

RECORD OF PROCEEDINGS

MINUTES OF THE EXAMINING BOARD OF PLUMBERS MEETING HELD AT 1560 BROADWAY, STE 1250C, DENVER, COLORADO ON WEDNESDAY, February 23, 2011

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 9:10 a.m.

II RECOGNITION OF MEMBERS PRESENT

Thomas B. Fox	General Contractor, Chair
Steven J. Callahan	Master Plumber, Vice Chair
Janice K. Snidow	Journeyman Plumber
Janine K. Snyder	Local Jurisdiction Plumbing Inspector
Michael K. Trapp	Plumbing Contractor
Robin A. Vidimos	Public Member

MEMBERS ABSENT

Donald P. Crandell	Plumbing Contractor, Secretary
Jorge A. Delgado, Jr.	Ex Officio Member

OTHERS PRESENT

Mark Browne	Program Director
Kye Lehr	Plumbing Inspector Supervisor
Dennis Rhodes	Office of Expedited Settlement
Rebecca A. Connors	Assistant Attorney General
Les Roberts	Investigator, Office of Investigations
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 December 15, 2010, meeting, as amended.

IV REPORTS FOR RATIFICATION

A. Felony Audit Progress Report

The Board reviewed the progress reports for the felony audit of October 2008 and October 2009. A motion was made, seconded and carried to ratify the reports.

B. Review of Report of Final Agency Actions – November 30, 2010 to February 3, 2011

Cease and Desist Orders

- | | |
|---|----------------------------------|
| 1. Cagri Gunaydin, Unlicensed | 5. Gary Walker, Unlicensed |
| 2. Scott Peters, Unlicensed | 6. Ercan Gunaydin, Unlicensed |
| 3. Tri-County Backflow, Inc.,
Unlicensed | 7. James E. Maule, AP |
| 4. Dan Temple, Unlicensed | 8. GDS Heating AC & Plumbing, PC |

RECORD OF PROCEEDINGS

Citations Issued

1. Jeffrey Makepeace, MP

Finalized Letter of Admonition

1. Shawn P. Briggs, MP
2. Larry E. Williams, MP
3. Kevin S. Wynkoop, MP
4. Eli Gessner LLC, PC
5. Christopher Hawks, RP

* LOA's are not final until the 20-day period lapsed, allowing Respondent to contest the action

Stipulations, Final Agency Orders, and Board Orders

1. Jan E. Smith, Jr., MP

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

V STAFF COMMENTS

Program Director, Mark Browne stated that Pearson Vue is actively working with staff to update the plumbing examination questions to the 2009 edition of the International Plumbing Code. The target date for implementation is May 26, 2011.

Mr. Browne asked the Board to begin reviewing the plumbing statutes with the goal of recommending appropriate changes during the 2013 Sunset process.

Inspector Supervisor, Kye Lehr attended the Colorado Chapter ICC meeting on February 18, 2011 where he highlighted the need for all plumbing contractors to be registered with the Board.

Board members discussed HB 1120 concerning the inspection of residential sprinkler systems. The members noted that inspections are being conducted by both state plumbing inspectors and fire district inspectors. The Board determined that this item should be discussed at a future meeting.

VI ANNUAL DESIGNATION OF THE 2011 BOARD MEETING NOTICES

Business: 2011 Designation for the location of Board Meeting Notices

Summary: The Examining Board of Plumbers annually designates the location where their meeting notices will be posted in compliance with § 24-6-402, C.R.S.

Action: A motion was made, seconded, and carried to designate the reception area of the Division of Registrations at 1560 Broadway, Suite 1350, Denver, Colorado, 80202, as the posting location for the Board's public notices.

VII REVIEW OF BOARD BUSINESS

A. Complaints Review

Subject: Ed Folga c/o Matthew and Toishi Boucher, Unregistered/Unlicensed

Case No.: 2011-001081

Summary: The Board reviewed the tabled complaint filed against Ed Folga c/o Matthew and Toishi Boucher by Lisa D. Davitian and information regarding the Property Manager, Ed Folga's failure to respond to the Board's request for additional information. This complaint alleged that the company provided plumbing contracting services without the proper licensure or registration.

