

**#557 MEETING OF THE STATE BOARD OF EXAMINERS
OF MASTER PLUMBERS -MINUTES - MAY 28, 2009**

The Minutes of the May 28, 2009 Board Meeting have not been formally approved and are subject to change or modification by the Public Body at its regular meeting on June 25, 2009.

The notice of the May 28, 2009 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 May 28, 2009 was called to order at 9:00 am with the following Members in attendance:

Peter I. Voros, Chairman

Ralph Wetzel, Vice-Chairman

Michael K. Maloney

Paul N. Bontempo

Adam J. Sabath

Donald Dileo

Michael L. Sestanovich, Secretary

Mark McManus was absent

BOARD MEMBER - VACANCY - (1)

As of this Board meeting date, there is one (1) Board member vacancy for a Public Member. That position was formerly held by Board Member Margaret Sieb who resigned on December 15, 2005.

Others in attendance:

The following individuals were in attendance from 9:00 a.m. until the close of the meeting at 3:00 pm: Rosemarie Baccile, Executive Assistant and Joseph A. Donofrio, Counseling Deputy Attorney General (DAG)

PUBLIC SESSION VISITORS:

Thomas F. Walsh, New Jersey State League of Master Plumbers (NJSLMP) and East Brunswick Plumbing Subcode Official; Liz Moritz, NJSLMP; Gary Italiano, NJSLMP; William C. White, LMP # 8443 and Tony Anderson, LMP # 5017

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 ~ APRIL 23, 2009 MEETING

A motion was made by Donald Dileo and seconded by Ralph Wetzel to approve the minutes of the April 23, 2009 meeting. A vote was taken and the motion unanimously passed.

PRESENT BOARD MEMBERS - &- CAPACITIES

MAYOR PETER I. VOROS ~ MASTER PLUMBER MEMBER ~ CHAIRMAN

RALPH WETZEL ~MASTER PLUMBER MEMBER ~ VICE-CHAIRMAN

MICHAEL L. SESTANOVICH ~ INSPECTOR MEMBER - SECRETARY

MARK MC MANUS ~ JOURNEYMAN PLUMBER

MICHAEL K. MALONEY ~ MASTER PLUMBER MEMBER

DONALD B. DILEO ~ PUBLIC MEMBER

PAUL N. BONTEMPO - PUBLIC MEMBER

ADAM J. SABATH ~ STATE MEMBER

TOTAL BOARD COMPLEMENT (9):Vacancy /Public Member - formerly held by Mrs. Sieb

BOARD BUSINESS

1. PENALTY PAYMENT - "1ST" CE Audit conducted for biennial 2003 - 2005:

ROBERT A. DE ANGELO LMP # 2916

UNIFORM PENALTY LETTER

Full payment of \$500 penalty was made on March 26, 2009

Licensee De Angelo had selected the option of a "formal hearing;" however, when scheduled, he opted to send his penalty payment immediately prior to the inquiry arranged for April 23, 2009. He had also attended a late CE make-up course. Since Mr. DeAngelo fulfilled all of these requirements, this matter is now closed.

2. REPORTING DISCIPLINARY ACTIONS

MARK TRIMBLE, LMP # 7513

FINAL ORDER OF DISCIPLINE - FILED 12-18-2008

Restitution payments to follow....

1. 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 engaged in professional and occupational misconduct by contracting for plumbing and other related construction work, accepting a substantial deposit from consumers D.S., J.W. and K.O., and failing to either commence or complete the work or to reimburse the consumers. The purchase price for each contract was more than \$500.

2. The findings of fact provide grounds for disciplinary action against respondent's license, pursuant to N.J.A.C. 13:45A-16.2(12), in that respondent failed to obtain a written contract for home improvement work to be performed for consumers D.S., J.W. and K.O.

3. Respondent is hereby ordered to pay restitution to J.W. in the amount of \$20,500, restitution to D.S. in the amount of \$6,100 and restitution to K.O. in the amount of \$26,300. The total restitution amount of \$52,900 shall be paid in accordance to the provisions outlined in paragraphs #3 and #4 below.

3. Respondent shall immediately make a payment, within ten (10) days of the entry date of this order, in the amount of two thousand dollars (\$2,000) toward the reimbursement of J.W., D.S., and K.O., to be distributed in pro-rata fashion according to the interests of the complainants.

The payment shall be by certified check or money order made payable to the State of New Jersey, and shall be sent to Executive Director, Board of Examiners of Master Plumbers, 124 Halsey Street, 6th Floor, Newark, NJ 07101.

4. Respondent shall make monthly payments in the amount of Seven Hundred Fifty Dollars (\$750) per month toward the reimbursement of J.W., D.S., and K.O., to be distributed in pro-rata fashion according to the interests of complainants over the next 68 months. The monthly payments shall be received by the Board on or before the first day of each month.. Each monthly payment shall be by certified check or money order.

