BEFORE IOWA PLUMBING AND MECHANICAL SYSTEMS BOARD

IN THE MATTER OF	)	NO. PM20100059
	)	
Todd M. Carstens,	)	**NOTICE OF HEARING**
	)	**AND STATEMENT OF CHARGES**
Respondent.	)	

COMES NOW the Iowa Plumbing and Mechanical Systems Board (Board) and hereby files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 641 Iowa Administrative Code (IAC) 33.6. Respondent was issued Iowa master plumbing license number 10270 on August 3, 2009. Respondent's license is active, and will expire on August 3, 2011. Respondent's address as reported to the Board is 4927 W. Locust St., Davenport, IA 52804.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **May 18, 2011** before the Plumbing and Mechanical Systems Board. The hearing shall begin at **10:00 a.m.** and shall be located in Room 125 of the Public Safety Building, 215 E. 7th St., Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 641 IAC 33.13 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Iowa Plumbing and Mechanical Systems Board, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist

and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 33. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 641 IAC 33.22. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 641 IAC 33.21.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: September Lau, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. **You may not contact board members in any manner**, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 105 and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 105, and 272C and 641 IAC chapter 32.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 641 IAC 33.26.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondent is charged pursuant to Iowa Code section 105.22(1) and 641 IAC 32.2(1)(a) with fraud in procuring a license.

D. FACTUAL CIRCUMSTANCES

1. On or about August 3, 2009, during the waiver period, Respondent applied for an Iowa Master Plumbing license.[1]

2. Respondent elected to apply for licensure via the examination/continuing education prong of the licensure-by-waiver framework.

3. On his application, Respondent indicated that he attended a 40 hour OSHA class

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1 Under Iowa Code section 105.18(4), the statutory requirements for licensure were waived through December 31, 2009. During the waiver period, the Board issued licenses to applicants who met either of two requirements: 1) passage of a written exam substantially similar to that otherwise required for licensure AND completion of at least eight (8) classroom hours of continuing education within the twoyear period preceding the date of application; or 2) possession of five or more years of experience prior to July 1, 2008, in the applicable field.

on July 28, 2009, provided by Local 25 Plumbers and Pipefitters (Local 25). He did not claim to have completed any other continuing education.

4. Respondent did not attend an OSHA class on that day. No 40 hour OSHA class is offered. Throughout 2007, 2008, and 2009, Respondent attended no OSHA classes offered by Local 25.

5. Respondent has not provided any documentation that he completed eight (8) hours of continuing education between August 3, 2007 and August 3, 2009, as was required to be eligible for licensure via examination/continuing education during the waiver period.

6. On his application, Respondent indicated that he passed an examination, sponsored by the City of Davenport, substantially similar to that required for licensure as a master.

7. Respondent passed a journey-level–plumbing exam sponsored by the City of Davenport on February 19, 2000.

8. Respondent sat for a master-level–plumbing exam sponsored by the City of Davenport on August 2, 2008. He did not pass this exam.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 641 IAC 33.23. If you are interested in pursuing settlement of this matter, please contact September Lau, Assistant Attorney General, at (515) 281-7175.

F. PROBABLE CAUSE FINDING

On this 15th day of March, 2011, the Iowa Plumbing and Mechanical Systems Board found probable cause to file this Notice of Hearing and Statement of Charges.

Copies to:

September Lau
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover Bldg.
Des Moines, IA 50319