

Prepared on 5/2/2013 by Rosemarie Baccile, Acting Executive Director

STATE BOARD OF EXAMINERS OF MASTER PLUMBERS
600 - BUSINESS MEETING - MINUTES - APRIL 25, 2013

The minutes of the April 25, 2013 Board Meeting have not been formally approved and are subject to change or modification by the Public Body at its regular meeting on ***May 23, 2013.***

The notice of the April 25, 2013 meeting has been mailed to the Star Ledger, Camden Courier Post, and Trenton Times newspapers, and has also been posted on the Bulletin Board at the Office of the Secretary of State, Trenton, New Jersey.

The Board meeting of April 25, 2013 was called to order at 9:00 am with the following Members in attendance:

Peter Voros. Chairman

Michael K. Maloney, Vice-Chairman

Michael L. Sestanovich, Secretary

James McManus, Jr.

Robert B. Reeve

Adam J. Sabath, absent

Paul N. Bontempo

Donald Dileo, absent

Board Complement: (9): One (1) Vacancy remains for a Government Representative

Others in attendance:

The following individuals were in attendance from 9:00 a.m. until closing at 3:00 pm:
Joseph A. Donofrio, Counseling Deputy Attorney General (DAG)
Rosemarie Baccile, Acting Executive Director

PUBLIC SESSION VISITORS:

Vincent Tinervia, New Jersey State League of Master Plumbers, Lic # 10945
Thomas F. Walsh, LMP #7854, Township of East Brunswick
Joe Remshard, LMP # 11168, New Jersey Council of Master Plumbers
William White, LMP # 8443, New Jersey Council of Master Plumbers

Pledge of Allegiance to the Flag

Chairman Peter Voros led the Board in the Pledge of Allegiance to the Flag and requested that Members join in a moment of silence in recognition of U.S. troops serving our Country.

APPROVAL OF THE MINUTES of the MARCH 28, 2013 MTG

A motion was made by Michael Maloney and seconded by Robert Reeve to approve the minutes of the March 28, 2013 mtg. A vote was taken and the motion unanimously passed.

BOARD BUSINESS

PRESENT BOARD MEMBERS - &- CAPACITIES

MAYOR PETER I. VOROS ~ MASTER PLUMBER MEMBER ~ CHAIRMAN

MICHAEL K. MALONEY ~ MASTER PLUMBER MEMBER - VICE CHAIRMAN

MICHAEL L. SESTANOVICH ~ INSPECTOR MEMBER - SECRETARY

ROBERT B. REEVE, LICENSED MASTER PLUMBER # 7388

JAMES MC MANUS, JR., JOURNEYMAN MEMBER

DONALD B. DILEO ~ PUBLIC MEMBER

PAUL N. BONTEMPO - PUBLIC MEMBER

ADAM J. SABATH ~ PUBLIC MEMBER

TOTAL BOARD COMPLEMENT (9):Vacancy /Government representative

Page 3 4-25-2013 Mtg.

1. MEMORANDUM - DARLENE KANE, BUDGET OFFICER
MARCH 20, 2013 - DIVISION OF LAW BILLING

This report contains information concerning pending investigations. Therefore, on April 25, 2013, a motion was made by Michael Maloney and seconded by Michael Sestanovich to move this item into Executive Closed Session for review. A vote was taken and the motion unanimously passed.

2. BONA FIDE REPRESENTATIVE FORM

N.J.A.C. 13:32-3.2 BONA FIDE REPRESENTATIVE; REPORTING RESPONSIBILITIES; N.J.A.C. 13:32-3.2(a)(4) form provided by the Board

- (a) A licensed master plumber seeking to act as a bona fide representative for any firm, partnership, corporation or other legal entity shall register with the Board within (30) thirty days of assuming the role of a bona fide representative and submit the information on a form provided by the Board.

Existing regulations require that the bonafide representative register on a form provided by the Board. This form was updated in compliance with the adopted changes to the regulation, presented for Board review on January 24, 2013, and approved. This form is now available at the Board's website at www.njconsumeraffairs.org.

