

**# 567 MEETING OF THE STATE BOARD OF EXAMINERS
OF MASTER PLUMBERS -MINUTES - APRIL 22, 2010**

The Minutes of the April 22, 2010 Board Meeting have not been formally approved and are subject to change or modification by the Public Body at its regular meeting on ***May 27, 2010.***

The notice of the April 22, 2010 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 22, 2010 was called to order at 9:00 am with the following Members in attendance:

Peter Voros, Chairman

Michael L. Sestanovich, Secretary

Michael K. Maloney, Vice-Chairman

Paul N. Bontempo

Donald Dileo

Robert B. Reeve

Members Adam J. Sabath and James McManus, Jr. were 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, Executive Assistant

PUBLIC SESSION VISITORS:

Thomas F. Walsh, LMP/NJSLMP; Alan D. Bone {applicant}, Paul Bent, Ben Primost, Art Becker, David Kurasz, Diane Pein, Scott Nichols and Joanne Byron, Class Act Reporting.

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 ~ MARCH 25, 2010

A motion was made by Donald Dileo and seconded by Michael Sestanovich to approve the minutes of the March 25, 2010 meeting. A vote was taken and the motion unanimously passed.

BOARD BUSINESS

PRESENT BOARD MEMBERS - &- CAPACITIES

MAYOR PETER I. VOROS ~ MASTER PLUMBER MEMBER ~ CHAIRMAN

MICHAEL L. SESTANOVICH ~ INSPECTOR MEMBER - SECRETARY

MICHAEL K. MALONEY ~ MASTER PLUMBER MEMBER - VICE CHAIRMAN

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

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1. ***SCOPE OF PRACTICE REGULATION*** - *Charles Manning, Regulatory Affairs*

ADOPTED AMENDMENTS: N.J.A.C. 13:32-1.4
PROPOSED SEPTEMBER 8, 2009 AT 41 NJR 3198 (a)
Comment period ended November 7, 2009

On December 17, 2009, Board Members and Charles Manning agreed to revisit several topics of the "Scope of Practice" proposal for the January meeting.

SCOPE OF PRACTICE REGULATION

On January 28, 2010, Charles Manning provided a revised draft for Board review. While Members discussed this proposal, Mr. Manning advised that the Board will not be permitted to vote on this regulation until April 18, 2010 based on the Governor Christie's Executive Orders 1,2 and 3, which freeze all action on regulations for ninety (90) days.

On April 22, 2010, the Board discussed this matter with Mr. Manning and allowed time for public comment. The Board decided to not adopt proposed amendments to 13:32-1.4(c)7 and 8 due to concerns regarding the scope of practice of well drillers. However, following discussions, a motion was made by Michael Sestanovich and seconded by Robert Reeve to adopt the proposal with amendments. A vote was taken and the motion unanimously passed. [Board Member Paul Bontempo recused himself from this matter regarding Irrigation Systems.]

2. EXECUTIVE ORDER 2 and REPORT - Charles Manning, Regulatory Affairs

A copy of Executive Order 2 and a report prepared by Charles Manning were presented for Board discussion. A brief meeting was held on April 9, 2010 among DAG Joseph Donofrio, Charles Manning and Rosemarie S. Baccile to discuss avenues for meeting the requirements for this Executive Order.

On April 22, 2010, following a discussion, a motion was made by Donald Dileo and seconded by Robert Reeve to approve amendments to this report. A vote was taken and the motion unanimously passed.

3. CONTINUING EDUCATION TOPICS - Charles Manning, Regulatory Affairs FIVE-HR REQUIREMENT FOR BIENNIAL PERIOD JULY 1, 2011 - JUNE 30, 2013, N.J.A.C. 13:32-6.1 Classes taught during 2010 until July 1, 2011

*In compliance with N.J.A.C. 13:32-6.3 **Required course topics**, the Board shall determine which topics shall be provided by program sponsors for the upcoming biennial. The Board shall determine these topics at a regularly scheduled public board meeting, and the list of topics which shall be required by the Board shall be published as a public notice in the New Jersey Register and shall be available at the Board offices.*

On April 22, 2010, a motion was made by Donald Dileo and seconded by Robert Reeve to approve these topics for publishing in the New Jersey Register. A vote was taken and the motion unanimously passed.

