

ROBERT LOUGY
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for the Board of Examiners of Master Plumbers



By: Joseph Donofrio
Deputy Attorney General
(973) 648-2779

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

IN THE MATTER OF THE
RENEWAL OF THE LICENSE OF

BRIAN C. STAMBAUGH
License No. **36BI01260000**

TO PRACTICE AS A LICENSED
MASTER PLUMBER IN THE STATE
OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Examiners of Master Plumbers ("the Board") upon receipt of an application for renewal of a plumbing license from Brian C. Stambaugh ("respondent"). Respondent is licensed as a master plumber in the State of New Jersey and has been a licensee at all times relevant hereto. Respondent is currently the bona fide representative and sole owner of "Stambaugh and Son Plumbing and Heating, LLC".

Prior to receiving his plumbing license, respondent entered into a consent order with the Board, dated January 22, 2009. Respondent entered into that order based on his sentence of a one year conditional discharge on January 20, 2004 for use of drug paraphernalia, and his sentence of two years probation on September 22, 2006 for possession of schedule I, II, III & IV drugs and receiving stolen property. Respondent acknowledged he had a drug problem, but indicated he has maintained sobriety for 18 months and attends Narcotics Anonymous every day.

The January 22, 2009 consent order permitted respondent to sit for the examination and obtain and retain his plumbing license subject to conditions. Respondent was to abstain from mood altering or intoxicating substances, continue in treatment with Narcotics Anonymous, provide the Board with proof of attendance and submit to random urine screens a minimum of twice per month. The Board's records reflect that respondent was not in full compliance with the terms of the January 22, 2009 consent order.

Respondent's renewal application for the 2015-2017 biennial renewal period, and further information received, indicated a crime. Respondent was arrested on August 1, 2014 and charged

with forgery, creating a false impression, theft and possession of a controlled dangerous substance. Respondent pled guilty and was convicted of 3rd degree forgery for uttering a false instrument and 3rd degree possession of CDS on March 2, 2015. He was sentenced to four (4) years probation including urine screen monitoring and a drug evaluation.

Respondent has provided rehabilitative information including a copy of a letter from "Turning Point", a drug and alcohol dependency program. The letter indicated that respondent attended Turning Point's short-term treatment facility for chemical dependency on December 11, 2014 and was discharged on January 5, 2015 after completing the program. Respondent participated in all aspects of the program including group therapy, individual therapy, psycho-educational sessions and nightly AA/NA meetings.

Respondent appeared before the Board for an investigative inquiry on January 28, 2016. Respondent acknowledged he was not fully in compliance with the January 22, 2009 consent order and apologized to the Board. He was arrested on August 1, 2014 after he found old checks from a closed out checking account and attempted to write out checks to his plumbing company. Respondent was using drugs again "a couple months" prior to writing the checks. Respondent discussed his participation with "Turning Point" and explained he is currently attending Narcotics Anonymous three days per week and has a sponsor. Respondent stated he has been clean since his arrest, almost 18 months ago.

These facts establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(e), in that respondent has engaged in professional misconduct by failing to abide by the terms of the consent order filed with the Board on January 22, 2009, in violation of N.J.A.C. 13:45C-1.4.

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 ON THIS 26 DAY OF MAY, 2016

HEREBY ORDERED AND AGREED THAT:

1. Respondent is hereby reprimanded for having engaged in professional misconduct, in violation of N.J.S.A. 45:1-21(e), as outlined above.

2. Respondent shall abstain from any and all mood altering or intoxicating substances, including, but not limited to alcohol, as well as any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his treatment. In addition, respondent shall advise any and all treating physicians

and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided no later than two (2) days subsequent to the prescription.

3. Respondent shall continue in treatment with Narcotics Anonymous a minimum of three (3) days per week. Respondent shall provide the Board with proof of attendance at Narcotics Anonymous. This information shall be provided directly to the Board on a monthly basis. For purposes of this order, the first submitted monthly proofs of attendance shall be due simultaneous with the signing of this order for Narcotics Anonymous meetings for the month of April 2016. The next monthly proofs shall be due on June 5, 2016 for the month of May 2016 and then by the 5th day of every month thereafter. If respondent discontinues participation with Narcotics Anonymous, without first obtaining approval of the Board, he shall be deemed in violation of this order.

4. Respondent shall submit to random urine screens a minimum of twice per month. The urine screen monitoring program, as well as the laboratory facility conducting the urine testing, must be approved by the Board. The Board shall provide respondent and the laboratory facility with specific directions for the protocol of the testing procedure. All urine screens must be directly observed and respondent shall comply with all additional urine screen procedures and protocols outlined and prescribed by the Board. The urine screen requirement shall continue until further order of the Board expressly reducing or discontinuing testing. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests shall be performed by gas/chromatography/mass spectrometry (G.C./M.S). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(b) All test results shall be provided (under paragraph 5 below) to the Acting Executive Director of the Board, or the acting director's designee in the event the acting director is unavailable. The Board retains sole discretion to modify the manner and the extent of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c) Any failure by respondent to submit or provide a urine screen within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness

or other impossibility, consent to waive that day's test must be secured from the Acting Executive Director or the Acting Executive Director's designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d) In the event respondent will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing.

(e) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall be deemed dilute and a presumption of a confirmed positive urine test shall arise requiring a confirming test by hair analysis or other appropriate means.

(f) Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine screen requirement

5. Respondent shall provide proof of probation compliance on a monthly basis, including proof that his urine screen results have been negative. For purposes of this order, the first submitted monthly proof of probation and urine screen compliance shall be simultaneous with the signing of this consent order for probation compliance and urine screens or the month of April 2016. The next monthly proof shall be due on June 5, 2016 for the month of May of 2016, and then by the 5th day of every month thereafter.

6. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treatment or other program as outlined in this order or as may be required in the future, in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. Via his signature on this order, respondent agrees that the Board may utilize any information received in connection with any proceeding regarding licensure.

7. Respondent may seek modification of the terms of this order not sooner than

respondent shall:

(a) Appear before the Board to discuss his recovery and to demonstrate to the satisfaction of the Board that he is not then suffering from any impairment or limitation resulting from any psychiatric condition or the use of any mind altering or intoxicating substance, whether legal or illegal, which could affect his practice of plumbing;

(b) Prior to his appearance, the Board may require receipt of a report of an independent mental health evaluation with a Board approved psychiatrist, psychologist, certified alcohol/drug counselor, or other licensed mental health professional

8. Respondent hereby consents to the entry of an Order of automatic suspension of license without notice, upon the Board's receipt of documentation of a prima facie showing of a ~~violation of this order or a relapse or recurrence of drug or alcohol abuse or any reliable information~~ that respondent has violated any term of this order or any information which the Board in its sole discretion deems reliable demonstrating that respondent is not capable of carrying out the functions of a licensee consistent with the public health, safety or welfare or that respondent has failed to comply with any of the conditions set forth in this consent order.

9. 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 the evidence of a relapse or recurrence of drug or alcohol abuse or other information submitted was false.

BOARD OF EXAMINERS OF MASTER PLUMBERS

By: Peter I. 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.

Brian C. Stambaugh
Brian C. Stambaugh

5-12-16
Date