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FILED 6/27/13
**BOARD OF EXAMINERS OF
MASTER PLUMBERS**
Roman A. Bacula
Acting Ex. Director

By Jose Penach & \$802.50 Bot pd 6/21/13

By: Joseph Donofrio
Deputy Attorney General
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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

Administrative Action

RICHARD DIAZ, LMP
t/a RICH'S PLUMBING HEATING & HVAC.
License No. 36BI01123900

CONSENT ORDER

TO PRACTICE PLUMBING
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 a consumer complaint filed against Richard Diaz, LMP ("respondent"). Respondent is registered with the Board to trade as "Rich's Plumbing Heating & HVAC", and has been registered with the Board to trade under that name at all times relevant hereto.

The Board received a complaint from consumer S.T. S.T. contacted respondent to repair a leak. Respondent sent a technician who diagnosed the problem as a leak in the main drain. The technician proposed to replace the leaky section which required opening a wall to make the repair. The technician quoted a price of \$802.50. S.T. accepted, and the work was performed.

One week later, the water continued to drip on the floor. S.T. called respondent and two technicians were dispatched. The technicians examined the repair and decided to apply "more effective glue" to the section of the area that was replaced. The technicians assured S.T. that the leak would stop.

One week later, water again appeared on the floor. Respondent dispatched the same technicians. They removed the area of pipe and replaced it for a second time. S.T. insisted the technicians check for other potential sources of the leak. They complied and determined that one of

the bathrooms was the source of the leak. The technicians recommended replacing the toilet. S.T. purchased a toilet and replaced it herself. However, the leak continued and S.T. again called respondent.

According to S.T., a "plumber" named "Anthony" was sent by respondent. Anthony recommended that S.T. again open the wall. S.T. complied. It was discovered that a nail used to secure molding pierced a pipe. The nail rusted and caused water to pour out of the pipe. Anthony told S.T. she had to pay an additional \$300.00 to change that part of the pipe. S.T. asked Anthony to reconsider charging her for this repair since respondent's company failed to properly diagnose the problem during previous visits. Anthony asked respondent to reconsider charging S.T. for the additional repair, but respondent refused. S.T. declined to have respondent do any further work.

Respondent provided a letter to the Board in response to S.T.'s complaint. Respondent's company first arrived at S.T.'s property and found a section of "ABS stack line" cracked and leaking behind a wall in the basement. Respondent's company returned a couple of days later and replaced 3' of stack line, two wyes and five fittings. Respondent's company returned one month later to reseal the stack area where the repair was previously made. Days later, respondent's company returned because S.T. said the stack that was repaired was still leaking. The technicians replaced the section of stack line again. However, it was noticed that when the toilet was flushed, there was a leak coming down the stack. According to respondent, S.T. did not want to open the wall behind the toilet.

After considering the information provided by S.T., as well as the response provided by respondent, the Board finds that respondent charged S.T. for repair work without resolving the problem. A proper diagnosis and resolution of the problem should have been undertaken without the need for multiple service calls to S.T.'s residence. As a result, these facts establish a basis for disciplinary action against respondent, pursuant to N.J.S.A. 45:1-21(d), in that respondent's repeated failure to properly diagnose and repair the leak in S.T.'s home constitutes repeated acts of negligence and incompetence.

It appearing that respondent desires to resolve this matter without recourse to formal proceedings, having waived any right to such proceedings, and for good cause shown;

IT IS THEREFORE ON THIS 27th DAY OF June, 2013,

HEREBY ORDERED AND AGREED THAT:

1. Respondent is hereby reprimanded for violating N.J.S.A. 45:1-21(d) as outlined above.
2. Respondent shall be assessed a civil penalty in the amount of five hundred dollars (\$500.00) for engaging in repeated acts of negligence and incompetence in violation of N.J.S.A. 45:1-

21(d). Payment of the civil penalty shall be made simultaneous with the signing of this consent order. The penalty shall be paid by certified check or money order made payable to the State of New Jersey and shall be sent to Rosemarie Baccile, Acting Executive Director, Board of Examiners of Master Plumbers, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101.

3. Respondent shall pay restitution to S.T. in the amount of eight hundred and two dollars and fifty cents (\$802.50) for failing to properly diagnose and repair the leak on S.T.'s property, in violation of N.J.S.A. 45:1-21(d). Payment shall be made simultaneous with the signing of this consent order. Payment shall be submitted by certified check or money order made payable to S.T., in the amount of \$802.50, and shall be sent to Rosemarie Baccile at the address described in paragraph #2.

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.

5. Failure to timely remit any and all payments 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 such failure or any violation of this order may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board, which could include the suspension or revocation of license.

BOARD OF EXAMINERS OF MASTER PLUMBERS

By: Peter Voros
Peter I. Voros
Board Chairman

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

Richard Diaz, LMP
Richard Diaz, LMP

5/21/13
Date