Referred to Charles Manning on 3-25-2010 ➡ 4A & 4B

On April 22, 2010, the Board revisited the following items from March 25, 2010, labeled 4A and 4B:

- 4A. THOMAS F. WALSH, PLUMBING SUBCODE OFFICIAL #5634
LICENSED MASTER PLUMBER # 7854
Re “Installation of backflow preventers for fire protection”

Mr. Walsh submitted correspondence dated January 27, 2010, regarding the installation of backflow preventers for fire protection, and he references the topic of discussion held in Open Session at the Board’s December 17, 2009 meeting. On April 22, 2010, Members concluded that the issues presented in Mr. Walsh’s correspondence support the Board’s position.

- 4B. THOMAS F. WALSH, PLUMBING SUBCODE OFFICIAL #5634
LICENSED MASTER PLUMBER # 7854
Re Code Officials Continuing Education

Mr. Walsh submitted correspondence dated January 27, 2010 concerning compliance with CE requirements.

On April 22, 2010, the Board held a discussion with Charles Manning and concluded that he will draft correspondence to address CE classes for both Licensed Master Plumbers and Plumbing inspectors licensed by the Department of Community Affairs (DCA) in Trenton, NJ, by having the Board approve the sponsors for these requirements and possibly eliminate the need for duplicate classes.

4. DARLENE KANE, BUDGET OFFICER - FEBRUARY 16, 2010
FY 2010 BUDGET REPORT 1ST HALF
State Board of Examiners of Master Plumbers

On April 22, 2010 the Board reviewed this budget without any comment.

5. JOSE LICOR, LMP # 8116, t/a JOSE LICOR PLBG.
OFFER OF SETTLEMENT/ \$2,500 PENALTY - *Paid February 8, 2010*

Violations of License Lending:

N.J.S.A. 45:1-21(e) has engaged in professional or occupational misconduct;
N.J.A.C. 13:32-4.1 Requirement of pressure seal; penalties for misuse;
N.J.A.C. 13:32-3.4 Supervision - plumbing work shall be performed by the licensed master plumber {lmp} or the employees of the lmp or plumbing contractor

In conjunction with complaint matter from
The BOROUGH OF GLEN ROCK BUILDING DEPARTMENT
THOMAS ZACONIE, PLUMBING SUBCODE OFFICIAL
WORK SITE: 41 PLYMOUTH ROAD, GLEN ROCK, NJ;

CARLOS JAVIER, UNLICENSED/@ work site, FILE ID # 55307
Fines issued to Carlos Javier remain outstanding.

DISCIPLINARY ACTIONS

6. WILLIAM E. TRAVISANO, LMP # 10981
LICENSED TO PRACTICE AS A MASTER PLUMBER IN THE STATE OF
NEW JERSEY - PROVISIONAL ORDER FILED 1-14-2010

William Travisano is a licensed master plumber in the State of New Jersey and has been a licensee at all times relevant hereto. He received his master plumber's license in 1999. He is the sole owner and bona fide representative of Travisano Plumbing and Heating, and has never been registered to trade under any other trade name.

The Board received a complaint that the Respondent's master plumber's license number was appearing in advertisements for Fairfield Plumbing and for Rooter-man both of which are not licensed plumbing contractors. Respondent provided a letter to the Board in response to the complaint stating that he was "trying to help my friend," and stated that his business had been struggling due to the economy. He admitted he signed "a few" permits for Fairfield Plumbing, but stated that he supervised every job. He advised that he is the president of the Tri-Boro Master Plumber's Association and was well aware of the Law. Respondent asked for understanding due to the state of the economy.

