

**# 560 MEETING OF THE STATE BOARD OF EXAMINERS
OF MASTER PLUMBERS -MINUTES - SEPTEMBER 24, 2009**

The Minutes of the September 24, 2009 Board Meeting have not been formally approved and are subject to change or modification by the Public Body at its regular meeting on October 22, 2009.

The notice of the September 24, 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 September 24, 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

Mark McManus

Paul N. Bontempo

Michael L. Sestanovich, Secretary

Donald Dileo

Adam J. Sabath 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:

Gary Italiano, NJSLMP, Plumbing License Enforcement Committee LMP # 10225; Thomas F. Walsh, LMP # 7854, NJSLMP; Elizabeth Moritz, NJSLMP; Anthony F. Cacciotti, LMP # 11191, Pres., NJSLMP; Bill Stepler, CEP Associates

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 ~ JULY 23, 2009

A motion was made by Ralph Wetzel and seconded by Mark McManus to approve the minutes of July 23, 2009. A vote was taken and the motion unanimously passed. (Note: the August 27, 2009 meeting had been canceled.)

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. CALENDAR OF MEETING DATES FOR 2010

Board Members were provided with a list of the published meeting dates for 2010.

2. DIVISION OF LAW BILLING - 4TH QUARTER OF FY 2009

DARLENE KANE, BUDGET OFFICER, MEMO OF 7-31-2009

The Board accepted this billing without any comment.

3. MARK TRIMBLE, LMP # 7513 ... Reporting compliance with the FINAL ORDER OF DISCIPLINE FILED 12-18-2008

Correspondence dated July 30, 2009 and September 1, 2009, was received from Christine M. Gravelle, Attorney for Mark Trimble, which details recent restitution checks forwarded by Ms. Gravelle's trust account to the three (3) respective consumers named in this action. Such payments are required in the terms of this filed order. On September 24, 2009, Board Members acknowledged the licensee's compliance.

REPORTING DISCIPLINARY ACTIONS On September 24, 2009, Board Members acknowledged all penalty payments as follows:

4. MOHDE DANOUN, UNLICENSED, t/a FRIENDLY PLBG AND HTG. 65 GOSHEN ST., PATERSON, NJ 07605

OFFER OF SETTLEMENT / \$2,500 PENALTY - N.J.S.A. 45:14C-12.3.

YELLOW PAGE ADVERTISEMENT "FRIENDLY PLUMBING & HTG."

Fast, friendly, dependable full service - "NJ LIC # 0061DN"

973-904-9400 & 877-775-9400 - File id # 62447

7-29-2009.... \$500 - & - 8-27-2009.... \$500

4A. DISCIPLINARY MATTERS

IN THE MATTER OF THE APPLICATION OF JOHN C. MARSHALL FOR A PLUMBING LICENSE IN THE STATE OF NEW JERSEY - CONSENT ORDER FILED 8-26-2009

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 John C. Marshall (“respondent”). Respondent indicated on his application he had been arrested and provided information and documentation concerning his arrest history. This consent order states in part:

1. 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
2. Respondent shall abstain from any and all mood altering or intoxicating substance;
3. Respondent shall attend meetings of Alcoholics Anonymous
4. (a) Respondent shall submit to random urine screens a minimum of twice per month.
5. 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.
6. Respondent may seek modification of the terms of this order not sooner than July 1, 2010. Prior to any modification or removal of restrictions set forth in this order, 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;
 - (b) Prior to his appearance, the Board may require receipt of a report of an independent psychiatric evaluation with a Board approved psychiatrist.
7. 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.
8. 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.

4B. DISCIPLINARY ACTIONS - PENALTY PAYMENTS

CONTINUING EDUCATION AUDIT BIENNIAL 2005-2007

Provisional Order(s) of Discipline (POD) filed October 27, 2008

On August 25, 2006 the Board conducted a CE audit involving selected licensees. Respondent(s) indicated on the 2005-2007 biennial renewal application that they will have completed the requirement by June 30, 2005; however, they failed to do so.