RECORD OF PROCEEDINGS

- Action:** A motion was made, seconded, and carried to perform a state safety inspection on the property at issue within 45 days and request the local authority to be present for that inspection.
- Subject:** City of Glenwood Springs
Case No.: 2010-005040
Summary: The Board reviewed the tabled complaint filed against the City of Glenwood Springs by John Korrie, Korrie Plumbing and Heating, and Glenwood Springs Building Official, Patrick Seydel's response to the Board's request for additional information. 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 dismiss the case as being without merit.
- Subject:** Dave Heiman, Unlicensed
Case No.: 2010-005032
Summary: The Board reviewed the tabled complaint filed against Mr. Heiman by the Board and his response to the Board's request for additional information. This complaint alleged that Mr. Heiman performed plumbing work without obtaining a permit or inspections.
- Action:** A motion was made, seconded, and carried to table this matter pending additional action from Mr. Heiman.
- Subject:** Brent McBride, Unlicensed, ME 4542
Case No.: 2010-005021
Summary: The Board reviewed the tabled complaint filed against Mr. McBride by Zane Dennis and State Inspector Supervisor, Kye Lehr's response to the Board's request for additional information. This complaint alleged that Mr. McBride performed plumbing work without the proper license and without obtaining a permit or inspection.
- Action:** A motion was made, seconded, and carried to issue a Cease and Desist Order to Brent McBride for contracting plumbing work without a license.
- Subject:** Dillon Plumbing & Heating dba Pioneer Enterprises, Inc., PC 662
Case No.: 2011-001231
Summary: The Board reviewed the complaint filed against Dillon Plumbing & Heating dba Pioneer Enterprises, Inc. by Howard Beck and the response provided by the company's master plumber of record, William Burt. This complaint alleged that the company performed plumbing and gas piping contracting services without obtaining a permit or inspections.
- Action:** A motion was made, seconded, and carried to dismiss the case as being without merit.
- Subject:** Don's Landscaping, Unregistered
Case No.: 2011-002195
Summary: The Board reviewed the complaint filed against Don's Landscaping by the Board and the response provided by the company's owner, Don Musso. This complaint alleged that the company provided plumbing contracting services without the proper registration and without obtaining a permit or inspections.
- Action:** A motion was made, seconded, and carried to issue a Cease and Desist Order to Don's Landscaping for contracting plumbing work without the proper registration.

RECORD OF PROCEEDINGS

Subject: Jacob Vigil, JP 289971
Case No.: 2011-002174
Summary: The Board reviewed the complaint filed against Mr. Vigil by the Board and his response to the complaint. This complaint alleged that Mr. Vigil performed plumbing work without the proper registration and without obtaining a permit or inspections.
Action: A motion was made, seconded, and carried to refer to executive session for possible discipline.

After discussion in executive session, a motion was made, seconded, and carried in open session to issue a Letter of Admonition to Jacob Vigil for performing plumbing work without the proper licensure and without obtaining a permit and inspections.

Subject: Daniel Ormesher, MP 180417
Case No.: 2011-001916
Summary: The Board reviewed the complaint filed against Mr. Ormesher by Leah J. Osowiecki and Mr. Ormesher's response to the complaint. This complaint alleged that Mr. Ormesher performed plumbing work without obtaining a permit or inspections.
Action: A motion was made, seconded, and carried to refer to executive session for possible discipline.

Subject: Joey Ruybal, Unlicensed
Case No.: 2011-002081
Summary: The Board reviewed the complaint filed against Mr. Ruybal by Eugene Gutierrez and Mr. Ruybal's response to the complaint. This complaint alleged that Mr. Ruybal performed plumbing work without the proper licensure.
Action: A motion was made, seconded and carried to issue an order to show cause as to why the Board should not issue a cease and desist for unlicensed practice.

Subject: Mark Tapia, MP 189907
Case No.: 2011-002265
Summary: The Board reviewed the complaint filed against Mr. Tapia by the Board and his response to the complaint. This complaint alleged that Mr. Tapia violated the Board statutes by failing to disclose a felony conviction.
Action: A motion was made, seconded, and carried to refer to executive session for possible discipline.

B. Compliance Monitoring

1. Compliance with Board Order

Subject: Steven L. Caple, MP 179665; lapsed JP 280242
Case No.: 2008-001995
Summary: The Board reviewed information regarding Mr. Caple's violation of the terms of the February 26, 2008, Stipulation and Final Agency Order he signed with the Board. Mr. Caple 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 Steven L. Caple for violating a Board Order.

RECORD OF PROCEEDINGS

- Subject:** Clifford E. Futch, cancelled AP 597, lapsed RP 300692, JP pending
Case No.: 2008-003382
Summary: The Board reviewed information regarding Mr. Futch's violation of the terms of the November 20, 2008, Stipulation and Final Agency Order he signed with the Board. Mr. Futch 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 refer this case to the Office of Investigations.
- Subject:** James J. Killen, MP 177383
Case No.: 2010-004367
Summary: The Board reviewed Mr. Killen's request for early termination of Board probation and information regarding his release from Court probation on November 23, 2010.
Action: A motion was made, seconded, and carried to approve James J. Killen's request for early release from Board probation and probation requirements.
- Subject:** Mark E. Meschelle, JP 289972; AP 18616
Case No.: 2009-003838
Summary: The Board reviewed Mr. Meschelle's request for early termination of Board probation and information regarding his release from Court probation on January 25, 2011.
Action: A motion was made, seconded, and carried to approve Mark E. Meschelle's request for early release from Board probation and probation requirements.
- Subject:** James J. Wickersheim, AP 7206
Case No.: 2009-002561
Summary: The Board reviewed information regarding Mr. Wickersheim's violation of the terms of the November 4, 2009, Stipulation and Final Agency Order he signed with the Board. Mr. Wickersheim 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 James J. Wickersheim for violating a Board Order.
- Subject:** Aaron W. Witt, JP 289212, Cancelled AP 13314
Case No.: 2009-003853
Summary: Board member Michael Trapp recused himself from discussion and vote and left the room. The Board reviewed information regarding Mr. Witt's violation of the terms of the April 18, 2010, Stipulation and Final Agency Order he signed with the Board and his response to the complaint. Mr. Witt failed to provide the required reports.
Action: A motion was made, seconded, and carried to initiate a complaint against Aaron W. Witt for violating a Board Order.

