



*Entered 3/13/09*

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

*suspended*

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

Administrative Action

JAMES BALLARD  
License No. 10737

FINAL 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 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.
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.

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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.

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.

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.

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.

8. On March 11, 2004, a letter dated March 8, 2004 was received from respondent. The letter was accompanied by fifty copies of permits pertaining to the job performed at the Fox Run Apartments, Plainsboro, NJ. Also included in respondent's submission was a copy of previous correspondence to the Board and a previously submitted invoice. 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).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice plumbing unless or until he furnished the Board with the information requested in the Demand for Statement in Writing Under Oath and Production of Records, and imposing a civil penalty in the amount of \$2,500 for his failure to cooperate with the Board's investigation. The Order was entered on May 27, 2004, and a copy was served on respondent at his address of record. Respondent replied to the Order in a communication dated July 14, 2004, including payment in the amount of \$2,500, and requesting that his plumber's license be "cancelled." In addition, respondent forwarded his pressure seal to the Board.

On March 10, 2006, a letter issued from Prosecuting Deputy Attorney General Joseph Donofrio which was addressed to the Board, with a copy forwarded to respondent at his address of record. The Attorney General maintained that although respondent had paid the civil penalty that had been provisionally imposed, respondent had still not fully cooperated with the Board, in that he had still not furnished a Statement in Writing Under Oath, responding to the Board's Demand for Statement in Writing Under Oath, although he had furnished certain documents and certain information to the Board. The prosecutor argued that suspension of respondent's license would require respondent, should he ever seek reinstatement, to provide the Board with the appropriate response to the Demand for Statement prior to reinstatement being granted; whereas foregoing finalization of respondent's suspension, for example by granting respondent inactive status, would provide respondent with an avenue whereby he would have successfully avoided cooperating with the Board's investigation. No response to this letter was received from respondent.

The record was reviewed by the Board, and the Board determined that further proceedings were not necessary, inasmuch as no material discrepancies had been raised. The Board was not persuaded that respondent's conduct warranted a lesser sanction than suspension for his failure

to cooperate, where the alternative to suspension, i.e., compliance with the Demand for Statement in Writing and Under Oath, had been an option at all times available to him, yet which he declined to elect. The Board thus determined to finalize the Order.

ACCORDINGLY, IT IS on this 22nd day of June, 2006,  
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 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. This portion of the penalty has been satisfied, in that respondent has made payment of the full amount imposed.

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:



Mark McManus  
Board Chairman