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FILED 7/27/06
BOARD OF EXAMINERS OF
MASTER PLUMBERS
Barbara A. Cook
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Executive Director

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

WALTER WINSTON L.M.P.
License No. 10685

TO PRACTICE AS A PLUMBER
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Master Plumbers ("the Board") upon receipt of information concerning three consumer complaints which Walter Winston (respondent) initially failed to answer. The first consumer complaint, dated November 25, 2002, is from consumers A.C. and K.C. The complaint alleges that on June 21, 2002, respondent was hired to do heating and plumbing repairs to the consumer's home. Respondent was paid a \$2,500 deposit prior to starting the work. Respondent did not begin the work until August 4, 2002. Respondent worked sporadically and the work continuously failed inspections. The rough plumbing finally passed inspection on September 30, 2002 at which time respondent requested an additional \$1,680 in order to purchase a hot water heater, baseboard heating units and boiler. A.C. and K.C.

paid the additional money requested. However, respondent never returned with the items, nor did he finish the job. The consumers made various attempts to contact respondent but were unsuccessful.

By letter dated January 21, 2003 the Board wrote to respondent by regular and certified mail at the last address on record with the Board, requesting that respondent submit, in writing, a detailed explanation concerning the complaint of consumers A.C. and K.C. The regular mail was returned to the Board office with a yellow sticker labeled "not deliverable as addressed-unable to forward." The certified letter was returned to the Board office with a yellow sticker labeled "attempted not known". No response was received from respondent concerning this complaint until a letter dated September 8, 2005 from Timothy P. Neumann, Esq. was sent to the Board.

The Board received a subsequent consumer complaint dated February 3, 2003 from consumer J.T. alleging respondent was contracted to install a new forty gallon gas water heater. J.T. indicated he paid respondent \$440.00 for the installation. However, the installation subsequently failed inspection. As a result, J.T. was forced to hire a second contractor to install the boiler correctly at an added cost to the consumer. J.T. attempted to contact respondent but was not able to reach him. The consumer learned that respondent had been indicted in Monmouth County and there was an outstanding bench warrant for respondent's failure to appear at an arraignment conference.

By letter dated March 27, 2003 the Board wrote to respondent by certified mail at the last address on record with the Board. The Board requested that respondent submit, in writing, a detailed explanation concerning the pending consumer complaint of J.T. The certified mail was received at the address on record with the Board as evidenced by a signed certified postcard bearing a signature. No response was received from respondent concerning this complaint until a letter dated September 8, 2005 from Timothy P. Neumann, Esq. was sent to the Board.

The Board received a third consumer complaint, from consumer M.G. The complaint is dated May 16, 2003 and alleges that respondent was contracted to install water heaters in five apartments. M.G. indicated he paid respondent \$2,450.00 for the installation of the water heaters but respondent failed to complete the job. M.G. also indicated he made several unsuccessful attempts to contact respondent, via telephone calls and letters. Prior to the filing of his complaint with the Board, M.G. filed a civil action in Monmouth County, Superior Court, Special Civil Part and obtained a judgment against respondent dated July 3, 2003 awarding M.G. restitution and damages in the amount of \$1,800.00.

By letter dated July 3, 2003 the Board wrote to respondent by regular and certified mail at the last address on record with the Board, requesting that respondent submit, in writing, a detailed explanation concerning the pending consumer complaint of consumer M.G. The regular mail was returned to the Board office with a sticker labeled "not deliverable as addressed-unable to forward." The certified letter was returned to the Board office with a sticker labeled "attempted not known". No response was received from respondent until a letter dated September 8, 2005 from Timothy P. Neumann, Esq. was sent to the Board.

As a result of information received on August 14, 2003 by Monmouth County prosecutor Edward Quigley, the Board learned that respondent was charged under a two count indictment in Monmouth County for theft with regard to cheating numerous elderly couples as part of his plumbing practice. Respondent could not be located, was a fugitive from justice and there was an outstanding warrant for his arrest.

Respondent has informed the Board that he entered into the pretrial intervention program as to the two count indictment. A condition of respondent's pretrial intervention requires he reimburse the numerous consumers named in the two count indictment. Consumers A.C. & K.C. are included in the list of consumers required to be reimbursed through respondent's pretrial

intervention program.

Respondent's license is currently suspended, pursuant to N.J.S.A. 45:1-7.1, as a result of his failure to renew his license within thirty (30) days of its expiration date of June 30, 2003.

These facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21 (b) in that respondent engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in that he charged consumers A.C. & K.C., as well as consumers J.T. and M.G., a deposit prior to beginning plumbing work and then failed to complete the work. Additionally, these facts establish a basis for disciplinary action pursuant to N.J.A.C. 13:45C-1.2 in that respondent failed to respond to the three consumer complaints until more than two years after the Board requested a written response. Such failure to cooperate constitutes professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e). It appearing that respondent desires to resolve this matter without recourse to formal proceedings, and for good cause shown:

IT IS ON THIS 27th DAY OF July, 2006

HEREBY ORDERED AND AGREED THAT:

1. Respondent's license shall be suspended for a period of four (4) years. Two (2) years shall be active. The additional two (2) years shall be stayed and is to be served as a probationary period upon respondent's reinstatement. Respondent shall be granted credit of two (2) years for the period during which his license has been suspended by virtue of his failure to renew his license. The stayed period of suspension shall become active upon receipt by the Board of any information which the Board in its sole discretion deems reliable demonstrating that respondent is not capable of carrying out the functions of a licensee consistent with the public health, safety or welfare or that respondent has failed to comply with any of the conditions set forth in this consent order, including but not limited to a consumer complaint relating to theft or fraud or information indicating respondent has failed to comply with his pretrial intervention order.

