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BOARD OF EXAMINERS OF
MASTER PLUMBERS
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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 SUSPENSION
OR REVOCATION OF THE LICENSE OF

Administrative Action

JEFFERY RIVERS
License No. 12405

FINAL ORDER
OF DISCIPLINE

TO PRACTICE PLUMBING
IN THE STATE OF NEW JERSEY

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 findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Jeffery Rivers ("respondent") is a licensed master plumber licensed in the State of New Jersey and has been a licensee since June 22, 2007.
2. Respondent is the bona fide representative for Jeff Rivers Plumbing, Heating & HVAC, and has been the bona fide representative since June 22, 2007.
3. The Board received a complaint from consumer C.B. Specifically, it was alleged that between April 3, 2007 to May 23, 2007 respondent, who was unlicensed during this time period, entered into a contract with C.B. to perform plumbing work at 317 Millbrook Avenue, Randolph, New Jersey. Respondent was trading as Jeff Rivers Plumbing, Heating & HVAC during this unlicensed period. Jeff Rivers Plumbing, Heating and HVAC was not a licensed plumbing contracting entity during this time. According to C.B., respondent breached the

contract by failing to complete the work. Additionally, C.B. alleges that respondent caused damage to her home as a result of the work that was performed. According to C.B., she paid respondent a total of fifteen thousand dollars (\$15,000.00). In order to obtain the permits necessary to perform the plumbing work, licensed master plumber Paul Rivers (license # 11913), supplied a signed and sealed plumbing permit.

4. A copy of the plumbing permit for 317 Millbrook Avenue, Randolph, New Jersey, dated April 3, 2007, and a copy of the contract between respondent and C.B. was received by the Board. The permit is signed by Paul Rivers in his capacity as bona fide representative of Rivers Plumbing LLC and indicates that Rivers Plumbing is the plumbing contractor performing the plumbing work. The contract contains respondent's signature and indicates that C.B. made three payments of \$5,000.00 to respondent. The date of one payment was May 2, 2007, more than a month before respondent received his plumbing license.

5. Respondent appeared at an investigative inquiry before the Board. While respondent denies having performed any plumbing work for C.B., he did admit to drafting the proposal which included plumbing work. The definition of "Plumbing Contractor", pursuant to N.J.S.A. 45:14C-2(h), includes "undertaking or offering to undertake" plumbing for another. Therefore, respondent, by presenting C.G. with the proposal, represented himself as being licensed to perform plumbing services.

CONCLUSIONS 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(h), in that respondent has worked as a master plumber and used the title and designation of master plumber without being licensed in violation of N.J.S.A. 45:14C-12.3. 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(b), in that respondent has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in that he represented himself as a licensed master plumber before he had acquired his license.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on August 18, 2010. The Provisional Order reprimanded respondent and imposed a one thousand five hundred dollar (\$1,500.00) penalty for engaging in the unlicensed practice of plumbing, in violation of N.J.A.C. 13:32-1.4(b), and a one thousand dollar (\$1,000.00) penalty for representing himself as a licensed master plumber before he had acquired his license, in violation of N.J.S.A. 45:1-21(b). Additionally, the Provisional Order required respondent to make

restitution to consumer C.B. in the amount of one thousand five hundred dollars. (\$1,500.00). The Provisional Order was forwarded to respondent at the last known address on file with the Board. 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 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 provided the Board with a response to the Provisional Order in a letter received on November 15, 2010. In his response, respondent acknowledges the fine, but requests that a payment plan be established for \$100.00 per month. Respondent indicates business has been slow and cites to certain economic difficulties he is experiencing. Respondent requested that his plumbing license not be suspended.

Regarding the \$1,500.00 in restitution to C.B., respondent states that he feels he should not have to pay restitution. Respondent indicates that the matter has already been addressed in municipal and superior court. Additionally, respondent filed bankruptcy and included C.B.'s law suit in that filing.

