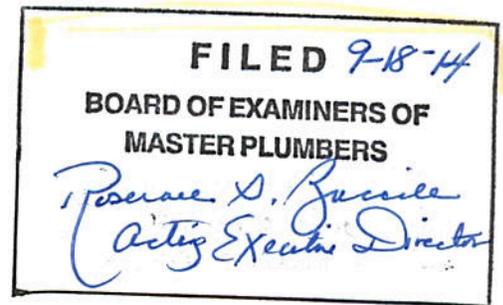


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF EXAMINERS OF MASTER PLUMBERS

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

MICHAEL J. GUERRO, LMP
License No. 36BI00796100

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 ("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. Guerro ("respondent") is a licensed master plumber in the State of New Jersey having received his license on April 1, 1988. Respondent is registered with the Board to trade as "Michael Guerro Plumbing". Respondent's license is currently active.
2. This matter was opened to the Board upon receipt of complaints from the plumbing subcode official for the Township of East Brunswick. According to the complaints, an unlicensed plumbing company named "Superior Heating & Air Conditioning" was advertising plumbing services. According to the subcode official, "Superior Heating & Air Conditioning" was owned by Gary Rush. A review of the Board's records indicates that "Superior Heating & Air Conditioning" is not licensed with the Board as a plumbing contractor in the State of New Jersey. Additionally, a review of the Board's records indicates that Gary Rush is not licensed as a master plumber in the State of New Jersey. The complaints allege "Superior Heating & Air Conditioning", via Mr. Rush, was "deceptively misleading the public by advertising and holding himself out as a Master HV-AC Plumbing Technician". The sub-code official also provided photographs depicting a "Superior Heating & Air Conditioning" van advertising plumbing.

3. Gary Rush appeared before the Board for an investigative inquiry and testimony under oath on September 27, 2012 and October 25, 2012. During his September 27, 2012 testimony, Mr. Rush stated that he subcontracted all plumbing work to a licensed master plumber named "Michael Guera" (sic). According to Mr. Rush, he employed the services of "Mr. Guerra" probably ten to 15 times.

4. Gary Rush further testified that he has employed the plumbing services of "Mr. Guerra" since 2008. Mr. Rush indicated that "Mr. Guerra" would confirm that he has done jobs for Mr. Rush since approximately 2008. The jobs performed by "Mr. Guerra" include changing a hot water heater, installing boilers and tying in the back flow preventer. "Mr. Guerra" performed work for Mr. Rush as recently as four or five months ago. The Board subsequently learned that the plumber referred to by Gary Rush as "Mr. Guerra" was actually the respondent.

5. Respondent, Michael J. Guerro, appeared before the Board at an investigative inquiry and gave testimony under oath on October 25, 2012. Respondent indicated that he practices alone and does plumbing work for home improvement contractors and general contractors. Respondent has no employees, but utilizes the general contractors employees to assist him with the plumbing related work.

6. Respondent acknowledged doing plumbing work for Gary Rush, including installation of backflow preventers and sewer and water mains. Respondent also admitted that he never entered into a contract when providing plumbing work for Gary Rush. Respondent further testified that he secured permits for Gary Rush each time he did plumbing work for him. Respondent stated he would stamp and fill out the permit, provide it to Gary Rush, and Mr. Rush would file it. Respondent acknowledged he did not bring copies of the permits with him to the inquiry, and when respondent was repeatedly asked to provide copies of the permits to the Board during the course of the inquiry he represented he would do so within thirty days or otherwise notify the Board that he needed more time. To date, respondent has not provided the requested copies of the permits to the Board.

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(h), in that respondent has violated and failed to comply with the provisions of a Board regulation, specifically N.J.A.C. 13:32-3.4, in that any plumbing work that a licensed master plumber agrees to perform, that has not been subcontracted

to another licensed master plumber, shall be performed only by the licensed master plumber or the employees of the licensed master plumber or the plumbing contractor. Finally, the above preliminary findings of fact provide grounds for disciplinary action, pursuant to N.J.S.A. 45:1-21(e), in that respondent has engaged in professional and occupational misconduct by failing to cooperate with the Board and provide the requested permits and final inspections concerning the plumbing work he performed for Gary Rush and Superior Services in violation of N.J.A.C. 13:45C-1.2.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on June 25, 2014. A copy of the Order was forwarded to respondent's last known address on file with the Board, via United States Parcel Service 2nd Day, on July 25, 2014. The Board obtained a copy of the United Parcel Service delivery sheet confirming delivery of the Provisional Order of Discipline to the respondent's last known address on file with the Board on June 28, 2014. The Provisional Order of Discipline 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 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.

Respondent failed to reply to the Provisional Order of Discipline. Since the Provisional order of Discipline was served at respondent's last known address on file with the Board, the Board deems service to be effected. As such, the Board determined that the Provisional Order of Discipline, entered on June 25, 2014, is to be finalized as written.

ACCORDINGLY, IT IS on this 18 day of ~~SEPTEMBER~~, 2014,

ORDERED that:

1. Respondent is hereby reprimanded for violating N.J.S.A. 45:1-21(h) and N.J.S.A. 45:1-21(e) as outlined above.
2. Respondent's license to practice as a plumbing contractor in the State of New Jersey is hereby suspended until such time as he provides copies of the plumbing permits concerning the plumbing work he performed for Gary Rush and/or "Superior Heating & Air

Conditioning”, as well as the final inspections, as requested by the Board throughout the course of the investigative inquiry. Respondent shall surrender his master plumber's license and his seal press to the Board and cease and desist from engaging in the practice of plumbing in the State of New Jersey.

3. Respondent is hereby assessed a civil penalty in the aggregate amount of ten thousand dollars (\$10,000), consisting of a five thousand dollar (\$5,000) penalty, pursuant to N.J.S.A. 45:1-21(h), for utilizing persons who are not W-2 employees of respondent to perform plumbing work, specifically utilizing the employees of general contractors, in contravention of N.J.A.C. 13:32-3.4; as well as a five thousand dollar penalty (\$5,000), pursuant to N.J.S.A. 45:1-21(e), by engaging in professional and occupational misconduct by failing to cooperate with the Board and provide the requested permits and final inspections concerning the plumbing work he performed for Gary Rush and “Superior Services” and/or “Superior Heating & Air Conditioning”, in violation of N.J.A.C. 13:45C-1.2. Payment of the civil penalties totaling \$10,000 shall be made within thirty (30) days of the entry date of this Final Order of Discipline, 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.

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.

5. Failure to comply with any of the terms of a Final Order in this matter may constitute the basis for further disciplinary action by the Board, including but not limited to, suspension or revocation of respondent’s master plumber’s license and imposition of monetary penalties. Failure to remit any and all payment required by a Final Order in this matter will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an order of the Board.

NEW JERSEY STATE BOARD OF
EXAMINERS OF MASTER PLUMBERS

By: 
Peter I. Voros
Board Chairman