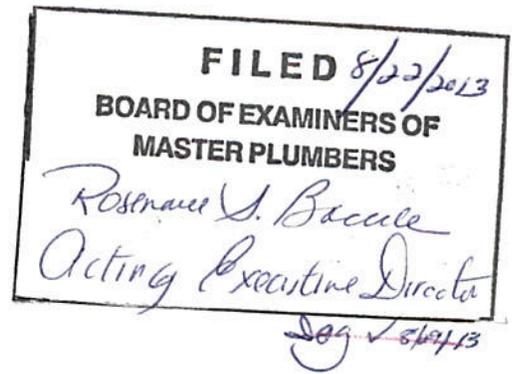


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF EXAMINERS OF MASTER PLUMBERS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :

JAY V. OPRE, LMP :
License No. 36BI00733600 :

LICENSED TO PRACTICE AS A :
MASTER PLUMBER 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. Jay V. Opre ("respondent") is a licensed master plumber licensed in the State of New Jersey. Respondent's license expired on June 30, 2011. Respondent's license remains in expired status and therefore is currently suspended by application of N.J.S.A. 45:1-7.1(b).
2. The Board received a complaint from consumer B.C. The complaint alleged that respondent was hired by B.C. to install a water service to the house in order to convert from well water to city water. B.C. states that respondent failed to cover trenches that were dug. As a result, excessive rain caused the trenches to collapse resulting in damage to B.C.'s property. B.C. filed a complaint against respondent in Superior Court which respondent failed to answer. A default judgment was obtained against respondent in the amount of \$6,557.00.
3. On June 24, 2010, respondent appeared before the Board for an investigative inquiry. Respondent stated he secured a permit for the work on B.C.'s residence. He drilled the hole, installed the pipe, and waited for the main connection to be made. Respondent stated that water damage to the B.C.'s property resulted from a failure to cover the trenches after respondent was asked by B.C. to leave the premises. Respondent has not made any effort to pay the

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\$6,557.00 judgment filed against him in Superior Court. When asked whether he intended to satisfy the valid judgment against him respondent stated, "No, I'm not paying the judgment, no."

4. Respondent was also questioned regarding his business practices. Respondent explained that he does not issue workers W-2 statements, but instead provides them with a 1099 form as independent contractors. Respondent resides in Florida and New Jersey, spending half of his time in each state. He maintains contact with workers via cell phone. Respondent will often stamp, sign and fill out blank permits before he leaves for Florida so that the workers can file them when a job arises. Finally, respondent admitted that he does not keep records of contacts with his workers and is not present for all final inspections.

CONCLUSIONS OF LAW

1. The above preliminary findings of fact provide grounds for disciplinary action against respondent's license, pursuant to N.J.S.A. 45:1-21(e), in that respondent has engaged in professional misconduct by not paying the valid \$6,557.00 judgement obtained against him by consumer B.C., based on the plumbing work performed by respondent's company.

2. 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 violated a regulation of the Board, specifically, N.J.A.C. 13:32-3.4, which provides that any plumbing work that a licensed master plumber agrees to perform shall be performed only by the licensed plumber or the employee(s) of the licensed plumber.

3. 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 violated a regulation of the Board, specifically, N.J.A.C. 13:32-3.3(a)2, which requires that only the bona fide representative, an authorized employee, or an independent contractor licensed as a master plumber, can secure all necessary permits required for the performance of plumbing work.

4. 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 violated a regulation of the Board, specifically N.J.A.C. 13:32-3.3(a)3iii, which requires that the bona fide representative record daily contact with a journeyman plumber(s) and inspect the work upon completion.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on November 2, 2011, provisionally suspending respondent's plumbing license, as a disciplinary suspension, until such time as respondent applies for reinstatement and appears before the Board, and provides documentation demonstrating to the satisfaction of the Board that he has

satisfied the default judgment obtained against him by consumer B.C. Further, respondent shall be required to appear before the Board to demonstrate fitness to resume practice and shall satisfy any requirements for reinstatement of his license pursuant to N.J.S.A. 45:1-7.1(b) and fully satisfy all of the penalties assessed within this order.

The Provisional Order of Discipline also provisionally imposed a reprimand for respondent's violations of N.J.S.A. 45:1-21(e) and N.J.S.A. 45:1-21(h). Respondent was also provisionally required to pay a civil penalty in the total amount of \$1,500.00, consisting of a \$500.00 penalty pursuant to N.J.S.A. 45:1-21(h), in that respondent violated a regulation of the Board, specifically N.J.A.C. 13:32-3.4, by allowing persons who are not employees of the licensed master plumber to perform plumbing work that the licensed master plumber agreed to perform; a \$500.00 penalty, pursuant to N.J.S.A. 45:1-21(h), in that respondent violated a regulation of the Board, specifically, N.J.A.C. 13:32-3.3(a)2, which requires that only the bona fide representative, an authorized employee, or an independent contractor licensed as a master plumber, can secure all necessary permits required for the performance of plumbing work; and a \$500.00 penalty, pursuant to N.J.S.A. 45:1-21(h), in that respondent violated a regulation of the Board, specifically N.J.A.C. 13:32-3.3(a)3iii, which requires that the bona fide representative record daily contact with a journeyman plumber(s) and inspect the work upon completion.