5. Respondent's failure to make a timely payment in the stated amount, pursuant to the terms of the payment plan outlined above, may result in an automatic suspension of respondent's license to practice plumbing in the State of New Jersey. 3. MICHAEL GESUALDO, LMP # 9944

CONSENT ORDER FILED 12-12-2008 - \$2,500 PENALTY PD IN FULL

Two consumer complaints alleged that Michael Gesualdo ("respondent"), subcontracted plumbing work to someone who was not a licensed master plumber and on two separation occasions signed and sealed a plumbing permit for use by a person other than the State licensed master plumber to whom it was issued.

The first complaint received from consumer J.T. alleged that respondent took out a permit to perform plumbing work at his residence. It was later learned that respondent did not perform all the plumbing work. Instead, an individual who was not licensed to practice plumbing, and was not employed by respondent, did some of the plumbing work at the residence. J.T. stated that the unlicensed entity working under respondent's license failed to purchase necessary fixtures and attempted to "refund" his money with a check on an account with insufficient funds. The second complaint, received from consumer F.L., alleged that respondent signed the necessary permits to do plumbing work at his residence, but neither respondent, nor his employees, did any of the plumbing work.

Respondent appeared before the Board for an investigative inquiry. Respondent admitted he subcontracted the plumbing work performed for J.T. to an individual who was not licensed and was not at the time employed by respondent. Respondent stated he did not know his actions were impermissible and denied any participation in the fraudulent acts committed by the unlicensed contractor. Respondent also admitted to submitting the necessary permits for the plumbing work performed for F.L. He admitted he failed to cancel the permits with the township when he was later told by the unlicensed entity that another plumber had been found to perform the work.

These facts establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(h), in that respondent violated N.J.A.C. 13:32-3.4 which provides that any plumbing work that a licensed master plumber agrees to perform, that has not been subcontracted to another licensed master plumber, may be performed only by the licensed master plumber or the employee(s) of the licensed master plumber or the plumbing contractor.

Additionally, these facts establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(b), in that use of a seal by any person other than the State licensed master plumber to whom it was issued or the securing of a plumbing permit for an unlicensed person constitutes the use or employment of dishonesty, fraud, deception, misrepresentation or false pretense, and also a violation of N.J.A.C. 13:32-4.1c.

1. Respondent is hereby reprimanded for the above-stated violations, and shall cease and desist from engaging in such violations in the future.

2. Respondent shall pay a civil penalty, pursuant to N.J.S.A. 45:1-22, in the amount of \$1,500 for subcontracting the plumbing work for J.T. to a person who was not a licensed master plumber, or employed by the respondent, in violation of N.J.A.C. 13:32-3.4; and for signing and sealing a plumbing permit for use by a person other than the State licensed master plumber to whom it was issued in violation of N.J.A.C. 13:32-4.1(c). Additionally, respondent shall pay a civil penalty in the amount of \$1,000 for signing and

sealing a plumbing permit, regarding F.L.'s residence, for use by a person other than the State licensed master plumber to whom it was issued in violation of N.J.A.C. 13:32-4.lc.

3. 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.

4. 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.

4. Re-scheduled at the recommendation of DAG Joseph A. Donofrio:

PLUMBING-HEATING-COOLING CONTRACTORS (PHCC)

February 20 2009 Correspondence regarding:

Plumbing "Home Study" Programs for APPRENTICESHIP PROGRAM

On March 26, 2009, DAG Donofrio advised that with respect to "Home Study Programs" for formal apprenticeship training / Master Plumbers, evidence must be provided that these courses have been approved by the U.S. Department of Labor as a prerequisite for qualifying candidates for the Master Plumber's examination. DAG Donofrio advised that he will further investigate this matter and Board Member Ralph Wetzel offered his assistance.

On May 28, 2009, the Board concluded that the U.S. Department of Labor regards Home Study Programs as an acceptable curriculum for the formal apprenticeship training of future master plumbers. A motion was made by Ralph Wetzel and seconded by Donald Dileo. A vote was taken and the motion unanimously passed.

5. Hill Wallack, Attorneys at Law, May 1, 2009 & May 6, 2009 (5A) Correspondence from Maeve E. Cannon, Esq. Re Interpretation of Plumbing Code/Regulations, Gloucester Township Utility Authority; Order to Show Cause; et als

On May 28, 2009, the Board discussed this matter with DAG Joseph A. Donofrio. Members expressed their concerns that the work described for this commercial application is plumbing work and, therefore, must be performed by a Licensed Master Plumber. Members expressed their concerns for the need of backflow devices toward protecting the potable water system, and the threat of contaminated water should these devices fail their proper installation. DAG Donofrio advised that he will prepare a draft reply to the request.

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.

EXECUTIVE CLOSED SESSION MOTION:

A motion was made by Donald Dileo and seconded by Paul Bontempo to proceed into Executive Closed Session to conduct seven (7) Investigative Inquiry matters, review licensee complaint matters, unlicensed advertisements, disciplinary matters arising from the CE audit, 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 June 25,

2009, at 9:00 a.m. in the Hudson Room.

Respectfully submitted,

Lawrence DeMarzo, Deputy Director
Division of Consumer Affairs