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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF EXAMINERS OF
ELECTRICAL CONTRACTORS

IN THE MATTER OF THE
LICENSE OF

JOSEPH C. CHICKACHOP
License #4847

TO PRACTICE ELECTRICAL
CONTRACTING 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 Electrical Contractors ("the 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 electrical contractor in the State of New Jersey, and has been a licensee at all times relevant hereto.
2. On September 3, 2008, a Consent Order was filed by the Board, requiring that respondent pay a civil penalty and costs in the total amount of \$13,765.00 within thirty (30) days following entry of the Order.
3. The Order further imposed a two year stayed suspension upon respondent. The basis for the Board's action were, inter alia, the Board's findings of

professional misconduct in connection with numerous consumers, including the failure to cooperate with Board investigations in violation of N.J.A.C. 13:45C-1.2, -1.3 and N.J.S.A. 45:1-21(e) by failing to respond to Board inquiries concerning consumer complaints.

4. On or about January 9, 2009, respondent was advised via a letter to his attorney, that he had not paid the civil penalty or investigative costs that he had agreed to pay pursuant to the September 3, 2008 Order, and advised that if he did not pay within ten (10) days, he may be found in violation of a Board Order. The letter was sent by certified and regular mail. Certified mail was signed for.

5. In a communication dated March 4, 2009, respondent asked the Board to accept installment payments of the civil penalty and costs imposed by the September 3, 2008 Order. Respondent also forwarded a check in the amount of \$4,500.00, which has been received.

6. On or about September 29, 2008 the Board wrote to respondent at his address of record by regular mail, inquiring about two consumer complaints received by the Board. The mailing was not returned. No response has been received to date.

7. On or about October 23, 2008, the Board wrote to respondent at his address of record, inquiring about another consumer complaint. The letter was sent to respondent by certified and regular mail at his address of record. The certified was signed for. The regular mailing was not returned. No response has been received to date.

DISCUSSION

Based upon the above findings of fact, the Board issued a Provisional Order of Discipline on March 11, 2009 alleging respondent engaged in a continuing pattern of disregard of Board's letters and for failing to comply with the terms of the Consent Order which respondent and his attorney signed on August 8, 2008.

In considering this matter, the Board noted that respondent failed to pay any of the penalty and investigative costs until he submitted a check in the amount of \$4,500.00 dated February 27, 2009 which was received by the Board shortly thereafter along with a letter dated March 4, 2009 seeking forbearance by the Board to allow him to pay off his obligation in three installments, the February payment being the first, a second installment on March 15, 2009 and the final installment on April 15, 2009.

Before the Board responded to respondent's request for installment payments, and after the Provisional Order had been issued, a second payment for the balance of the penalty and costs of \$9,265.00 dated April 7, 2009 was received by the Board.

On April 7, 2009, respondent submitted a response to the Provisional Order in the form of argument by his attorney and affidavits by two employees of respondent. The arguments of respondent's counsel essentially stated that his client's failure to respond to the Board's correspondence was because "they were overwhelmed with the situation they found themselves in. The financial difficulties were placing a tremendous emotional strain upon the principles [sic] and the ramifications associated therewith including layoffs. They were dealing with the more pressing emergent problems...they put their heads in the sand." Counsel further proposes that the Board copy all future

correspondence for his client to counsel and counsel will "compel" his client to respond. The employee affidavits submitted by respondent's counsel concern the specific consumer complaints respondent was asked to respond to and will be considered by the Board at its next available meeting, presently scheduled for May 20, 2009, as the particulars of those complaints were not the subject of the Provisional Order, only the failure of respondent to cooperate with the Board in its investigation. Counsel's arguments and his proposal to "compel" his client to do that which he already has an obligation to do i.e. respond to inquiries from the Board in a timely fashion, are not persuasive arguments to vacate the sanctions imposed.

In response to the counsel's arguments, the Deputy Attorney General submitted a reply on April 24, 2009 which serves to highlight the fallacy of respondent's position. The Board would certainly agree that the economic climate has changed over the last six months. However, as the Deputy Attorney General's reply points out, at the time the Consent Order was negotiated requiring payment within thirty days, no request for a payment plan was made. Nor was such a request made in the ensuing five months after the Consent Order was signed. It was not until six months after the entry of the Consent Order that respondent claimed financial difficulties prevented him from fulfilling that responsibility in a timely fashion. In fact, the Deputy Attorney General points out that she wrote to counsel in January of 2009 concerning his client's lack of compliance and received no response whatsoever. And while the current national economic crises may be a valid excuse now, it certainly was not the case in July of 2006 when a prior Final Order of Discipline was filed against respondent carrying a \$3,500.00 penalty

which to this date remains outstanding. However, that Final Order is not at issue presently.