On December 16, 2010, the Board considered respondent's response to the Provisional Order. The Board finds that respondent has not provided any evidence which would warrant a modification or dismissal of the findings of fact or conclusions of law outlined in the August 18, 2010 Provisional Order of Discipline. The fact that C.B. filed a lawsuit against respondent, or that the money owed to C.B. by respondent has been discharged as part of a bankruptcy filing, does not preclude C.B. from being able to receive the financial protection of the surety bond posted by respondent. The surety bond is posted by respondent in accordance with the requirements of N.J.S.A. 45:14C - 26 and is posted in favor of the State of New Jersey. N.J.A.C. 13:32-4.3 provides that any person, partnership or corporation, who has been aggrieved or damaged through the failure of a licensed master plumber to perform his duties, shall be eligible to receive the financial protection of, and may maintain an action on the surety bond.

The Board finds that C.B. obtained a valid judgement against respondent as a result of respondent's failure to perform his duties. Therefore, it is appropriate that C.B. be afforded the opportunity to seek the protection of the surety bond posted by respondent.

The Board has considered the information concerning respondent's stated economic difficulties. The Board will allow respondent's license to remain active as long as he is compliant with the penalty payment outlined by the Board below.

ACCORDINGLY, IT IS on this 15TH day of ~~DECEMBER~~ 2011, ORDERED that:

1. Respondent is hereby reprimanded for engaging in professional or occupational misconduct, pursuant to N.J.S.A. 45:1-21(e), by engaging in the unlicensed practice of plumbing. Additionally, respondent is hereby reprimanded for engaging in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in that he represented himself as a licensed master plumber before he had acquired his license, in violation of N.J.S.A. 45:1-21(b).

2. The surety bond that is posted by respondent in accordance with the requirements of N.J.S.A. 45:14C - 26, and is posted in favor of the State of New Jersey, shall be made available to reimburse consumer C.B. in the amount of one thousand five hundred dollars (\$1,500.00). N.J.A.C. 13:32-4.3 provides that any person, partnership or corporation, who has been aggrieved or damaged through the failure of a licensed master plumber to perform his duties, shall be eligible to receive the financial protection of, and may maintain an action on the surety bond. The Board finds that consumer C.B. has been aggrieved and damaged through the failure of respondent to perform his duties, as indicated by the evidence and by the judgement obtained by consumer C.B. Therefore, consumer C.B. should receive the financial protection of the bond.

3. Respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-25, in the amount of one thousand five hundred dollars (\$1,500.00) for engaging in the unlicensed practice of plumbing. Additionally, respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-25, in the amount of one thousand dollars (\$1,000.00) for representing himself as a licensed master plumber before he had acquired his license. Respondent shall make ten monthly penalty payments in the amount of two hundred and fifty dollars (\$250.00) per month. The monthly penalty payments shall be by individual certified check or money order made payable to the State of New Jersey and shall be delivered to Executive Director, State Board of Examiners of Master Plumbers, 124 Halsey Street, Sixth Floor, P.O. Box 45008, Newark, New Jersey 07101. The monthly penalty payments shall be sent to the Board on or before the first day of each month. The first monthly penalty payment shall be received by the Board on or before January 1, 2012, and then on or before the first day of each succeeding month thereafter.

4. Respondent's failure to make a timely payment in the stated amount, pursuant to the terms of the payment plans outlined in paragraph # 3 above, may result in an automatic suspension of respondent's license to practice plumbing in the State of New Jersey.

5. 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 he has complied with the payment schedule and has otherwise complied with the conditions of this final order.

6. Respondent's failure to comply with the payment plans outlined in paragraph #3 as required by this order will result in the filing of a certificate of debt with interest accruing at the rate provided by the Rules of Court and may result in subsequent disciplinary proceeding for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF
EXAMINERS OF MASTER PLUMBERS

By: Peter Voros
Peter Voros
Board Chairman