

RECORD OF PROCEEDINGS

MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, STE 1250C, DENVER, COLORADO ON Wednesday, December 15, 2010

The meeting of the Board was publicly noticed according to the Division of Registrations' Policy 80-17.

I MEETING - CALL TO ORDER

Board Chair Thomas B. Fox called the meeting to order at 9:05 a.m.

II RECOGNITION OF MEMBERS PRESENT

Thomas B. Fox	General Contractor, Chair
Steven J. Callahan	Master Plumber, Vice Chair
Donald P. Crandell	Plumbing Contractor, Secretary
Jorge A. Delgado, Jr.	Ex Officio Member
Janice K. Snidow	Journeyman Plumber
Michael K. Trapp	Plumbing Contractor
Robin A. Vidimos	Public Member

MEMBERS ABSENT

Janine K. Snyder	Local Jurisdiction Plumbing Inspector
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OTHERS PRESENT

Mark Browne	Program Director
Steve Conrad	Chief Inspector
Kye Lehr	Plumbing Inspector Supervisor
Linda Volz	Director, Office of Investigations
David Sexton, William Schlitter	Investigator, Office of Investigations
Dennis Rhodes	Office of Expedited Settlement
Rebecca A. Connors	Assistant Attorney General
Joyce J. Young	Enforcement Unit Supervisor
Marian Zabel	Administrative Assistant

III PREVIOUS BOARD MEETING MINUTES

A motion was made, seconded and carried to approve the minutes of the October 27, 2010, meeting.

IV REPORTS FOR RATIFICATION

A. Review of Report of Final Agency Actions – October 7, 2010 to November 29, 2010

Cease and Desist Orders

1. American Rooter & Repair

Citations Issued

1. Robert L. Currie, MP

A motion was made, seconded, and carried to ratify the report.

B. Felony Audit Progress Report

The Board reviewed the progress reports for the felony audit of October 2009. A motion was made, seconded and carried to ratify the report.

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V STAFF COMMENTS

Program Director Mark Browne stated that the formation of a committee to study the Green Codes might not be necessary in light of the review done by Plumbing Supervisor Kye Lehr. Mr. Lehr will update the Board.

Inspector Supervisor, Kye Lehr updated the Board regarding:

- Green code. Provided comparative analysis of the 'International Green Construction Code' and the IAPMO 'Green Plumbing and Mechanical Code Supplement' regarding reduced water consumption by requiring lower water flow faucets. He suggested that there was not enough information at this time to warrant the forming of a committee to study Green Codes.
- A meeting with the ASPE Group was held on November 10, 2010.
 - He related that the Board has noticed that numerous variance requests are received regarding improper fixture clearances. The Board is reluctant to grant such variances.
 - He discussed trap guards:
 - ASSE 1072-07 now exists in the 2009 IPC as a standard for Barrier Type Floor Drain Trap Seal Protection Devices
 - Sure Seal carries a Classified IAPMO listing and Trap Guard has an ESS Legacy listing. Both items would require a variance.
- Intent of adopted codes. Only sections of the codes the Board adopted are to be enforced as applied to the definition of 'plumbing' in §12-58-102(5), C.R.S., or gas piping as defined by §12-58-102(1.5), C.R.S.
- The purpose of Section 904.2, IPC regarding frost closure vs. automatic air vents.
- The new procedural guidelines for inspecting covered plumbing in unique circumstances. The Board gave staff approval to use these guidelines and memorialize them in the Inspector Manual.
- Inspector evaluations have been completed.
- Permit fees have been decreased for special residential installations, including water heater replacements, backflow preventers, and shower pan liners.

