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FILED
BOARD OF EXAMINERS OF
MASTER PLUMBERS
Laurence P. Milano
01-22-09

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

IN THE MATTER OF THE	:	
APPLICATION OF	:	
	:	Administrative Action
KENNETH GANKIEWICZ	:	
	:	CONSENT ORDER
FOR A PLUMBING LICENSE	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Examiners of Master Plumbers ("the Board") upon receipt of an application for examination for a plumbing license from Kenneth Gankiewicz ("respondent"). Respondent indicated on his application he had been convicted of criminal offenses. Respondent provided information and documentation concerning his criminal history. Specifically, respondent was arrested on October 2, 2006 and charged with 3rd degree theft by unlawful taking (N.J.S.A. 2C:20-3a) and 4th degree conspiracy-theft by unlawful taking (N.J.S.A. 2C:5-2a). Additionally, respondent was arrested on July 7, 2006 and charged with one count of Possession of a Controlled Dangerous Substance in the 3rd degree (N.J.S.A. 2C:35-10.)

Respondent pled guilty to the 3rd degree theft by unlawful taking charge, as well as the 3rd degree possession of a controlled dangerous substance charge. Both convictions were consolidated for sentencing purposes. Respondent was sentenced to three (3) years probation,

ordered to undergo a substance abuse evaluation, comply with recommended treatment and maintain full-time employment.

Subsequent to receipt and consideration of respondent's criminal record, as well as respondent's written explanations concerning the circumstances behind the arrests and convictions, respondent appeared at an investigative inquiry into the matter held by the Board. During his testimony, respondent acknowledged he began using drugs around the age of twenty-three (23). His drug use continued for about 1-1/2 years and claimed the use of drugs was responsible for his criminal history. Respondent stated he has been sober for 20 months and is currently in recovery. He attends Narcotics Anonymous three times per week, he has a "home group" and a sponsor. Respondent stated he was released from probation early due to good behavior, having complied with all probationary requirements including clean urine screens and paying all court ordered fines.

Having considered all of the available information, including the testimony of respondent during the investigative inquiry, the Board has determined that respondent may be licensed subject to the conditions outlined in this order. Respondent appears to be doing well in recovery at this time. However, the Board is keenly aware of respondent's history and therefore any deviation from the terms of this order will result in immediate suspension of license. The Board finds that such a provision, coupled with respondent's continued involvement and compliance with Narcotics Anonymous, is adequate to protect the health, safety and welfare of the public and that good cause exists for entry of this order.

IT IS THEREFORE ON THIS 22 DAY OF JANUARY , 2009,

HEREBY ORDERED AND AGREED THAT:

1. Respondent is hereby permitted to sit for the examination for licensure, and upon the Board's receipt of proof of passage of the examination and all other licensure requirements, shall be granted a license subject to the restrictions in this order.

2. Respondent shall abstain from any and all mood altering or intoxicating substances, including, but not limited to alcohol, as well as any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his treatment. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided no later than two (2) days subsequent to the prescription.

3. Respondent shall continue in treatment with Narcotics Anonymous. Prior to examination and subsequent to his licensure, respondent shall provide proof of attendance at Narcotics Anonymous, as well as reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who are participating in respondent's care and/or treatment. This information shall be provided directly to the Board on a quarterly basis. For purposes of this order, the first submitted quarterly proofs of attendance shall be due simultaneous with the signing of this order for Narcotics Anonymous and mental health treatment for the months of September, October, November and December of 2008. The next quarterly proofs shall be due on March 31, 2009 for the months of January, February and March of 2009 and then quarterly thereafter. If respondent discontinues participation with Narcotics Anonymous, without first obtaining approval of the Board, he shall be deemed in violation of this order.

4. Respondent shall submit to random urine screens a minimum of twice per month. The urine screen monitoring program, as well as the laboratory facility conducting the urine testing, must be approved by the Board. The Board shall provide respondent and the laboratory facility with specific directions for the protocol of the testing procedure. All urine screens must be directly observed and respondent shall comply with all additional urine screen procedures and protocols

outlined and prescribed by the Board. The urine screen requirement shall continue until further order of the Board expressly reducing or discontinuing testing. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests shall be performed by gas/chromatography/mass spectrometry (G.C./M.S). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(b) All test results shall be provided to the Executive Director of the Board, or the director's designee in the event the director is unavailable. The Board retains sole discretion to modify the manner and the extent of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c) Any failure by respondent to submit or provide a urine screen within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the Executive Director or the Executive Director's designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d) In the event respondent will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing.

(e) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall be deemed dilute and a presumption of a confirmed positive urine test shall arise requiring a confirming test by hair analysis or other appropriate means.

(f) Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

5. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treatment or other program as outlined in this order or as may be required in the future, in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. Via his signature on this order, respondent agrees that the Board may utilize any information received in connection with any proceeding regarding licensure.

6. Respondent may seek modification of the terms of this order not sooner than January 31, 2010. Prior to any modification or removal of restrictions set forth in this order, respondent shall:

(a) Appear before the Board to discuss his recovery and to demonstrate to the satisfaction of the Board that he is not then suffering from any impairment or limitation resulting from any psychiatric condition or the use of any mind altering or intoxicating substance, whether legal or illegal, which could affect his practice;

(b) Prior to his appearance, the Board may require receipt of a report of an independent psychiatric evaluation with a Board approved psychiatrist.

7. Respondent hereby consents to the entry of an Order of automatic suspension of license without notice, upon the Board's receipt of documentation of a prima facie showing of a

violation of this order or a relapse or recurrence of drug or alcohol abuse or any reliable information that respondent has violated any term of this order or 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.

8. Respondent shall have the right to apply for removal of the automatic suspension on five (5) days notice but in such event shall be limited to a showing that the evidence of a relapse or recurrence of drug or alcohol abuse or other information submitted was false.

BOARD OF EXAMINERS OF MASTER PLUMBERS

By: Peter I Voros
Peter Voros
Board President

I have read and I understand
this Consent Order and agree
to be bound by its terms. I consent
to the entry of this order by the Board.

Ken Gankiewicz
Kenneth Gankiewicz

January 7, 2009
Date