2. Quarterly Reports

- Subject:** Russell L. Ralston
Action: A motion was made, seconded, and carried to approve the report.

RECORD OF PROCEEDINGS

C. Request for Reconsideration of Board Decision

Business: GDS Heating AC and Plumbing, PC

Case: 2010-005035

Summary: The Board reviewed the request for reconsideration of the Board's December 15, 2010 decision to issue a Cease and Desist Order to GDS Heating AC and Plumbing for practicing as a plumbing contractor without retaining a master plumber full-time.

Action: A motion was made, seconded, and carried to refer to executive session for possible discipline.

After discussion in executive session, a motion was made, seconded and carried, in open session, to rescind the Cease and Desist Order.

D. Request for Alternate Materials and Methods Review

Business: Trap Seal Loss Protection Device

Summary: The Board reviewed the request submitted by Don Hubber, President Sure Seal LLC, for Board approval of an alternate material or method; namely, to allow the use of a trap seal loss protection device in lieu of a trap seal primer valve required by Section 1002.4 of the International Plumbing Code.

Action: A motion was made, seconded, and carried to direct staff to draft language for the Board's review and subsequent rulemaking.

VIII EXECUTIVE SESSION

At 12:40 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:

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 2010-005044 and 2010-002053
- The Case Status Report of the Office of Expedited Settlement and settlement issues, counteroffers, namely Cardom Plumbing and Heating, Inc.; and
- The Case Status Report of the Office of the Attorney General and settlement issues, counteroffers, and other legal questions pertaining to the following open cases referred to the Office of the Attorney General.

The motion was seconded by Steve Callahan and unanimously carried with six 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 1:52 p.m.

IX OTHER BUSINESS

- A.** After Staff Comments, Brian Underwood appeared before the Board unannounced to request a hearing concerning the denial of his application for examination by staff. Mr. Underwood was directed to provide detailed information for their review

RECORD OF PROCEEDINGS

B. Review of Report of Investigations

Business: Review of Report of Investigation

Case: 2010-005044 A-Family Plumbing & Drains, Unregistered

Summary: In executive session, the Board reviewed the Report of Investigation prepared by the Office of Investigations regarding a complaint filed against A-Family Plumbing & Drains by the Board. This complaint alleged that the company advertised to perform plumbing work without the proper registration.

Action: After discussion in executive session, a motion was made, seconded, and carried, in open session, to issue a Cease and Desist Order to A-Family Plumbing & Drains for advertising to perform plumbing work without the proper registration.

Based on information reviewed in executive session, a motion was made, seconded, and carried, in open session, to initiate a complaint against Gregory A. McCormick for performing plumbing work without a license.

Based on information reviewed in executive session, a motion was made, seconded, and carried, in open session, to initiate a complaint against Ray W. Wamsley for performing plumbing work without a license.

Business: Review of Report of Investigation

Case: 2010-005023 Diversified Plumbing, dba DIV Plumbing and LB Plumbing

Summary: In executive session, the Board reviewed the Report of Investigation prepared by the Office of Investigations regarding a complaint filed against Diversified Plumbing by the Board. This complaint alleged that the company advertised to perform plumbing work without the proper registration.

Action: After discussion in executive session, a motion was made, seconded, and carried in open session, to issue a Cease and Desist Order to Diversified Plumbing, dba DIV Plumbing and LB Plumbing for advertising to perform plumbing work without the proper registration.

Based on information reviewed in executive session, a motion was made, seconded, and carried, in open session, to initiate a complaint against Kurt Alden Johnston for advertising plumbing contracting services on Craigslist without the proper registration and for advertising as a master plumber without the proper licensure.

Based on information reviewed in executive session, a motion was made, seconded, and carried, in open session, to initiate a complaint against Kurt Johnston Plumbing for advertising plumbing contracting services on Craigslist without the proper registration.

C. Request to Reconsider Board Action

Business: Cardom Plumbing and Heating, Inc.

Case: 2011-001826

Summary: In executive session, the Board reviewed the Memorandum prepared by the Office of Expedited Settlement appealing the Letter of Admonition issued on November 29, 2010 for continuing to practice as a plumbing contracting after the lapse of the registration.

Action: After discussion in executive session, a motion was made, seconded, and carried in open session, to rescind the Letter of Admonition.

RECORD OF PROCEEDINGS

XI ADJOURNMENT

With all business completed, the meeting was adjourned at 2:05 p.m. The next meeting is scheduled for Wednesday, April 27, 2011 at 9:00 a.m.

Approved by: Thomas B. Fox, Chair

Date: April 27, 2011