VI REVIEW OF BOARD BUSINESS

A. Consideration of Initial Decisions

Subject: Initial Decision Review
Case No.: PL 2010-0004 Franklyn E. Lowder, JP 289426
Summary: The Board reviewed the Administrative Law Judge's (ALJ) Initial Decision in the matter of disciplinary action concerning the license of Franklyn E. Lowder, to practice as a plumber. Mr. Lowder did not appear before the ALJ or the Board.
Action: A motion was made, seconded, and carried to reject the hearing of oral arguments.
A motion was made, seconded, and carried to accept all the Findings of Fact.
A motion was made, seconded, and carried to accept all the Conclusions of Law.
A motion was made, seconded, and carried to accept the recommended sanction.
A motion was made, seconded, and carried to direct disciplinary counsel to prepare the Final Agency Order by January 4, 2011.

B. Complaints Review

Subject: GDS Heating AC & Plumbing, PC 2187

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- Case No.:** 2010-005035
Summary: The Board reviewed the tabled complaint filed against GDS Heating AC & Plumbing by Kurt Scrivner and the response provided by the listed company's master plumber, Scott P. Freund. This complaint alleged that the company offered plumbing contracting services without retaining a full-time master plumber.
- Action:** A motion was made, seconded, and carried to issue a Cease and Desist Order to GDS Heating AC & Plumbing for performing plumbing without the proper licensure.
- Based on information reviewed, a motion was made, seconded, and carried to initiate a complaint against Scott Freund for failure to timely notify the Board of his withdrawal as master plumber from a plumbing contractor and refer to the Office of Expedited Settlement for discipline..
- Subject:** Matthew and Toishi Boucher, Unregistered/Unlicensed
Case No.: 2010-001081
Summary: The Board reviewed the complaint filed against Matthew and Toishi Boucher by Lisa D. Davitian and the response provided by the company's property manager, Ed Folga. This complaint alleged that the company provided plumbing services without the proper licensure or registration.
- Action:** A motion was made, seconded, and carried to table this matter pending additional information from Mr. Folga.
- Subject:** Shawn Briggs, MP 188906
Case No.: 2010-002608
Summary: The Board reviewed the complaint filed against Mr. Briggs by Louis Struna, Jr. and the response to the complaint provided by Stuart D. Morse, Esq. on Mr. Briggs' behalf. This complaint alleged that Mr. Briggs leased his master plumber's license for money.
- Action:** A motion was made, seconded, and carried to refer to executive session for possible discipline.
- Subject:** City of Glenwood Springs
Case No.: 2010-005040
Summary: The Board reviewed the complaint filed against the City of Glenwood Springs by John Korrie, Korrie Plumbing & Heating, and the response to the complaint provided by the City of Glenwood Springs Building Official, Patrick Seydel. This complaint alleged that the City of Glenwood Springs is allowing non-master plumbers to tie-in irrigation systems to the potable water system.
- Action:** A motion was made, seconded, and carried to table this matter pending additional information from the City of Glenwood Springs.
- Subject:** Shannon M. DeVore, lapsed JP 280713
Case No.: 2011-000878
Summary: The Board reviewed the complaint filed against Mr. DeVore by the Board and information regarding his failure to respond to the complaint. This complaint alleged that Mr. DeVore violated the terms of the January 16, 2009, Stipulation and Final Agency Order he signed with the Board by failing to provide the required reports and failing to respond to the Board's request to do so.
- Action:** A motion was made, seconded, and carried to revoke Shannon M. DeVore's journeyman license.

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Subject: Cagri Gunaydin, Unlicensed
Case No.: 2011-001036
Summary: The Board reviewed the complaint filed against Mr. Gunaydin by Yusuf Serce and information regarding Mr. Gunaydin's response to the complaint. This complaint alleged that Mr. Gunaydin performed plumbing contracting services without the proper licensure.
Action: A motion was made, seconded, and carried to issue a Cease and Desist Order to Cagri Gunaydin for performing plumbing work without the proper license and registration.

Subject: Ercani Gunaydin, Unlicensed
Case No.: 2011-001034
Summary: The Board reviewed the complaint filed against Mr. Gunaydin by Yusuf Serce and information regarding Cargi Gunaydin's response to the complaint on behalf of Ercani Gunaydin. This complaint alleged that Mr. Gunaydin performed plumbing contracting services without the proper licensure.
Action: A motion was made, seconded, and carried to issue a Cease and Desist Order to Ercani Gunaydin for performing plumbing work without the proper license and registration.

