters are prohibited in apartment complexes in New Jersey.

Yours truly,

Alan Sare



cc: Mr. Grayce, DCA  
Mr. Nordeen, Plainsboro Township Construction Official  
Attorney Donna Lund, BPU  
Attorney Murray, Fox Run Apartments

foxr6039

Exhibit A