2. Respondent shall pay a civil penalty in the amount of \$2,500 for violating N.J.S.A. 45:1-21(b) for having engaged in the use or employment of dishonesty, fraud deception, misrepresentation, false promise or false pretense by collecting a deposit from consumers A.C. & K.C., as well as J.T. and M.G. and failing to complete the work. Additionally, respondent shall pay a civil penalty in the amount of \$1,000 for violating N.J.A.C. 13:45C-1.2 in that respondent failed to respond to the three consumer complaints until more than two years after the Board requested a written response which constitutes professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e). Payment for the civil penalties totaling \$3,500 shall be submitted in monthly installments of \$350 beginning simultaneous with the signing of this order, and then on the first of every month thereafter over a period of 10 months. The monthly payments are to be paid by money order or certified check made payable to the State of New Jersey and delivered to the Board of Examiners of Master Plumbers, 124 Halsey Street, Sixth Floor, Newark, NJ 07101. In the event respondent fails to make timely payment, a certificate of debt shall be filed and interest shall accrue at the rate provided by the Rules of Court.

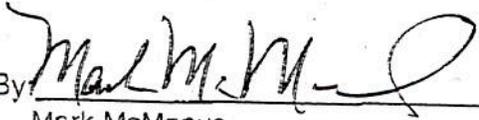
3. Respondent shall pay restitution to the consumers named in this order, as well as restitution to all of the consumers entitled to restitution as outlined in respondent's pretrial intervention order. Respondent shall fully reimburse consumers J.T. and M.G. simultaneous with the entry of this order. Respondent shall continue to make restitution to A.C. and K.C., as well as the other consumers entitled to restitution, pursuant to respondent's pretrial intervention order. Respondent shall provide the Board with reports on a quarterly basis demonstrating his compliance with the pretrial intervention restitution order.

4. Respondent shall cease and desist from the violations described herein. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

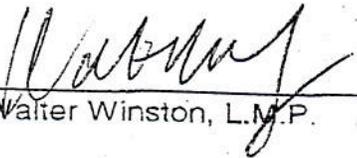
5. Failure to comply with any of the terms of this Order may constitute the basis for

further disciplinary action by the Board, including but not limited to, suspension or revocation of respondent's master plumbing license and imposition of monetary penalties

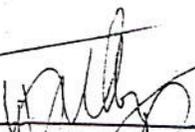
BOARD OF EXAMINERS OF MASTER PLUMBERS

By 
Mark McManus
Board President

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.


Walter Winston, L.M.P.

I consent to the entry of this order as to form.


Timothy P. Neumann, Esq.
Attorney for Walter Winston, L.M.P.

Date

WRIGHT AIR CONDITIONING AND HEATING, LLC

9 GLADNEY AVENUE
BAYVILLE, NJ 08721
PH. (732) 349-1954

2661

DATE 06/27/06 55-7035-2312

THE ORDER OF N.J. STATE BOARD OF MASTER PLUMBERS \$ 350.⁰⁰/₁₀₀
THREE HUNDRED FIFTY AND ⁰⁰/₁₀₀ DOLLARS



[Handwritten Signature]

⑈002661⑈ ⑆231270353⑆ ⑆2005004057⑈

BROEGE, NEUMANN, FISCHER & SHAVER, L.L.C.
ATTORNEY TRUST ACCOUNT
25 ABE VOORHEES DRIVE
MANASQUAN, NJ 08736

CLIENT NUMBER
83861
ESCROW ACCOUNT

ALLAIRE COMMUNITY BANK
Manasquan Office
55-1305/212

7512
007512

CHECK NO.

*** One Thousand Eight Hundred ***** 00/100

DATE 7/7/06 AMOUNT \$1,800.00

M. Geller

[Handwritten Signature]

Matter: ⑈007512⑈ ⑆021213054⑆ 2000000212⑈

BROEGE, NEUMANN, FISCHER & SHAVER, L.L.C.
ATTORNEY TRUST ACCOUNT
25 ABE VOORHEES DRIVE
MANASQUAN, NJ 08736

CLIENT NUMBER
83861
ESCROW ACCOUNT

ALLAIRE COMMUNITY BANK
Manasquan Office
55-1305/212

7513
007513

CHECK NO.

*** Four Hundred Forty *****

00/100

DATE 7/7/06 AMOUNT \$440.00

John Terrono

[Handwritten Signature]

Matter: ⑈007513⑈ ⑆021213054⑆ 2000000212⑈