Subject: Chad R. Hazlett, Pending AP 24473
Case No.: 2011-000921
Summary: Board member Thomas Fox recused himself from discussion and vote and left the room. The Board reviewed the complaint filed against Mr. Hazlett by Hal Beebee III and Mr. Hazlett's response to the complaint. This complaint alleged that Mr. Hazlett offered plumbing contracting services without retaining a full-time master plumber.
Action: A motion was made, seconded, and carried to dismiss the case as being without merit.

Subject: Ronald D. Sills, MP 800
Case No.: 2011-000972
Summary: Board member Thomas Fox recused himself from discussion and vote and left the room. The Board reviewed the complaint filed against Mr. Sills by the Board and Mr. Sills' response to the complaint. This complaint alleged that Mr. Sills is obtaining permits for Chad Hazlett, Hazlett Plumbing & Heating without acting as a full time master plumber for the company.
Action: A motion was made, seconded, and carried to table for additional information from Ronald D. Sills.

Subject: Juan M. Herrera, cancelled AP 13995
Case No.: 2011-000069
Summary: The Board reviewed the complaint filed against Mr. Herrera by the Board and information regarding his failure to respond to the complaint. This complaint alleged that, based on the information discovered by the Office of Investigations research, Mr. Herrera registered as a plumbing apprentice using a fraudulent social security number.
Action: A motion was made, seconded, and carried to dismiss the case as being without merit. However, the Board directed staff place an alert on his record that he must provide proof of valid SSN.

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Subject: Daryl N. Moore, AP 15098
Case No.: 2011-000938
Summary: The Board reviewed the complaint filed against Mr. Moore by the Board and information regarding his failure to respond to the complaint. This complaint alleged that Mr. Moore violated the terms of the December 21, 2009, Final Agency Order he signed with the Board by failing to submit his fine payment of \$1000 and failing to respond to the Board's request to do so.
Action: A motion was made, seconded, and carried to revoke Daryl N. Moore's apprentice registration.

Subject: North Metro Handyman Matters, Unregistered
Case No.: 2011-001212
Summary: The Board reviewed the complaint filed against North Metro Handyman Matters by Gary Walker, and the response provided by the company's owner, Curtis L. Wolff. This complaint alleged that North Metro Handyman Matters offered plumbing contracting services without the proper licensure and registration.
Action: A motion was made, seconded, and carried to issue a Cease and Desist Order to North Metro Handyman Matters for offering to perform contracting plumbing work without the proper registration.

Based on information reviewed, a motion was made, seconded, and carried to initiate a complaint against Gary Walker and issue a Cease and Desist Order for performing plumbing services without the proper licensure.

Subject: Scott Peters, Unlicensed
Case No.: 2010-005048
Summary: The Board reviewed the complaint filed against Mr. Peters by Patricia A. Rankin, and Mr. Peters' response to the complaint. This complaint alleged that Mr. Peters performed plumbing work without the proper license.
Action: A motion was made, seconded, and carried to issue a Cease and Desist Order to Scott Peters dba Conservation Works, LLC for performing plumbing work without the proper registration...

Subject: Dan Reisdorph, Cancelled AP 17948
Case No.: 2010-005064
Summary: The Board reviewed the complaint filed against Mr. Reisdorph by Raymond Van Cleef and Mr. Reisdorph's response to the complaint. This complaint alleged that Mr. Reisdorph was performing plumbing services without the proper license.
Action: A motion was made, seconded, and carried to dismiss the case as being without merit.

Subject: Tri County Backflow, Inc., Unregistered
Case No.: 2010-005022
Summary: The Board reviewed the complaint filed against Tri County Backflow, Inc. by Aaron Kuhns, City of Glenwood Springs, and information regarding the company's failure to respond to the complaint. This complaint alleged that Tri County Backflow, Inc. was offering plumbing contracting services without the proper registration.

