Entered 7/26/04

FILED 7/22/04
BOARD OF EXAMINERS OF
MASTER PLUMBERS
Barbara A. Cook
Barbara A. Cook
Executive Director

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

CH 40338

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF JOSEPH J. FIORITO License No. 1723 TO PRACTICE PLUMBING IN THE STATE OF NEW JERSEY	Administrative Action FINAL ORDER OF DISCIPLINE

741253 app#

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 findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. 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 sent a letter to respondent, dated November 17, 2003. The letter was sent to respondent as part of a continuing education audit being conducted by the Board. Pursuant to N.J.A.C. 13:32-6.1(d), the Board may review the records of any licensee, at any time, in order to ensure that the licensee has complied with the continuing education requirements. Respondent was one of 460 randomly selected licensed master plumbers chosen to receive the audit letter.

3. The letter required respondent to submit a copy of his continuing education certificate for the current 2003-2005 biennial renewal cycle. Respondent had previously indicated on his 2003-2005 biennial renewal form that he had successfully completed the required continuing education. Pursuant to N.J.A.C. 13:32-6.1(c), every licensee shall maintain, for a period of four years, a record of all verification of attendance forms for all continuing education courses the licensee has completed.

4. The letter was sent to respondent by regular mail at the address on record with the Board. The letter required respondent to submit the requested information within 20 days of the date of the letter. The Board received no response from respondent within that time frame.

5. On January 14, 2004, the Board again sent the identical letter to respondent, requesting a copy of the continuing education certificate. However, this letter was stamped "Second Notice." The letter was sent via certified mail to the respondent's address on record with the Board. Again, the letter required respondent to submit the requested information within 20 days. The letter was returned to the Board office marked "refused" by the U.S. Postal Service. To date, the Board has not received the requested continuing education certificate from respondent.

CONCLUSIONS OF LAW

1. The above findings of fact provide grounds for disciplinary action against respondent's license pursuant to N.J.S.A. 45:1-21(h) in that respondent has failed to cooperate with the Board investigations in contravention of N.J.A.C. 13:45C-1.3(a)(5), as well as failing to satisfy the continuing education requirements for the 2003-2005 biennial license renewal cycle pursuant to N.J.S.A. 45:14C-18.1 and N.J.A.C. 13:32-6.1.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline provisionally suspending respondent's license to practice plumbing in the State of New Jersey and assessing a $1,000 penalty was entered on March 17, 2004 and a copy was forwarded to respondent at the last known address on file with the Board by certified and regular mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

The Provisional Orders sent by means of certified mail and regular mail were not returned. No written response from respondent was received by the Board. Because the Order was forwarded to respondent's address of record, the Board deems service to have been effected. Accordingly, it is determined that further proceedings were not necessary and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 22 day of July, 2004,

ORDERED that:

1. Respondent's license to practice plumbing in the State of New Jersey is hereby suspended unless or until he furnishes the Board with a copy of his continuing education certificate, issued by the instructor, documenting that he satisfied the five hours of continuing education requirements for the 2003-2005 biennial cycle pursuant to N.J.A.C. 13:32-6.1.

2. Respondent shall be assessed a penalty in the aggregate amount of $1,000 for his failure to timely cooperate with the Board's requests for a copy of his continuing education certificate requiring the filing of a Provisional Order of Discipline and consideration thereof. 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.

NEW JERSEY STATE BOARD OF
EXAMINERS OF MASTER PLUMBERS

By: _____
Alexander Tucciarone
Board Chairman