On May 28, 2009, Respondent appeared for an Investigative Inquiry represented by Kenneth P. Traum. During the inquiry, he admitted that he had on “no more than four” occasions allowed Fairfield Plumbing to use his license number for certain jobs, three jobs involving boilers and one involving the conversion of a boiler from steam oil to hot air. He also admitted that he and the owner of Fairfield Plumbing performed the work, and acknowledged that this individual was not employed by Trivisano Plumbing and Heating.

Respondent was questioned regarding his affiliation with Rooter-Man. He testified that the same individual who owns Fairfield Plumbing also owns Rooter-man. While he acknowledged that his license number appeared in Rooter-Man advertisements, he denied giving permission to the entity to use his license number in Rooter-Man advertisements and denied signing and sealing permits for Rooter-Man.

Respondent is provisionally reprimanded pursuant to N.J.S.A. 45:1-22 for serving as a bona fide representative for more than one plumbing contractor in violation of N.J.A.C. 13:32-3.3(a)(5); for permitting an unlicensed person and entity to perform an act for which a license is required by the Board; aided and abetted an unlicensed person and entity in performing such an act in violation of N.J.S.A. 45:1-21(n).

Respondent is provisionally ordered to pay a civil penalty pursuant to N.J.S.A. 45:1-22 in the amount of \$1,500 for serving as a bona fide representative for more than one plumbing contractor in violation of N.J.A.C. 13:32-3.3(a)(5). Respondent is provisionally ordered to pay a civil penalty pursuant to N.J.S.A. 45:1-22 in the amount of 2,500 for permitting an unlicensed person and entity to perform an act for which a license is required by the Board, and aided and abetted an unlicensed person and entity in performing such an act in violation of N.J.S.A. 45:1-21(n). Payment of the civil penalty totaling \$5,000 shall be submitted th the State Board of Examiners of Master Plumbers no later than (30) thirty days after entry of any Final Order.

On April 22, 2010, a motion was made by Michael Maloney and seconded by Michael Sestanovich to schedule Mr. Trivisano's reply to the POD in Executive Closed Session. A vote was taken and the motion unanimously passed.

DISCIPLINARY ACTIONS

7. **BRIAN J. TAYLOR, SUSPENDED - LMP # 9187**
IN THE MATTER OF THE APPLICATION FOR A PLUMBING LICENSE IN THE
STATE OF NEW JERSEY - CONSENT ORDER FILED 4-5-2010

This matter was opened to the New Jersey State Board of Examiners of Master Plumbers (the Board) upon receipt of a request for reinstatement of a plumbing license from Brian J. Taylor (respondent). On May 25, 2006, the Board entered a Final Order of Discipline suspending Respondent's plumbing license based on his failure to respond to inquiries from the Board concerning his positive response to the question relating to criminal arrests or conviction.

Page 7 4-22-2010

BRIAN J. TAYLOR, SUSPENDED - LMP # 9187 - Continued

Respondent provided a letter to the Board dated February 20, 2009, as part of his request for reinstatement and in the letter stated that he had a medical condition which he could not control. He cited this as the reason why he did not respond to Board inquiries. He also indicated that he had participated in an intensive treatment program, and is now recovered for over two and a half years and able to practice plumbing. He appeared before the Board on March 26 2009 and produced a letter demonstrating that he completed an outpatient treatment program. He further testified that he had moved closer to family and now has a stronger support system. He acknowledged that he is not currently involved in any treatment or monitoring programs.

Having considered all of the available information including his testimony during the investigative inquiry, the Board determined that the respondent's license to practice plumbing may be reinstated and is subject to the conditions outlined in this order. Those terms include abstaining from any and all mood altering or intoxicating substances, engaging in treatment with Narcotics Anonymous; random urine screens and quarterly submissions to the Board. The full terms are outlined in the filed Consent Order.

