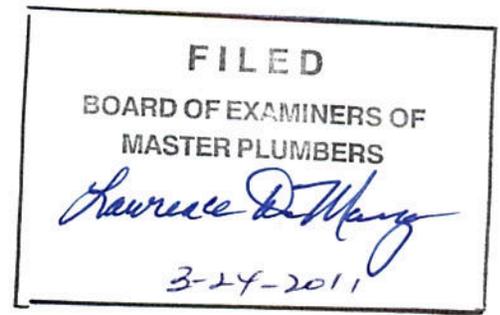


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COPY

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

MICHAEL J. SITEK

FOR MASTER PLUMBERS
LICENSE IN THE STATE OF
NEW JERSEY

Administrative Action

FINAL ORDER
OF DENIAL OF LICENSURE

This matter was opened to the New Jersey State Board of Examiners of Master Plumbers ("the 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. Michael J. Sitek ("respondent") submitted an application, dated March 20, 2009, to the Board for a Master Plumber's license in the State of New Jersey. On the application, respondent was asked "Have you ever been convicted of any criminal offense?" Respondent checked the box indicating "No".
2. As part of the application process, the Board received information regarding respondent's criminal history. The information revealed that on January 31, 1991, respondent was arrested in Dover Township, NJ, and charged with possession of stolen property. Respondent eventually, pled guilty to a charge of receiving stolen property, pursuant to N.J.S.A. 2C:20-7a.
3. Additionally, on July 11, 2001, respondent was indicted in Ocean County and

(1-5)

charged with one count of Burglary in the second degree, pursuant to N.J.S.A. 2C:18-2; one count of Burglary in the third degree, pursuant to N.J.S.A. 2C:18-2; one count of Theft in the third degree, pursuant to N.J.S.A. 2C:20-3; and one count of Unlawful Possession of a Weapon in the third degree, pursuant to N.J.S.A. 2C:39-5b.

4. Prior to receipt of respondent's March 20, 2009 application for licensure, on August 18, 2000, the Board received a consumer complaint. The complaint alleged that on March 21, 2000, respondent agreed to install a bathroom for the consumer. The consumer alleged she paid respondent \$500 as a down payment. Respondent cashed the check, but never appeared to perform any of the work. The information also indicated that respondent was operating a plumbing contracting business using the license number of his father, Richard A. Sitek, who was licensed as a master plumber in New Jersey. The consumer provided a signed invoice which read "Sitek Plumbing", containing the respondent's name and address but listed license # 7312, the license number of Richard A. Sitek.

5. On April 23, 2009, respondent appeared before the Board regarding his application for licensure. Respondent was asked to explain the facts and circumstances related to his July 11, 2001 indictment. Respondent stated he had been using drugs during this time, specifically heroin. Respondent testified that he served a jail sentence of approximately two years and six months and was released in March of 2003. After his release from prison, respondent was placed into the Intensive Supervision Program which he completed in 2005.

6. Respondent was also asked if there were other offenses that were not reported to the Board. Respondent admitted that since 2003 he was again arrested for receiving stolen property. Since September 11, 2007, respondent has been participating with Drug Court. He goes to court once a month before a judge, sees a probation officer twice a week, and is subjected to

regular urine screens. Additionally, respondent has to attend three AA meetings a week. Respondent stated he is subjected to these conditions for three more years.

7. Respondent was also questioned regarding the consumer complaint alleging unlicensed practice of plumbing. Respondent acknowledged receiving a cease and desist unlicensed practice settlement letter from the Board. Respondent indicated that he paid the \$2,500.00 penalty for unlicensed practice, as well as restitution to the consumer. A review of the Board's files indicates that respondent did pay the \$2,500 civil penalty and restitution. When asked whether he engaged in unlicensed practice independent of his father's knowledge, respondent acknowledged that he had. He stated his father did not know what was "going on".

CONCLUSIONS OF LAW

1. The above preliminary findings of fact provide grounds for denying respondent's application for a Master Plumber's license in New Jersey, pursuant to N.J.S.A. 45:1-21(b), in that respondent engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense as a result of his convictions, and his failure to disclose his criminal history on his application.

2. The above preliminary findings of fact also provide grounds for denying respondent's application for a Master Plumber's license in New Jersey, pursuant to N.J.S.A. 45:1-21(f), in that respondent's three convictions (i.e. receiving stolen property, burglary, possession of a weapon), are acts constituting crimes and offenses involving moral turpitude and relating adversely to the activity regulated by the Board.

3. The above preliminary findings of fact also provide grounds for denying respondent's application for a Master Plumber's license in New Jersey, pursuant to N.J.S.A. 45:1-21(n), in that respondent performed plumbing services in New Jersey without a license.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Denial of Licensure was filed on August 18, 2010. A copy of the Order was forwarded to respondent's address of record, via United Parcel Service. The tracking information indicates the Provisional Order was received at respondent's address of record on August 19, 2010. The Provisional Order was subject to finalization by the Committee at 5:00 p.m. on the 30th business day following its entry unless respondent requested a modification or dismissal of the above 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.

Respondent failed to provide a response to the Provisional Order of Denial of Licensure. Since the Provisional Order of Denial of Licensure was served at respondent's address of record, the Board deems service to be effected. The Board finds that respondent's arrests and convictions (i.e. conviction for receiving stolen property on March 26, 1991, conviction on the indictment dated July 11, 2001, for burglary, theft and unlawful possession of a weapon and conviction for receiving stolen property in 2007) are convictions and acts which involve moral turpitude and relate adversely to the activity regulated by the Board, pursuant to N.J.S.A. 45:1-21(f). These convictions and acts relate directly to the very essence of the regulated profession of plumbing. The 2007 conviction for receiving stolen property, in particular, involved the theft of plumbing supplies. Respondent's conduct presents consumer safety issues as plumbers enter consumer homes and property. The public relies on the Board to safely issue licenses and to safeguard consumers.

The Board also finds that respondent engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense, pursuant to N.J.S.A. 45:1-

21(b), as a result of his convictions and his failure to disclose the entirety of his criminal history on his application. The Board was able to learn of respondent's entire criminal history due to the reporting of those arrests by the prosecuting authorities, and not because respondent disclosed the information on his application as was required.

Finally, the Board finds that respondent performed plumbing services in New Jersey without a license, in violation of N.J.S.A. 45:1-21(n). The Board finds there was a great deal of deception and misrepresentation that accompanied respondent's unlicensed practice. Respondent deleted his father's name from the invoice, substituted his name as the licensed master plumber, and used his father's license number, all without his father's knowledge.

As a result of the above findings, the Board determined that the Provisional Order of Denial of Licensure is to be finalized as written.

ACCORDINGLY, IT IS on this 24 day of MARCH, 2011,

ORDERED that:

1. Respondent's application for a Master Plumber's license in New Jersey is hereby denied.

BOARD OF EXAMINERS OF MASTER PLUMBERS

By: Peter Voros
Peter Voros
Board Chairman