3. **CONTINUING EDUCATION (CE) INSTRUCTORS FOR REVIEW**

- SPONSOR: THOMAS WALSH, LMP # 7854, TOWNSHIP OF EAST BRUNSWICK
- RUSS CHANEY-CEO OF THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS
 - DAVE JAFFE-REGIONAL REPRESENTATIVE FOR THE CAST IRON SOIL PIPE INSTITUTE
 - THOMAS GANFIELD-REGIONAL REPRESENTATIVE FOR MAXITROL
 - DAVID PHELAN-DCA/UCC INSTRUCTOR
 - STEVE CELUSNIAK-REGIONAL REPRESENTATIVE

On April 25, 2013, Thomas Walsh advised that he and the above individuals are teaching combined Inspector and Master Plumbers Continuing Education courses for credit. A motion was made by Robert Reeve and seconded by Michael Sestanovich to approve these individuals as instructors of continuing education under the sponsorship of Thomas Walsh, approving Mr. Walsh's course outline, and waiving the past practice of required appearances before the Board.

A vote was taken and the motion unanimously passed.

Page 4

4-25-2013 Mtg.

4. CE-REQUEST FOR RE-APPROVAL - 2013-2015 BIENNIAL RENEWAL
MIDDLESEX COUNTY ADULT TECHNICAL SCHOOLS CE RESUME AND COURSE
OUTLINE

WILLIAM TURKUS - CE INSTRUCTOR #13
ORLANDO J. OLIVA - CE INSTRUCTOR #98

On April 25, 2013, the Board discussed the request of Messrs. Turkus and Oliva for re-approval

as sponsors of Continuing Education. A motion was made by Robert Reeve and seconded by Michael Sestanovich to approve this sponsor for instructing CE and approve their course outline.

A vote was taken and the motion unanimously passed.

5. MONITORING AA REPORTS
MICHAEL D. EBER, LMP #11654

IN THE MATTER OF THE APPLICATION OF MICHAEL D. EBER LIC MASTER PLUMBER # 11654, TO BE CERTIFIED AS A MEDICAL GAS PIPING INSTALLER IN THE STATE OF NJ - CONSENT ORDER - FILED JUNE 24, 2010

Respondent is licensed as a Master Plumber and submitted an application for certification as a medical gas piping installer. Eber indicated on his application for medical gas certification that he was convicted of resisting arrest in 2005 and was sentenced to five (5) year probation. A condition of probation requires Respondent to report to probation for random drug and alcohol testing. Respondent may be certified; however, he is subject to the conditions outlined in this order including AA attendance and quarterly reports. Continued compliance is required for conditions of certification.

On April 25, 2013, the Board acknowledged receipt of the reports submitted by licensee Michael Eber in compliance with the above Consent Order, and commented that the licensee is required to demonstrate full compliance by submitting all documents including AA attendance.

Mr. Eber submitted documents date stamped March 11, 2013 received at the Board Office, entitled "State of New Jersey Department of Human Services, Intoxicated Driving program/Intoxicated Driver Resource Center." However, there is no submission of documentation from attendance at AA as required by the Consent Order. The Board should notify Licensee Eber accordingly.

A motion was made by Michael Maloney and seconded by Robert Reeve.

A vote was taken and the motion unanimously passed.

DISCIPLINARY ACTIONS

6. OFFER OF SETTLEMENT ISSUED OCTOBER 10, 2012
PAID \$2,500 PENALTY DATED DECEMBER 11, 2012; PROFESSIONAL MISCONDUCT SECURED (3) THREE PERMITS FOR WORK; FAILED TO COMPLETE THE JOB; PAID \$850 IN RESTITUTION - DATED DECEMBER 11, 2012 FOR INCOMPLETE WORK

SCOTT SCHWEYER, LMP #10126
SALVADOR E. TINAGERO, CONSUMER, FILE ID: #83409

On April 25, 2013 the Board acknowledged payment of the above penalty and Offer of Settlement and noted that the licensee is reminded that he is to indicate his Master Plumber's license

number on all of his correspondence.