A copy of the Provisional Order was forwarded to respondent's address of record. 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.

In response to the Provisional Order, counsel for respondent, John P. Leschak, provided a letter to the Board. Accompanying the letter was a copy of a "Consent Order of Judgment of Satisfaction" which was filed with the Ocean County Superior Court. According to respondent, he "amicably" settled the judgment obtained against him by consumer B.C.

Respondent does not contest the provisional finding that he provided his workers with 1099 tax forms instead of employing them as W-2 employees. Respondent is seeking reinstatement in order to perform plumbing work in his individual capacity, and only for friends and family. Respondent represents he will no longer run his business and will not have any employees under his supervision. If he decides to hire someone in the future, he attests he will do so in accordance with the regulations.

Respondent does not contest the provisional finding that he failed to secure plumbing permits in accordance with the Board's regulations. Again, Respondent asserts this will no longer be an issue because he is dissolving his corporation, no longer employing workers, and is only performing plumbing in his individual capacity.

Respondent does not contest the provisional finding that he failed to record daily contact with workers and inspect their work. However, he does contend that he used invoices to record work that was performed, but concedes he did not keep a record of daily contact with workers. He inspected some work that was performed, but again concedes not all jobs were inspected by him after completion.

Finally, respondent asks that the aggregate \$1,500 civil penalty be waived based upon his good faith effort to comply with the Board's regulations in the future. Respondent reiterates his intent to dissolve his company, no longer hire employees, and only perform plumbing work in his individual capacity. He promises to only engage in plumbing while physically present in New Jersey.

The Board finds that respondent has satisfied the judgment obtained against him by consumer B.C., as evidenced by receipt of a copy of the "Consent Order of Judgment of Satisfaction" which was filed with the Ocean County Superior Court. Therefore, no suspension of respondent's license should issue. However, the Provisional Order of Discipline does permit the Board to require respondent to appear, prior to reinstatement, in order to demonstrate his fitness to resume practice. The Board will exercise this option in order to have respondent further explain how he intends to engage in plumbing if he continues to divide his time between Florida and New Jersey. The Board seeks proof regarding respondent's stated dissolution of his existing company and requires clarification of the nature and form of his intended future practice.

Finally, the Board will agree to stay the aggregate \$1,500.00 civil penalty against respondent. The stay of the penalty is contingent upon respondent complying with any conditions concerning his reinstatement of license, as well as respondent's compliance with the Board's statutes and regulations should his license be reinstated.

ACCORDINGLY, IT IS ON THIS 22 DAY OF AUGUST, 2013,
HEREBY ORDERED THAT:

1. Respondent is hereby reprimanded for the violations as outlined above.
2. Prior to the Board considering respondent's request for reinstatement of his plumbing license, which is currently suspended by application of N.J.S.A. 45:1-7.1(b), respondent shall be required to appear before the Board and provide documentation, as well as other proofs, demonstrating to the Board's satisfaction the dissolution of his plumbing company. Additionally,

respondent will provide further clarification, and will demonstrate to the Board's satisfaction, how he intends to engage in the practice of plumbing should his license be reinstated. Respondent shall also satisfy any requirements for reinstatement of his license pursuant to N.J.S.A. 45:1-7.1(b). Any practice in this State prior to reinstatement shall constitute grounds for the charge of unlicensed practice. Finally, the Board reserves the right to place restrictions on respondent's practice should his license be reinstated.

3. Respondent is hereby assessed a civil penalty in the total amount of \$1,500.00, consisting of a \$500.00 penalty, pursuant to N.J.S.A. 45:1-21(h), in that respondent violated a regulation of the Board, specifically N.J.A.C. 13:32-3.4, by allowing persons who are not employees of the licensed master plumber to perform plumbing work that the licensed master plumber agreed to perform; a \$500.00 penalty, pursuant to N.J.S.A. 45:1-21(h), in that respondent violated a regulation of the Board, specifically, N.J.A.C. 13:32-3.3(a)2, which requires that only the bona fide representative, an authorized employee, or an independent contractor licensed as a master plumber, can secure all necessary permits required for the performance of plumbing work; and a \$500.00 penalty, pursuant to N.J.S.A. 45:1-21(h), in that respondent violated a regulation of the Board, specifically N.J.A.C. 13:32-3.3(a)3iii, which requires that the bona fide representative record daily contact with a journeyman plumber(s) and inspect the work upon completion. The civil penalty totaling \$1,500.00 is stayed and shall become active upon the Board's receipt of any information, which the Board deems reliable, demonstrating that respondent has engaged in any violations of the Board's statutes or regulations; or has violated any terms or conditions the Board may impose concerning the reinstatement of respondent's plumbing license.

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.

BOARD OF EXAMINERS OF MASTER PLUMBERS

By: 

Peter I. Voros
Board Chairman