**8. CARTER'S HEATING AND COOLING, UNLICENSED
1889 ROUTE 9, BUILDING 23; ANDREW NUCCIO, PROPRIETOR
UNIT 86, TOMS RIVER, NJ 08755**

WATER HEATER REPLACEMENT AT 5 ARCHER SQUARE,
JACKSON, NJ 08527, CONSUMERS ANTHONY AND RUTH MAINENTE,
KEVIN F. SCHMALZ, TOWNSHIP OF JACKSON, PLUMBING SUBCODE
FAILURE TO OBTAIN PERMIT; COMPLAINANT - FILE ID # 68151

**UNLICENSED PRACTICE OF PLUMBING
\$2,500 PENALTY - *Paid February 11, 2010***

**9. THOMAS V. PESLAK, UNLICENSED. T/A
TOM'S QUALIFY HEATING AND AIR LLC**

JOHN KELLY, LITTLE EGG HARBOR, PLUMBING SUBCODE OFFICIAL
COMPLAINANT - FILE ID # 66989
REPLACEMENT OF WATER HEATER AT 262 GREAT BAY BLVD
LITTLE EGG HARBOR NJ

**UNLICENSED PRACTICE OF PLUMBING
\$2,500 PENALTY - *Payment arrangements:
Paid \$500 on February 22, 2010 - Paid \$100 on April 2, 2010***

10. TOWNSHIP OF BELLEVILLE, FRANK DE LORENZO, JR.

CONSTRUCTION OFFICIAL
INQUIRY DATED APRIL 1, 2010 re Bona fide representative requirements

On April 22, 2010, the Board considered this inquiry from Mr. De Lorenzo, and responded that existing New Jersey Plumbing Statutes and Regulations require an affidavit to substantiate ten percent ownership by the Licensed Master Plumber. The Board further commented that bona fide representatives may be confirmed by contacting the Board Office, and recommended that Mr. DeLorenzo refer to existing regulations for further details.

11. PERIODIC REPORT ON LEGISLATION, BURT LEIBMAN,
CONSUMER AFFAIRS

Mr. Liebman provided the history of bills on which the Board(s) were asked to comment, concerning legislative action taken during the quarter that ended January 19, 2009. A second report showed bills that have been reintroduced in the 2010-2011 session. No comments were made on April 22, 2010.

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

Recusal: Michael Maloney remains recused in this issue regarding Mr. Trimble.

Correspondence dated April 2, 2010 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, and are made a part of the licensee's file. This month's payments include: the sum of \$372.81 to consumer Ken Outlaw; a payment of \$290.61 to consumer John Wiacek; and a payment of \$86.58 David Stevens

13. LAWRENCE P. MISITA, EXPIRED LMP # 10045
REQUEST FOR REINSTATEMENT -
DATE OF EXPIRATION: June 30, 1999

On April 22, 2010, the Board considered Mr. Misita's correspondence dated March 7, 2010 seeking the reinstatement of his Master Plumber's license.

Page 9 4-22-2010

LAWRENCE P. MISITA, EXPIRED LMP # 10045

Subsequent to a discussion of this matter, the Board concluded in a motion made by

Michael Sestanovich and seconded by Donald Dileo, that the expired licensee must comply with existing New Jersey Plumbing Statutes and Regulations in order to achieve the reinstatement of his Master Plumber's license, specifically **N.J.A.C. 13:32-2.6 (f) Renewal of license** states:

“A person seeking reinstatement after more than five (5) years following the suspension of a license shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:32-2.3, and shall submit:

- A completed reinstatement application;
- Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:32-5.1;
- Payment of a reinstatement fee as set forth in N.J.A.C. 13:32-5-1; and
- An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.”

A vote was taken and the motion unanimously passed.

◆ 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 Robert Reeve to proceed into Executive Closed Session to review consumer complaint matters, unlicensed advertisements and unlicensed practice matters, hold two (2) investigative inquiries, 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 **May 27, 2010** at 9:00 am in the Hudson Room.

Respectfully submitted,

Lawrence DeMarzo, Deputy Director
Division of Consumer Affairs