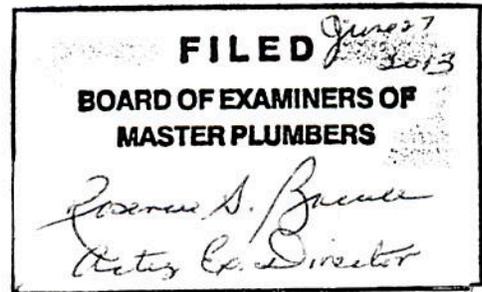


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(2) Restitution checks paid - B

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

IN THE MATTER OF

JAMES R. MURRAY, LMP
t/a All Week Plumbing & Heating, Inc.
License No. 36BI00870600

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 ("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. James P. Murray ("respondent") is a licensed master plumber in the State of New Jersey and has been licensed at all times relevant hereto. Respondent has been issued license number 36BI00960700. Respondent is registered with the Board to trade as "All Week Plumbing & Heating, Inc.," ("All Week"), and has been registered with the Board to trade under that name at all times relevant hereto.
2. The Board received four consumer complaints filed against respondent. The first complaint was filed by consumer J.A. alleging that respondent's employees responded to an emergency call to inspect a malfunctioning air conditioning unit at J.A.'s residence. The employees diagnosed the problem as insufficient freon. The employees added 1.5 lbs. of freon to the unit and charged the consumer \$508.25. J.A. complained she was "ripped off" because two other companies she called later quoted prices less than half of what All Week had charged, and that the air conditioning unit began rattling after All Week performed the service. After receiving the lesser

quotes, J.A. called another All Week employee to complain about the service. J.A. claimed the employee treated her rudely, "cursed" at J.A.'s husband, claimed more freon was added than was the case, hung up on him, and refused to answer the phone when he called back.

3. Respondent provided a letter to the Board in response to J.A.'s complaint. Respondent stated J.A.'s complaint should be dismissed because J.A. simply wanted him to refund the difference between the price she had agreed to pay All Week, and the price she was quoted over the phone by a competitor.

4. The second complaint was filed by consumer C.R. who hired All Week to repair an issue with his Cosmogas water heater unit not igniting properly. An All Week employee diagnosed the problem as a malfunctioning gas valve. The valve was replaced for \$615.00. After installation, the problem reoccurred the next day, which was alleged to prove the gas valve had not been the source of the problem. The employee returned and without additional "troubleshooting or testing," stated that the ignition control module needed to be replaced. However, after that equipment was replaced, the problem continued. The employee refused to provide a refund or to continue to troubleshoot the problem. Although the employee promised a call from his manager, C.R. never was contacted by All Week.

5. Respondent provided a letter to the Board in response to C.R.'s complaint. Respondent apologized for providing "a poor evaluation of [C.R.]'s water heater." However, respondent maintained that All Week did spend time diagnosing the problem, and the employee performed his job "to the best of his ability."

6. The third complaint was filed by consumer C.F. whose heater ceased working during the winter. C.F. paid All Week \$1,391.00 to fix plumbing leaks that were allegedly causing the heating system to malfunction. However, less than one week after All Week performed the repairs, the same leaks returned. C.F. spoke to three different employees regarding the returned leaks, all of whom were described as "very unprofessional, sarcastic, deceptive and rude." An employee eventually explained to C.F. that the pipes needed to be replaced and that a clogged pipe was not fixed by the pipe cleaning they performed. When C.F. explained that she received a quote to replace all of the pipes for less than All Week had charged to ineffectively clean them, the employee told C.F. to hire the other person to perform the work, send him the bill, and that he would reimburse whatever he felt was fair.

7. Respondent provided a letter to the Board in response to C.F.'s complaint. Respondent stated that his technician did advise C.F. that the pipes in her home were old and rusty and needed to be replaced. The technician gave C.F. an estimate to replace the pipes, but C.F. rejected the offer due to "financial hardship". It was then that the decision was made to instead

temporarily resolve the problem by replacing the vents and flushing out the entire system. According to respondent, C.F. was aware that this would only temporarily resolve the problem.

8. The final complaint was filed by consumer R.B. who hired All Week to address a problem with a heater. The employee diagnosed the problem as a broken switch and bad wire, and offered to fix it for \$235.00. R.B. offered to pay \$200.00 to have the problem fixed. R.B. describes the employee as becoming upset, prompting R.B. to ask him to leave. The employee tried to charge R.B. \$150.00 for diagnosing the problem, "because he opened his tool box." R.B. informed the employee that the company representative he spoke to on the phone assured him there would only be a mandatory service charge of \$75.00. R.B. then told the employee not to touch the heater, that R.B. would put all of the panels back together himself. The employee got agitated, said he was a professional, and put the heater back together. The employee again tried to get R.B. to pay \$150.00, and called his boss in an effort to "try to bully" R.B. The employee hung up before reaching his boss, and eventually accepted \$75.00 from R.B.. According to R.B., the employee maliciously removed a fuse from the heating unit to exact revenge for not hiring him to do the job, and for not paying the inflated service fee. R.B. had to hire several other service providers before it was discovered that the fuse was missing. R.B. filed a police complaint regarding the missing fuse.