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Action: A motion was made, seconded, and carried to issue a Cease and Desist Order to Tri County Backflow, Inc. for performing plumbing work without the proper licensure.

Subject: Ina Wilson, dba Axis Renovations, Unlicensed

Case No.: 2011-000794

Summary: The Board reviewed the complaint filed against Ina Wilson, dba Axis Renovations by Christopher Carusona and Ina Wilson's response to the complaint. This complaint alleged that Ina Wilson was offering to perform and performed plumbing contracting services without the proper licensure or registration.

Action: A motion was made, seconded, and carried to dismiss the case as being without merit.

Based on information reviewed, a motion was made, seconded, and carried to initiate a complaint against Dan Temple DBA Dan Temple Plumbing and issue a Cease and Desist Order for performing plumbing work without the proper licensure and registration.

C. Compliance Monitoring

1. Compliance with Board Order

Subject: Matthew W. Burke, JP 289599

Case No.: 2008-001426

Summary: The Board reviewed information regarding Mr. Burke's violation of the terms of the February 1, 2008, Stipulation and Final Agency Order he signed with the Board. Mr. Burke failed to provide the required reports and respond to the Board's request to do so.

Action: A motion was made, seconded, and carried to initiate a complaint against Matthew W. Burke to revoke his journeyman license for violation of a Board Order and failure to respond to a Board investigation,

Subject: Travis J. Guerrero, lapsed JP 287791, AP 12471

Case No.: 2007-002347

Summary: The Board reviewed information regarding Mr. Guerrero's violation of the terms of the May 14, 2009, Stipulation and Final Agency Order he signed with the Board. Mr. Guerrero failed to provide the required reports, make fine payments, and respond to the Board's request to do so.

Action: A motion was made, seconded, and carried to initiate a complaint against Travis J. Guerrero to revoke his journeyman license and apprentice registration for violation of a Board Order and failure to respond to a Board investigation,

Subject: Paul B. Hargrave, JP pending

Case No.: 2009-000583

Summary: The Board reviewed information regarding Mr. Hargrave's violation of the terms of the November 6, 2009, Stipulation and Final Agency Order he signed with the Board. Mr. Hargrave failed to provide the required reports and respond to the Board's request to do so.

Action: A motion was made, seconded, and carried to initiate a complaint against Paul B. Hargrave for violation of a Board Order and failing to respond to a Board investigation. Further, the Board directed that if Respondent fails to

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respond, staff shall refer the case for discipline of apprentice registration and journeyman application.

Subject: Daniel C. Rains, AP 22164, RP 386716, JP pending
Case No.: 2009-000257
Summary: The Board reviewed information regarding Mr. Rains' violation of the terms of the November 20, 2008, Stipulation and Final Agency Order he signed with the Board. Mr. Rains failed to provide the required reports and respond to the Board's request to do so.
Action: A motion was made, seconded, and carried to deny release from probation for proof of release from court probation.

Based on information reviewed, a motion was made, seconded, and carried to initiate a complaint against Daniel C. Rains for violation of a Board Order. Further, the Board directed that if Respondent fails to respond, staff shall refer the case for discipline of apprentice registration, residential plumber's license, and journeyman application.

2. Compliance Monitoring – Quarterly Reports

Subject: Michael A. Gentala, JP 288065
Case No.: 2008-003801
Summary: The Board reviewed Mr. Gentala's final quarterly report and information regarding his release from Court probation on May 19, 2008.
Action: A motion was made, seconded, and carried to approve Michael A. Gentala's final report and release him from Board probation and probation requirements.

VII REVIEW OF REINSTATEMENTS

Business: Ralph C. Centeno, lapsed MP 180054
Summary: The Board reviewed Mr. Centeno's application for the reinstatement of his master plumbing license 180054. Mr. Centeno revealed in this application that he continued to work as a plumber under a license that lapsed on August 31, 2007.
Action: A motion was made, seconded, and carried to deny his application for reinstatement and refer to the Office of Expedited Settlement Process.

