

his continuing education certificate to the Board office. A response was to be submitted to the Board office within twenty (20) days. Respondent failed to provide a copy of his continuing education certificate, nor did he provide any response within that time period.

4. The Board sent a second copy of the November 17, 2003 letter to respondent by regular and certified mail. The letter was stamped "Second Notice", was hand dated January 14, 2004 and sent to his address of record with the Board. Once again, the letter requested that respondent furnish a copy of his continuing education certificate to the Board office. A response was to be submitted within twenty (20) days. Respondent received the letter stamped "Second Notice" and dated January 14, 2004 as evidenced by respondent's signature on the green certified mail postcard indicating the date of delivery as January 23, 2004. However, respondent failed to provide a copy of his continuing education certificate, nor did he provide any response within the required time period.

5. The Board sent a third letter to respondent by regular and certified mail, dated April 2, 2004, to his address of record with the Board. The letter requested that respondent appear 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.

6. On May 4, 2004, respondent appeared before the Board for an investigative inquiry. After being duly sworn by the certified court reporter, respondent objected to the spelling of his name in capital letters on the notice to appear. Respondent was instructed to stop and was informed that he would be given an opportunity to make a statement to the Board upon conclusion of the questioning. However, respondent refused to comply and continued his statement. As a result, the certified court reporter was instructed to go off

the record. Respondent was informed that the inquiry would not proceed. Several more attempts were made in an effort to have respondent cease and comply with the Board's instructions. However, respondent refused and continued to speak. Respondent continued speaking at which time security was summoned and respondent was escorted from the building.

7. The Board subsequently received several pieces of correspondence from respondent. A "PITITION [sic] FOR ABATEMENT" dated May 4, 2004 was received by the Board. In this document, respondent contends that the "accusation, complaints" against him were brought against a fictitious name. Respondent contends that the "instrument" spelled his name using all capital letters and therefore does not properly name him. Respondent asks that any complaint or accusation against him be brought against his real name.

8. Respondent provided a letter to the Board dated May 4, 2004 regarding the investigative inquiry. Respondent claims that he suffered an "undue hardship on his time and resources" as a result of a fire alarm going off which caused an evacuation of the building and delayed the inquiry. Respondent further states that upon being sworn he proceeded to "make a statement for the record" but was not allowed to do so. He contends that he asserted his right to be heard on the record but was denied.

9. Respondent provided three continuing education certificates dated December 12, 1998, June 16, 2001 and April 19, 2004. These certificates demonstrate that respondent completed his continuing education requirement for the 1999-2001, 2001-2003 and 2003-2005 biennial periods.

CONCLUSIONS OF LAW

The above preliminary findings of fact provide grounds for disciplinary action against respondent's license, pursuant to N.J.A.C. 13:45C-1.3, in that respondent failed to cooperate with

the Board's continuing education audit by not responding to the Board's request for information upon receipt of the November 17, 2003 and January 14, 2004 letters. Such failure to cooperate constitutes professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e).

The above preliminary findings of fact also provide grounds for disciplinary action against respondent's license pursuant to N.J.S.A. 45:14C-18.1 and N.J.A.C. 13:32-6.1(b) in that respondent's submission of a continuing education certificate for the 2003-2005 biennial period, which is dated April 19, 2004, demonstrates his failure to have completed his continuing education requirement for the 2003-2005 biennial period by the required date of June 30, 2003.

Further, the above preliminary findings of fact provide grounds for disciplinary action against respondent's license pursuant to N.J.S.A. 45:1-21(e) in that respondent has engaged in professional or occupational misconduct by indicating on his application for the 2003-2005 biennial renewal that he would complete his continuing education requirement by June 30, 2003. Respondent's submission of a continuing education certificate for the 2003-2005 biennial period which indicates the date completed as April 19, 2004 demonstrates his failure to complete the requirement by June 30, 2003.

DISCUSSION

Based on the foregoing findings and conclusion, a Provisional Order of Discipline was entered on January 26, 2006. A copy of the Order was forward to respondent's address of record 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 Finding of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting

forth in the writing any and all reasons why said findings and conclusions should not be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

In a letter dated March 24, 2006, from respondent to the Executive Director of the Board in response to the Provisional Order of Discipline, he admitted that he failed to complete the 2003-2005 continuing education requirement in a timely fashion. He further stated there is a "logical reason" however, he did not elaborate or provide any other explanation. Respondent also provided the Board with proof that he belatedly completed the continuing education requirement on April 19, 2004, eight months after June 30, 2003, the date he was required to complete in order to satisfy the education requirement. However, this proof only confirms that respondent failed to complete his continuing education requirement for the 2003-2005 biennial period by the required date of June 30, 2003 in violation of N.J.S.A. 45:14C-18.1 and N.J.A.C. 13:32-6.1(b). Finally, his response substantiated the allegation that respondent engaged in professional or occupational misconduct when he falsely indicated on his application for the 2003-2005 biennial renewal that he would have completed his continuing education requirement by June 30, 2003 but in fact failed to do so until April 19, 2004 in violation of N.J.S.A. 45:1-21(e). Therefore, the Board did not find that respondent's submission raised substantive issues as to fact or law which would cause the Board to modify the findings or penalties of the Provision Order of Discipline.

ACCORDINGLY, IT IS on this th 26 day of April, 2007,

ORDERED that:

1. Respondent shall be assessed a civil penalty in the aggregate amount of \$3,000, consisting of a \$1,000 penalty for failing to cooperate with the Board's continuing education audit by

not responding to the Board's request for information upon receipt of the November 17, 2003 and January 14, 2004 letters in violation of N.J.A.C. 13:45C-1.3; a \$1,000 penalty for failing to complete the 2003-2005 continuing education requirement prior to June 30, 2003 in violation of N.J.S.A. 45:14C-18.1 and N.J.A.C. 13:32-6.1 and finally a \$1,000 penalty for indicating on the application for the 2003-2005 biennial renewal that he would have already completed his continuing education requirement by June 30, 2003, when in fact, respondent failed to provide a copy of a continuing education certificate demonstrating his compliance with the continuing education requirement by that date. 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 thirty (30) 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 in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

NEW JERSEY STATE BOARD OF
EXAMINERS OF MASTER PLUMBERS

By: 
Mark McManus
Board Chairman