9. On May 26, 2011, respondent appeared before the Board with his attorney, John Masri, Esq., for an investigative inquiry. Regarding the complaint filed by J.A., respondent testified that his employees performed the services claimed by J.A. He defended his company's actions, claiming his employees performed the services agreed upon. Respondent testified that while his company's policy was to match the price of any legitimate competitor, he would not refund money to match lesser quotes after the fact. Respondent admitted that he had no recorded contact between himself and his employees, regarding the work performed for customers, as required by the Board's regulations.

10. Regarding the complaint filed by C.R., respondent testified that he did not intend to admit in his written response to the Board that a "poor evaluation" was done. Instead, he testified that "we did the best that we can do." However, respondent did acknowledge that his employee never checked the exhaust, which C.R. later claimed was the actual problem with the water heater, even though the employee indicated he had checked it on the invoice checklist. Respondent admitted to the version of events as outlined by C.R. in the complaint, including that the job was not performed properly. Respondent further testified that he was willing to refund \$276.50 to C.R., but not more because of the cost associated with the employee's trips to C.R.'s house and his attempts at fixing the problem.

11. Regarding the complaint filed by C.F., respondent stated that the repairs his

company performed at C.F.'s house were only to temporarily correct C.F.'s heater. However, respondent did admit that there was nothing in writing with C.F. explaining that the repairs were only meant to be temporary. Furthermore, respondent admitted that All Week's charges for the work performed for C.F were excessive. Respondent testified he was "willing to help [C.F.] out...to reimburse her," and that he "felt that we did the right thing."

CONCLUSIONS OF LAW

1. The above preliminary findings of fact establish a basis for disciplinary action against respondent's license, pursuant to N.J.S.A. 45:1-21(b), in that respondent's failure to properly advise C.F. that the repairs performed for her were only temporary, was a use of misrepresentation and/or false pretense. Additionally, these facts establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(d), in that respondent's failure to fix problems effectively, and in a timely manner, regarding the plumbing work performed for C.F. and C.R., constitute repeated acts of negligence and incompetence. Finally, these facts establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(h), in that respondent violated an act or regulation administered by the Board. Specifically, respondent, as the bona fide representative, failed to properly supervise his subordinates concerning the plumbing work performed for J.A., C.R., C.F. and R.B. as required by N.J.A.C. 13:32-3.3. Additionally, respondent violated N.J.S.A. 56:8-151(a) of the Consumer Fraud Act which mandates that "every home improvement contract for a purchase price in excess of \$500, and all changes in terms and conditions of the contract, shall be in writing."

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on February 28, 2013. A copy of the Order was forwarded to respondent's address of record, via United Parcel Service 2nd Day Air Service. The Board obtained a copy of the United Parcel Service delivery sheet confirming delivery of the Provisional Order to the respondent's address of record with the Board. 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 not be modified or dismissed, and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefore.

Following the entry and service of the Provisional Order of Discipline, respondent forwarded to the Board a \$500.00 restitution check for consumer C.F. and a \$615.00 restitution check for

consumer C.R. Accompanying the checks was a letter from respondent simply indicating that a restitution check for each consumer was being provided. Respondent did not provide a written request for modification or dismissal of the provisional findings of fact or conclusions of law. As a result, the Board deems respondent's payment of the restitution, as well as his failure to provide a written request for modification or dismissal of the Provisional Order, as respondent not contesting the Board's findings. The Board is hereby finalizing the Provisional Order.

ACCORDINGLY, IT IS, on this 27th day of JUNE 2013

ORDERED that:

1. Respondent is hereby reprimanded for violating N.J.S.A. 45:1-21(b), (d) and (h) as outlined above.

2. Respondent shall reimburse consumer C.F. in the amount of \$500.00. The Board acknowledges that respondent has paid the entire restitution of \$500 to C.F. prior to the entry of this order. ✓ (pd) PB

3. Respondent shall reimburse consumer C.R. in the amount of \$615.00. The Board acknowledges that respondent has paid the entire restitution of \$615.00 to C.R. prior to the entry of this order. ✓ (pd) PB

4. 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, and further disciplinary action.

BOARD OF EXAMINERS OF MASTER PLUMBERS

By: Peter I. Voros
Peter I. Voros
Board Chairman