Respondent(s) were assessed a \$500 penalty pursuant to NJSA 45:1-22 for failing to complete the required CE for the 2005-2007 biennial by June 30, 2005, in violation of NJSA 45:1-21(h). Respondent(s) were also assessed a \$1,000 penalty for indicating on the application that they would complete the five (5) CE hours by the required date and failing to do so in violation of NJSA 45:1-21(e). The following licensee has complied with the POD, attended a make-up course, and is reported on this Agenda for his penalty payment during May, 2009.

IDEALO LO COLLO, LMP # 2607 \$1,500 Payment 6/19/2009

TOTAL PENALTIES COLLECTED for 2005-2007 CE AUDIT = \$23,200.00

4C. ROBERT T. SCHIFF, LMP # 10439, T/A MC CORMICK PLUMBING

OFFER OF SETTLEMENT IN LIEU OF DISCIPLINARY PROCEEDING

Violation: N.J.S.A. 45:1-21(e) has engaged in professional or occupational misconduct CONSUMER COMPLAINT MATTER, FILE ID # 51778, \$300 penalty paid 8-11-2009

The Board established Mr. Schiff's failure to fully comply with N.J.S.A. 45:1-21(e) in that he engaged in professional or occupational misconduct. The serviceman installed a sump pump, charged the consumer who paid \$583.00, later returned and gained access to the home to remove the same pump— without providing any notice to the consumer. The total penalty due is \$300.00 assessed for the unprofessional actions of this serviceman. Additionally, the Board awarded the return of full restitution to the consumer in the amount of \$583.00; however, the consumer issued a 'stop payment' on his check and the funds were returned to him. Therefore, this restitution award was waived.

4D. IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF KEVIN GOULD LMP 11716 TO PRACTICE AS A PLUMBER IN THE STATE OF NEW JERSEY

CONSENT ORDER - \$5,000 penalty & \$3,706.00 - Restitution pd 6-16-09

Order states in part that Kevin Gould ("respondent") is a licensed master plumber in the State of New Jersey and is employed by Region Oil but was registered with the Board to trade under his personal name during the time of the complaints. Region Oil contracted with the town of Newton to convert J.M.'s home heating system from oil to gas. As per agreement with the town of Newton, Region Oil was paid \$6,000 to remove an oil tank and install a steam boiler and external water heater in J.M.'s residence through a town grant. Region Oil subcontracted the installation work to Joe's Heating, an unlicensed entity. Employees of Joe's Heating performed plumbing work for J.M. under respondent's permit.

1. Respondent is hereby reprimanded for his actions
2. Respondent shall pay a civil penalty, pursuant to N.J.S.A. 45:1-22, for permitting an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the Board, and aiding and abetting an unlicensed entity in performing such an act, in violation of N.J.S.A. 45:1-21(n). Additionally, respondent shall pay a civil penalty for failing to subcontract the plumbing work for J.M. to a New Jersey licensed plumbing contractor, in violation of N.J.A.C. 13:32-3.3(c)(1). Finally, respondent shall pay an additional penalty for failing to give notice to the Board in writing concerning his registration as the bona fide representative for Region Oil, in violation of N.J.A.C. 13:32-3.3 (a)(1). Payment of the civil penalties totaling \$5,000 shall be made simultaneously with the signing of this consent order.
3. Respondent shall reimburse J.M. in the amount of \$3,705.00
4. Respondent shall cease and desist from the violations described herein. Subsequent violations shall subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.
5. Failure to comply with any of the terms of this order may constitute the basis for further disciplinary action by the Board, including but not limited to, suspension or revocation of respondent's master plumbing license and the imposition of further monetary penalties. 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 may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

4E. IN THE MATTER OF JOHN P. MC DONALD TO BE CERTIFIED AS A MEDICAL GAS PIPING INSTALLER IN THE STATE OF NEW JERSEY CONSENT ORDER SIGNED BY APPLICANT 7-23-2009

Order states in part that the matter was opened to the New Jersey State Board of Examiners of Master Plumbers ("the Board") upon receipt of an application for certification as a medical gas piping installer from John P. McDonald ("respondent"). Respondent indicated on his application that he has a criminal arrest and conviction history. Specifically, information obtained by the Board indicated respondent was arrested sometime prior to March 2, 1996 and charged with possession of a Controlled Dangerous

Substance. Respondent was placed on conditional discharge.

