

ANNE MILGRAM
 ATTORNEY GENERAL OF NEW JERSEY
 Division of Law 5th Floor
 124 Halsey Street
 P.O. Box 45029
 Newark, New Jersey 07101
 Attorney for the Board of Examiners of Master Plumbers



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

KENNETH RIVIERE
 License No. 36BI00973500

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 preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Kenneth Riviere ("respondent") was a licensed master plumber licensed in the State of New Jersey and had been a licensee at all times relevant hereto. Respondent's license is currently suspended, without notice, pursuant to N.J.S.A. 45:1-7.1(b), as a result of his failure to apply for renewal within 30 days of its expiration date of June 30, 2005.

2. This matter was opened to the Board upon receipt of information that an advertisement had been placed in the January 26, 2003 classified section of the Newark Star Ledger which read: "PLUMBING LICENSE FOR HIRE Call further info. 908-404-9094." Upon receipt of this information, the Board requested the Enforcement Bureau, New Jersey Division of

Consumer Affairs ("Enforcement Bureau") to conduct an investigation to determine the identity of the subscriber of this advertisement.

3. On April 3, 2003, an investigator of the Enforcement Bureau, acting in a covert capacity, placed a call to the telephone # in the advertisement. Respondent identified himself as "Ken" when he answered the call. The investigators indicated he was interested in having respondent sign and seal a plumbing permit for a bathroom renovation project. Specifically, the investigator said he was hired by a homeowner to install a new toilet, a sink, and possibly a new bath tub. Respondent indicated he would charge \$250.00 to seal a plumbing permit for the job and an additional \$150.00 to inspect the work prior to its inspection by the plumbing inspector. The investigator and respondent agreed to meet at an established location.

4. On April 16, 2003, the investigator met with respondent and presented him with a permit application obtained from the Belleville, NJ construction office. Respondent, completed portions of the permit, signed it and affixed his seal at the bottom. Respondent collected \$250.00 from the investigator as previously agreed. Respondent reiterated the price for inspecting the rough plumbing work prior to inspection by the plumbing inspector was \$150.00. Respondent also stated he would charge \$500.00 to approve the work but not inspect it. The investigator thanked respondent for sealing the permit. Respondent replied he had received many jobs from the ad and "helped out lots of guys like this."

5. After signing and sealing the permit application, respondent and the investigator engaged in conversation regarding the nature of the plumbing work to be performed. During this conversation, the investigator presented respondent with a mock rough diagram purporting to represent the work to be completed. During the course of the conversation, the investigator asked respondent for a business card. Respondent replied he was not in possession of any business cards but did inform the investigator of his name and wrote "Ken Riviere" in black ink on the mock diagram.

6. In response to the investigation, the Board served respondent with a subpoena to appear for an investigative inquiry on October 23, 2003. During the inquiry, respondent admitted he placed the advertisement in the January 26, 2003 classified section of the Newark Star Ledger. Respondent testified that the purpose of the advertisement was to secure a plumbing permit for each job where permits were required. He testified he would attend to the job, supervising the work in those cases where he had not actually performed the work.

7. During the inquiry, respondent was questioned regarding his involvement in signing and sealing the Belleville, NJ plumbing permit application for the investigator on April 16, 2003. Initially, respondent denied being involved in such activity and denied asking for and being paid \$250.00 for this service. He denied signing and sealing the permit in response to the call from the undercover investigator based on the Star Ledger advertisement. However, shortly after the conclusion of this portion of respondent's testimony, the Board requested the investigator to enter the Board room. After seeing the investigator, and upon further questioning, respondent acknowledged he may have accepted \$250.00 as a deposit toward a permit for a bathroom job. He also acknowledged he may have quoted a price of \$150.00 for inspecting the rough plumbing. Respondent further stated he has been in ill health and explained he is not able to do plumbing work but intended to handle the inspection of the plumbing work for this job.

CONCLUSION OF LAW

The above preliminary findings of fact provide grounds for disciplinary action against respondent's license, pursuant to N.J.S.A. 45:1-21(b), in that respondent attempted to secure a plumbing permit for an unlicensed person which is deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation or false pretense in contravention of N.J.A.C. 13:32-4.1(c). Additionally, 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

engaged in professional or occupational misconduct by permitting his license and seal to be used by another person in contravention of N.J.A.C. 13:32-4.1(b). The above preliminary findings of fact provide grounds for disciplinary action, pursuant to N.J.S.A. 45:1-21(e), in that respondent engaged in professional or occupational misconduct in that he willfully allowed an unlicensed person to use his seal in contravention of N.J.A.C. 13:32-4.1(d). Also, the above preliminary findings of fact provide grounds for disciplinary action, pursuant to N.J.S.A. 45:1-21(n), in that he permitted or aided and abetted an unlicensed person or entity to perform an act for which a license is required. Finally, the above preliminary findings of fact provide grounds 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 or false pretense whereby his original testimony before the Board on October 23, 2003 misrepresented the true facts in the case.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on December 18, 2007 . A copy of the Order was forwarded to respondent's address of record by UPS second day mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following its entry unless respondent requested a modification or dismissal of the above 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 therefore.

According to UPS, the Provisional Order was delivered to respondent's address of record on December 20, 2007. Because the Provisional 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.

IT IS ON THIS 22 DAY OF JANUARY, 2009,

HEREBY ORDERED THAT:

1. Respondent's license to practice plumbing in the State of New Jersey, which is currently suspended by application of N.J.S.A. 45:1-7.1(b), as a result of his failure to apply for renewal within 30 days of its expiration date of June 30, 2005, shall remain suspended for a period of two years upon any request for reinstatement. The first six months of the suspension are to be active and the remaining 18 months are to be stayed and considered a period of probation. Respondent shall not be reinstated until such time as he has paid in full the civil penalties and costs which are outlined in this provisional order.
2. Respondent shall immediately surrender his master plumber's pressure seal. The seal shall be sent to, Executive Director, Board of Examiners of Master Plumbers, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101.
3. Respondent shall pay a civil penalty in the aggregate amount of \$10,000, consisting of a \$2,000 penalty for attempting to secure a plumbing permit for an unlicensed person; a \$2,000 penalty for permitting his license and seal to be used by another person; a \$2,000 penalty for willfully allowing an unlicensed person to use his seal; a \$2,000 penalty for aiding or abetting unlicensed practice and a \$2,000 penalty for initially misrepresenting his testimony during the October 23, 2003 inquiry. Payment shall be made no later than 60 days from the entry of this final order, by certified check or money order made payable to the State of new Jersey and shall be sent to Executive Director, Board of Examiners of Master Plumbers, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101.
4. Respondent is hereby assessed costs in the amount of \$5,387.17. Payment for the costs shall be by certified check or money order made payable to the State of New Jersey and submitted to the Board no later than 60 days from the entry of this final order to the address set

forth in numbered paragraph 3 above.

5. 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.

6. Failure to comply with any of the terms of this Final Order may constitute the basis for further disciplinary action by the Board, including but not limited to, suspension or revocation of respondent's master plumber's license and imposition of monetary penalties. Failure to remit any and all payment required by this Final Order will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an order of the Board.

7. Prior to resuming active practice in New Jersey, respondent shall be required to comply with all terms set forth in this order and shall be required to appear before the Board (or a committee thereof) to demonstrate fitness to resume practice. Any practice in this State prior to said appearance 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: Peter I Voros

Peter Voros
Board Chairman