A vote was taken and the motion unanimously passed.

7. **IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF
FELDMAN MIDDLETON, LMP #7026**

LICENSED TO PRACTICE AS A MASTER PLUMBER IN THE STATE OF NJ
FINAL ORDER OF DISCIPLINE FILED JANUARY 26, 2013
\$10,000 TOTAL PENALTY:

REPORTING PENALTY PAYMENTS: \$500 PAID SEPTEMBER 19, 2012;
\$500 PAID DECEMBER 3, 2012; \$195 PAID FEBRUARY 20, 2013; \$110 PAID FEBRUARY
23, 2013; \$195 PAID FEBRUARY 26, 2013

Respondent is reprimanded and his license is suspended for a period of one year retroactive to
December 3 2009. He is fined an aggregate civil penalty totaling \$10,000 for the following
violations: \$1,500 for each instance that he allowed his plumbing seal to be used to secure a
plumbing permit for an unlicensed entity– totaling \$4,500, in violation of N.J.A.C. 13:32-4.1c.

Respondent is fined a civil penalty of \$1,500 for each instance of allowing plumbing work to be
performed under his signed and sealed permits which was not subcontracted to another licensed
contractor, nor was it performed by the respondent or the employees of the respondent– for a
total of \$4,500 in violation of N.J.A.C. 13:32-3.4.

Page 6 4-25-2013 Mtg.

DISCIPLINARY ACTIONS

CONTINUED

**IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF
FELDMAN MIDDLETON, LMP #7026**

Respondent is fined a civil penalty of \$1,000 for performing plumbing work for residential
project with a purchase price in excess of \$500 without obtaining a
written contract in violation of N.J.A.C. 13:45a-16.2(12). Payments are scheduled within said
order.

This file will remain pending until the \$10,000 penalty is paid in full.

\$250 PAID IN FULL MARCH 6, 2013

8. **PROVISIONAL ORDER OF DISCIPLINE - FILED JANUARY 22, 2013**

JAMES P. KYNE, LMP #4616
LICENSED TO PRACTICE AS A MASTER PLUMBER IN NEW JERSEY

Respondent was reprimanded for violating N.J.S.A. 45:1-21c and N.J.S.A.45:1-21(h) pursuant to N.J.S.A. 45:1-22, and fined \$250.00 for engaging in gross negligence, in violation of N.J.S.A. 45:1-21c. Respondent entered into a verbal agreement on July 21, 2010 for a water leak repair and dug the front yard unable to find the leak. The licensee left the job abandoned and the hole was left unsecured. Respondent improperly dug the hole at the consumer's property at the consumer's insistence and against the licensee's own professional judgement. Respondent never returned to the site after the hole collapsed and left tools behind while he had utilized the services of his son who was not a W-2 employee. DAG Donofrio will proceed with filing the FINAL ORDER based on Mr. Kyne's payment.

9. ADMINISTRATIVE ACTION - CONSENT ORDER FILED FEBRUARY 28, 2013

IN THE MATTER OF THE APPLICATION OF
CHARLES E. SWEETEN
FOR A PLUMBING LICENSE 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 an application for examination for a plumbing license from Charles E. Sweeten. ("respondent").

Page 7 4-25-2013 Mtg.

CONTINUED

9. ADMINISTRATIVE ACTION - CONSENT ORDER FILED FEBRUARY 28, 2013
IN THE MATTER OF THE APPLICATION OF
CHARLES E. SWEETEN
FOR A PLUMBING LICENSE IN THE STATE OF NEW JERSEY

Respondent indicated on his application that in 1988 he was arrested and charged with two counts of sexual assault on two boys, ages eight and nine. Respondent provided a letter to the Board, explaining his arrest and conviction history. Respondent also provided court documentation. According to respondent, the sexual assaults occurred in 1982 when respondent was eighteen years old. The boys were brothers, and respondent was residing with their family at the time of the assaults. The brothers reported the offenses to law enforcement authorities six years after the occurrence. Respondent confessed and was granted pre-trial intervention as a first time offender. He successfully completed the program and the charges were dismissed.