1. Respondent shall be granted certification as a medical gas piping installer subject to the restrictions in this order.
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.
3. Respondent shall submit to a minimum of two (2) random urine screens.
4. All test results shall be provided to Executive Director, New Jersey State Board of Examiners of Master Plumbers, 124 Halsey Street, 6th Floor, Newark, NJ 07101.
5. 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.
6. Respondent may seek modification of the terms of this order not sooner than February 1, 2010. Prior to any modification or removal of restrictions set forth in this order, 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;
 - (b) Prior to his appearance, the Board may require receipt of a report of an independent psychiatric evaluation with a Board approved psychiatrist.
7. 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.

4F. BRIAN J. HOPKINS, APPLICANT, MASTER PLUMBER'S EXAMINATION CONSENT ORDER-FILED 8-26-2009

This order states in part that the 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 Brian J. Hopkins ("respondent"). Respondent indicated on his application he had been convicted of criminal offenses. Respondent provided information and documentation concerning his criminal history. Specifically, respondent was arrested on August 31, 2000, in Mount Laurel Township, and charged with theft by unlawful taking. He pled guilty on November 15, 2000 and paid a fine.

HEREBY ORDERED AND AGREED THAT:

1. 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.
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 attend meetings of Alcoholics Anonymous a minimum twice per week, obtain a sponsor, and continue counseling treatment. Prior to examination and subsequent to his licensure,

respondent shall provide the curriculum vitae of his counselor, proof of attendance at Alcoholic Anonymous, as well as progress reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who are participating in respondent's care and/or treatment. This information shall be provided directly to the Board on a quarterly basis. For purposes of this order, the first submitted quarterly proofs of attendance and counseling progress reports shall be due August 1, 2009 for Alcoholics Anonymous and mental health treatment for the months of May, June and July 2009. The next quarterly proofs shall be due on November 1, 2009 for the months of August, September and October of 2009 and then quarterly thereafter. If respondent discontinues participation with Alcoholics Anonymous or counseling, without first obtaining approval of the Board, he shall be deemed in violation of this order. Any change in counselor shall be reported to the Board within ten (10) days of occurrence including provision of a curriculum vitae of the new counselor for approval.

4. (a) Respondent shall submit to random urine screens a minimum of twice per month.

BRIAN J. HOPKINS, CONSENT ORDER- SIGNED BY APPLICANT AND FILED 8-26-2009

Cont'd 5. 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.

6. Respondent may seek modification of the terms of this order

7. 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 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.

8. 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.

CONSENT ORDER

4G. WILLIAM SHERMAN, L.M.P. #11142 - \$1,500 PENALTY PAID 8-28-2009

This matter was opened upon receipt of three consumer complaints against William Sherman ("respondent") or his company, William Sherman, Inc., for which respondent is the bona fide representative as defined by N.J.A.C. 12:32-1.3. All three complaints allege respondent failed to obtain required permits prior to installing water heaters. These facts establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(h), in that respondent has violated and failed to comply with the provisions of a regulation administered by the Board, specifically N.J.A.C. 13:32-3.3(a)(2), when respondent failed to properly secure all necessary permits as may be required by State and local law for the performance of plumbing work to be performed by the plumbing contractor for which the licensed master plumber acts as a qualified bona fide representative, and N.J.A.C. 13:32-3.3(a)(3), when respondent failed to assure the effective compliance with State and local plumbing codes and the performance of work in accordance with proper plumbing practices. Respondent was assessed a civil penalty, pursuant to N.J.S.A. 45:1-22, in the amount of \$1,500 for conduct with respect to above described actions.

ADVERTISING MATTERS

Offer(s) of Settlement with fines are being processed for unlicensed entities advertising plumbing services in violation of existing New Jersey Plumbing Statutes and Regulations. The payments of those fines will be reported in Open Session upon receipt.

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 Mark McManus and seconded by Paul Bontempo to proceed into Executive Closed Session to review consumer complaint matters, unlicensed advertisements and unlicensed practice matters, hold one investigative inquiry, discuss 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 October 22, 2009, at 9:00 a.m. in the Hudson Room.

Respectfully submitted,

Lawrence DeMarzo, Deputy Director
Division of Consumer Affairs