



C# 49949
ap# 751411

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 :

VITO VACIRCA :

License No. 36BI00733400 :

TO PRACTICE PLUMBING :
IN THE STATE OF NEW JERSEY :

Administrative Action

FINAL ORDER
OF DISCIPLINE

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 of 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.

6. The Board sent a third letter to respondent, dated April 2, 2004, requesting his appearance before the Board for an investigative inquiry on May 4, 2004, as a result of his failure to furnish any response to the Board's letters dated November 17, 2003 and January 14, 2004. Although the Board received confirmation of respondent's receipt of the third letter, respondent failed to respond to the Board's numerous requests for respondent's completion of the continuation education requirement for the 2003-2005 biennial period.

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.

DISCUSSION

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 civil penalty in the aggregate amount of \$4,000 was entered on May 27, 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.

Respondent sent a letter to the Board dated July 4, 2004, in which he indicated that he had attended a mandatory continuing education course on December 7, 2002. Respondent also provided the Board with a continuing education certificate in satisfaction of the 2003-2005 biennial requirement. Therefore, the Board finds that respondent has satisfied the continuing education requirement, and that a suspension of his license is not warranted. Additionally, the imposition of the \$1,000 penalty for respondent indicating on his renewal application that the continuing education requirement would be satisfied by June 30, 2003, is hereby reduced to \$500.00, as the Board accepts the possibility that respondent believed he had satisfied the 2003-2005 requirement by completing the December 7, 2002 course.

However, respondent has not provided adequate justification for his failure to respond to the Board's several requests for information regarding his continuing education requirements, as well as his failure to appear at the Board's investigative inquiry scheduled for May 4, 2004. For these reasons, the respondent will be responsible for paying the remaining civil penalties, in the amount of \$3,000.

ACCORDINGLY, IT IS on this 12th day of December, 2006,
ORDERED that:

1. The proposed suspension set forth in the Provisional Order of Discipline is hereby rescinded.
2. Respondent shall be assessed a penalty in the aggregate amount of \$3,500 (instead of the proposed \$4,000 set forth in the Provisional Order of Discipline) 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.

NEW JERSEY STATE BOARD OF EXAMINERS
OF MASTER PLUMBERS

By 
Mark McManus
Board President