Respondent indicates he was an "alcoholic" during the time of the sexual assaults. He acknowledged a 1985 DUI arrest, and more recently, a 2008 DUI arrest. Since then, respondent states he has been sober. On March 22, 2012, respondent appeared before the Board for an investigative inquiry. Respondent explained he was drinking at the time of the offenses. He had an "alcohol problem which [he] had not dealt with." He underwent counseling and sixteen weeks of Alcoholics Anonymous classes as a condition of his pre-trial intervention. Respondent was never formally diagnosed with pedophilia or a paraphilia.

Respondent began drinking at age eleven. By the time he was a teenager, he was drinking heavily. He was twenty-one when he received his first DUI. His drivers license was suspended for six months. In 2008, he

received his second DUI. Respondent pled guilty and his drivers license was suspended for seven months. According to respondent, it has been four years since he had a drink. He currently attends Alcoholics Anonymous meetings once a month. Finally, respondent stated he is not required to register as a sex offender because the charges were dismissed upon completion of his pre-trial intervention.

Subsequent to his appearance before the Board, respondent submitted a letter, dated July 12, 2012, from James Gregory, MA, licensed professional counselor. According to the letter, Mr. Gregory began seeing respondent for counseling sessions. Respondent was seen for nine sessions and according to Mr. Gregory, "has worked very hard at putting his distant past behind him", and "has successfully dealt with and resolved many lingering and painful issues from his past." Mr. Gregory felt, "without reservation that respondent will be able to meet and successfully complete any and all responsibilities of his profession with the utmost conscientiousness, professionalism, and sincerity."

Having considered all of the available information, including the testimony of respondent during the investigative inquiry, as well as the letter from James Gregory, MA, the Board has determined that respondent may be licensed subject to the conditions outlined in this order. Respondent appears to be doing well at this time. However, the Board is keenly aware of respondent's criminal history and the fact that alcohol played a part in that history. Therefore, any deviation from the terms of this order will result in immediate suspension of license. The Board finds that such a provision is adequate to protect the health, safety and welfare of the public and that good cause exists for entry of this order.

Page 8 4-25-2013 Mtg.

CONTINUED

9. ADMINISTRATIVE ACTION - CONSENT ORDER FILED FEBRUARY 28, 2013
IN THE MATTER OF THE APPLICATION OF
CHARLES E. SWEETEN
FOR A PLUMBING LICENSE IN THE STATE OF NEW JERSEY
 - a Respondent is hereby permitted to sit for the examination for licensure, and upon the Board's receipt of proof of passage of the examination and all other licensure requirements, shall be granted a license subject to the restrictions in this order.
 - b Prior to receiving his license, respondent shall submit to an alcohol/substance abuse evaluation by a mental health professional, experienced in alcohol and drug evaluations, at his own expense and pre-approved by the Board. Respondent shall fully cooperate in the evaluation process and agree in advance to permit the evaluator to release any and all documents to the Board for use in any licensing proceeding and agree to comply with all recommendations. Respondent shall notify the Board of the evaluator selected so that the Board may forward information from its files to the evaluator prior to the evaluation. Upon completion of the evaluation, the evaluator shall forward a full report to the Board, consisting of an alcohol/substance abuse evaluation and including, but not limited to, the evaluator's conclusions relating to respondent's fitness to engage in the practice of plumbing, and including any recommendations by the evaluator as to any treatment or counseling that may be warranted. By signing this order, respondent agrees in advance that he will comply with the recommendations of the alcohol and drug evaluation as a condition of being granted a license.