VIII REVIEW OF APPLICATIONS

Business: Gumaro Garcia, JP pending
Summary: The Board reviewed Mr. Garcia's application for the journeyman plumbing license and information regarding a breach of security while taking the examination.
Action: A motion was made, seconded, and carried to table action on this matter pending additional information.

VIII EXECUTIVE SESSION

At 12:30 p.m., Board President, Thomas Fox, moved that the Board enter into executive session for the purpose of discussing disputes that are the subject of pending or imminent court action, discussing specific claims or grievances, or receiving legal advice on specific legal questions pursuant to Colorado Revised Statutes section 24-6-402(3)(a)(II), including discussion with legal counsel regarding:

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- The legal basis for potential disciplinary action, and, where warranted, recommended settlement guidance for matters discussed in open session today and referred to executive session;
- The Report of Investigation regarding case numbers 2011-000331, 2010-005043, 2010-000572, 2011-000342;
- The Case Status Report of the Office of Expedited Settlement; and
- The Case Status Report and settlement issues, counteroffers, and other legal questions pertaining to the following open cases referred to the Office of the Attorney General: David Darling.

The motion was seconded by Robin Vidimos and unanimously carried with seven members in attendance, six voting. At least two-thirds of the entire membership of the Board voted in favor of the motion.

The Board returned to open session at 1:38 p.m.

IX OTHER BUSINESS

Business: Review of Report of Investigation
Case: 2011-000331 Marlin W. Brown, MP 179727
Summary: In executive session, the Board reviewed the Report of Investigation prepared by the Office of Investigations (OI) regarding a complaint filed against Mr. Brown by OI. This complaint alleged that Mr. Brown, owner and master plumber for Roaring Fork Plumbing and Heating improperly installed plumbing at the residence at issue.

Action: After discussion in executive session, a motion was made, seconded, and carried in open session, to table pending the outcome of the criminal case associated with this incident.

Business: Review of Report of Investigation
Case: 2010-005043 Holley's Plumbing, Inc., Unregistered
Summary: In executive session, the Board reviewed the Report of Investigation prepared by the Office of Investigations (OI) regarding a complaint filed against Holley's Plumbing, Inc. by the Board. This complaint alleged that the company advertised plumbing contracting services without the proper registration.

Action: After discussion in executive session, a motion was made, seconded, and carried to dismiss the case as being without merit.

Business: Review of Report of Investigation
Case: 2010-000572 Ken Lay Plumbing, PC 1505
Summary: Board member Steve Callahan recused himself from discussion and vote and left the room. In executive session, the Board reviewed the Report of Investigation prepared by the Office of Investigations regarding a complaint filed against Ken Lay Plumbing by Randy Overstreet. This complaint alleged that the company was providing plumbing contracting services without a master plumber.

Action: After discussion in executive session, a motion was made, seconded, and carried to dismiss the case as being without merit.

Business: Review of Report of Investigation
Case: 2011-000342 James E. Maule, AP 23860, Cancelled
Summary: In executive session, the Board reviewed the Report of Investigation prepared by the Office of Investigations regarding a complaint filed against Mr. Maule by Brian Wren. This complaint alleged that Mr. Maule advertised plumbing contracting services without the proper registration.

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Action: After discussion in executive session, a motion was made, seconded, and carried in open session, to issue a Cease and Desist Order James E. Maule for offering to perform plumbing work without the proper registration.

Business: The Office of the Attorney General – Case update

Case: 2010–002123 and 2010-2127 David Darling, AP cancelled, dba Godley Plumbing

Summary: In executive session the Assistant Attorney General updated the Board on related cases against Mr. Darling, dba Godley Plumbing on matters referred to their office for disciplinary action.

Action: After discussion in executive session, a motion was made, seconded, and carried in open session, to dismiss both cases as being without merit.

XI ADJOURNMENT

With all business completed, the meeting was adjourned at 1:45 p.m. The next meeting is scheduled for Wednesday, February 23, 2011 at 9:00 a.m.

Approved by: Thomas B. Fox, Chair

Date: February 23, 2011