Respondent has a long history with the Board, which is partially captured in the Consent Order which the Board feels, by itself, is sufficient cause to suspend his license for the remainder of the two year stayed suspension. Respondent entered into the Consent Order with the advice of counsel and immediately disregarded the Board's authority by ignoring two letters sent to him by the Board within the first month or two after the Order. To this day, he continues to disobey the Board by not satisfying outstanding penalties assessed in the earlier Final Order of Discipline. However, in light of the fact that respondent did make timely restitution under the Consent Order and did finally satisfy his financial obligation under the consent order, albeit, tardy, the Board is inclined to give respondent one last opportunity to prove that he will adhere to the Board's rules and regulations in the future and that such action would serve as an adequate exercise of its duties and responsibility to the public. However, the sanctions imposed by the Consent Order i.e. the stayed suspension, the cease and desist from conduct found violative of the statutes and regulations governing the practice of electrical contracting, the requirement that he modify all advertising and the agreement not to charge consumers for a "permit procurement fee" and the payment of a \$10,000 penalty for violating N.J.A.C. 13:45C-1.2 and 1.3 remain in full force and effect. Should respondent violate any of the terms of the Consent Order, the Board would still have the authority to impose the suspension of his license for the remainder of the term of the stayed suspension. The Board feels compelled to remind respondent that he must not fail to apply for permits for electrical work when a permit is required and that each

permit application must be signed and sealed by the licensee; that he must employ a qualified journeyman to supervise every ten (10) employees who are performing electrical work at either one job site or who are performing electrical work at several jobs at different sites simultaneously in accordance with N.J.A.C. 13:31-3.4 (c) and (d) if he, as the qualifying licensee, is not able to provide the appropriate level of supervision; and that he is subject to enhanced penalties should any violations of the statutes and regulations be found by the Board. In light of the multiple violations found by the Board, and the long history respondent has with the Board, the Board is not inclined to decrease the amount of the \$10,000.00 penalty provisionally imposed. The Board will consider the substance of the outstanding complaints against respondent as well as his response at a later time. Should further action be required regarding the conduct underlying the investigation, the Board reserves its right to proceed, and nothing in this Order precludes the Board from taking any action, in accordance with the Administrative Procedures Act and to impose any further sanctions authorized by the Uniform Enforcement Act, N.J.S.A. 45:21-1 et seq. which it deems appropriate concerning any unsatisfied debt or outstanding complaint against respondent.

The Board considered the submissions of respondent and the Deputy Attorney General's reply and determined that no further proceedings were necessary as they do not dispute the facts alleged.

CONCLUSIONS OF LAW

1. Respondent's failure to comply with the terms of the Board's September 3, 2008 Order, by failing to make timely payment of the penalties and costs within thirty days of the filing of the Order, and failing to notify the Board of any difficulty as to

payment until March of 2009, constitutes a violation of N.J.A.C. 13:45C-1.4, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) for professional misconduct.

2. Respondent's failure to reply to Board requests for information constitutes a failure to cooperate with Board investigations in violation of N.J.A.C. 13:45C-1.2, -1.3, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e). In light of the Board's findings in the September 3, 2008 Order, this constitutes a subsequent offense within the intendment of N.J.S.A. 45:1-25, subjecting respondent to enhanced penalties.

ACCORDINGLY, IT IS on this 20th day of May, 2009

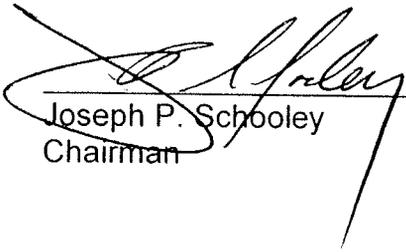
ORDERED that:

1. The stayed suspension of two years imposed by the September 3, 2008 Order is hereby continued as a stayed suspension and shall terminate on September 3, 2010, for respondent's violation of N.J.A.C. 13:45C-1.2, -1.3 and N.J.A.C. 13:45C-1.4.

2. A public reprimand is hereby imposed upon respondent for his failure to cooperate with Board investigations in violation of N.J.A.C. 13:45C-1.2, -1.3.

3. A civil penalty is hereby assessed against respondent in the amount of \$10,000.00 for failure to cooperate in Board investigations in violation of N.J.A.C. 13:45C-1.2, -1.3. Should respondent fail to pay the penalty within ten (10) days of this Order, a Certificate of Debt may be filed and the Board may take such other and further action as required including, action to actively suspend respondent's license until such time as he satisfies the outstanding debt. Interest shall accrue at the applicable rate pursuant to Court Rule 4:42-11.

STATE BOARD OF EXAMINERS
OF ELECTRICAL CONTRACTORS



Joseph P. Schooley
Chairman