- c Prior to receiving his license, respondent shall submit to a psychosexual evaluation by a licensed mental health professional, either at the Joseph J. Peters Institute, located in Philadelphia, Pennsylvania or another evaluator experienced in sexual offender risk assessment, at his own expense and pre-approved by the Board. Respondent shall fully cooperate in the evaluation process and agree in advance to permit the evaluator to release any and all documents to the Board for use in any licensing proceeding and agree to comply with all recommendations. Respondent shall notify the Board of the evaluator selected so that the Board may forward information from its files to the evaluator prior to the evaluation. Upon completion of the evaluation, the evaluator shall forward a full report to the Board, consisting of a psychosexual evaluation and including, but not limited to, the evaluator's conclusions relating to respondent's fitness to engage in the practice of plumbing, and including any recommendations by the evaluator as to any treatment or counseling that may be warranted. By signing this order, respondent agrees in advance that he will comply with the recommendations of the psychosexual evaluation as a condition of being granted a license.
- d The Board reserves the right to enter a subsequent order, with additional restrictions, based on the report and recommendations of the alcohol/substance abuse evaluation and the psychosexual evaluation. Respondent agrees by his signature on this order to comply with all recommendations for treatment, therapy, limitations, conditions or restrictions on license recommended by the evaluators.

Page 9 4-25-2013 Mtg.

CONTINUED

9. **ADMINISTRATIVE ACTION - CONSENT ORDER FILED FEBRUARY 28, 2013
IN THE MATTER OF THE APPLICATION OF
CHARLES E. SWEETEN
FOR A PLUMBING LICENSE IN THE STATE OF NEW JERSEY**
- e Respondent shall obey all of the laws of the State of New Jersey, the United States and their political subdivisions, as well as all regulations, rules or laws pertaining to the practice of plumbing in this State or any other State.
- f Respondent hereby consents to the entry of an Order of automatic suspension of license, without prior notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable demonstrating that respondent has relapsed into the use of alcohol or has violated this order or has engaged in acts constituting, or has been convicted of any petty disorderly person's offense, disorderly person's offense or crime whether in the State of New Jersey or elsewhere, which involves controlled dangerous substances, alcohol or other mind altering substances or commission of a sex related offense.
- g Respondent shall have the right to apply for a hearing regarding removal of the automatic suspension on five (5) days notice, but in such event shall be limited to a showing that he has not violated this order or allegations that he engaged in acts constituting, or has been convicted, of any offense or crime in the State of New Jersey, the United States or their political subdivisions which involves controlled dangerous substances, alcohol or other mind altering substances or the

use of or commission of a sex related offense, that he did not engage in such acts or was not convicted, as applicable.

On April 25, 2013, the Board discussed the filing of this Consent Order and the terms stipulated for licensure within, and noted that Mr. Sweeten must be re-evaluated prior to any license issued to him as a Master Plumber. His applicant file should be marked accordingly.

◆ It is noted that applications for the Master Plumber's examination, Master Plumber's business registration forms, and Bona fide Representative registrations are reviewed by Board Members during the course of each business meeting.

Applications for Medical Gas Piping installers, brazers and instructors are also reviewed at this time.

Page 10

4-25-2013 Mtg.

EXECUTIVE CLOSED SESSION MOTION:

A motion was made by Robert Reeve and seconded by Michael Maloney to proceed into Executive Closed Session to review consumer complaint matters, conduct investigative inquiries, discuss unlicensed advertisements, unlicensed practice matters, consider administrative closings, investigations of possible violations of applicable law, pending or anticipated litigation, matters under investigation, the DAG caseload, and review matters within the attorney-client relationship exception to the Open Public Meetings Act. A vote was taken and the motion unanimously passed.

The subject of this discussion shall remain confidential until such time as the reasons for having this matter in Executive Closed Session are no longer applicable. The next regularly scheduled meeting is for **May 23, 2013**, at 9:00 am.

A vote was taken and the motion unanimously passed.

Submitted by,

Rosemarie S. Baccile, Acting Executive Director

