

Before the Iowa Plumbing and Mechanical Systems Board

---

In the Matter of:	)	Case No.: PM20110004
	)	DIA No: 11PMB001
	)	
<b>Jeremy J. Timm,</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
Respondent.	)	<b>DECISION and ORDER</b>

---

This matter concerns a statement of charges filed against Respondent Jeremy Timm on July 19, 2011. He was charged with permitting another person to use his license. The case was set for hearing before a quorum of the Iowa Plumbing and Mechanical Systems Board (the Board) on September 20, 2011. Jeffrey Farrell, an administrative law judge from the Iowa Department of Inspections and Appeals, assisted the Board. Assistant Attorney General September Lau represented the public interest. Appellant represented himself. The hearing was held in open session.

**THE RECORD**

The State's exhibits 1-7 were admitted. The State called Daniel Hostetler and Brett Hinson as witnesses. Respondent testified on his own behalf.

**FINDINGS OF FACT**

Respondent Jeremy Timm is licensed at the master-level in HVAC and plumbing, and at the journey-person-level in refrigeration and hydronics. He has worked in the field for ten years. He is presently self-employed, spending approximately half his time working in the trades, and half on maintenance outside the trades. (Exhibit 6; Timm testimony).

Respondent met Ted Salz, Sr. through his wife, who was a sales representative for a heating and cooling vender. They met at a continuing education class. Respondent continued to run into Mr. Salz at other training events. After one class, Mr. Salz suggested that they pool resources and work jobs together to keep busy during slow periods. Mr. Salz stated that he had an upcoming plumbing job in Garner, Iowa, but was one month away from receiving his license. Respondent agreed to give a copy of his license to Mr. Salz so he could obtain the permit needed to get the job. Respondent was working another project, so his wife delivered the copy to Mr. Salz. Respondent testified that he expected to hear back from Mr. Salz at the time that the job started, and they would work the job together. (Exhibit 5; Respondent testimony).

On July 19, 2011, the Board received a complaint that Mr. Salz, who remained unlicensed, was using Respondent's license to obtain permits and perform work. Dan Hostetler investigated the complaint for the Board. Mr. Hostetler contacted Brent Hinson, who is the city administrator for the City of Garner. Mr. Hinson stated that Mr. Salz was the low bid on a project to install a drinking fountain in the city recreational facility. Prior to beginning work, the City became aware that Mr. Salz was not licensed. Mr. Salz presented Respondent's license and stated he would work under that license. The City was satisfied, as Mr. Salz had worked with the City in the past and it presumed that Respondent would appear on the site and inspect the work before it was complete. (Exhibit 5; Hinson testimony).

Mr. Hostetler found that Mr. Salz used Respondent's license to obtain work at a high school in Britt, and the fire department in Charles City. Both were confirmed by the owner or contractor. Respondent denied working either job, and said he had never been to Britt. Respondent testified that he only worked with Mr. Salz on one occasion, which was a basement job in Garner. There were allegations that Mr. Salz used Respondent's license on other occasions as well. (Exhibit 5; Hostetler, Respondent testimony).

Respondent apologized to the Board for his conduct in providing Mr. Salz a copy of his license. Respondent did not know Mr. Salz was using his license to obtain permits in other locations besides the Garner job. Respondent called Garner and surrounding cities to let them know he has not authorized Mr. Salz to use his license to obtain other permits. (Respondent testimony).

### CONCLUSIONS OF LAW

The Board was created for the purpose to regulate the practice of plumbing, HVAC, refrigeration and hydronics (referenced as "the four trades").<sup>1</sup> The Board regulates the practice, in part, through the licensing of contractors and professionals within each of the four trades. The Board is authorized to deny an application for license if failing to meet the minimum standards, or to suspend or revoke a license for grounds set forth in the statute.

The legislature granted the Board discretion to adopt rules setting grounds for discipline that are not specifically provided by statute.<sup>2</sup> The Board has adopted such rules, including one prohibiting a licensee from permitting another person to use the licensee's wall certificate, wallet card, or license number for any purpose.<sup>3</sup>

---

<sup>1</sup> Iowa Code section 105.22.

<sup>2</sup> Iowa Code section 105.22(10).

<sup>3</sup> 641 IAC 32.2(11).

There is no question that Respondent committed a violation of the Board's rule. Respondent knew that Mr. Salz was not licensed. Respondent provided a copy of his license to Mr. Salz for the purpose of obtaining a permit on a job that they would jointly perform. Respondent did not know that Mr. Salz was using his license to obtain other work, but the act of giving Mr. Salz a copy of the license gave Mr. Salz the ability to do so. Licensees are responsible to maintain control over their licenses so these type of abuses do not occur.

### SANCTION

In determining the sanction, the Board considered facts and arguments that are both favorable and unfavorable to Respondent. Respondent was cooperative throughout the investigation, he appeared for the hearing, and was apologetic to the Board. It was clear that Mr. Salz pushed Respondent to use the license, and that Respondent did not know the extent to which Mr. Salz used his license. Respondent has attempted to remedy some of Mr. Salz' abuses by calling cities to let them know that Mr. Salz is not authorized to use Respondent's license to obtain work.

On the other hand, the Board considers this to be a serious violation. The very purpose for the creation of the Board was to monitor and regulate work in the four trades for the protection of the public. Respondent gave a copy of his license to an unlicensed person who he did not know well. The unlicensed person used Respondent's license to obtain at least three jobs, and likely more, in public facilities. Respondent's action undermines the intent of the statute to require that work in the four trades be done by individuals who have met the educational and training standards set by the statute and the Board. The sanction needs to be sufficient so that Respondent, as well as other licensees and the general public, will understand that this type of violation will not be condoned.

The Board is justified in considering deterrence and the public's confidence in the profession as factors when considering discipline. For example, in comparable cases involving attorney discipline, the Iowa Supreme Court considers the following factors.

the nature of the violations, the attorney's fitness to continue in the practice of law, the protection of society from those unfit to practice law, the need to uphold public confidence in the justice system, deterrence, maintenance of the reputation of the bar as a whole, and any aggravating or mitigating circumstances. (emphasis added).<sup>4</sup>

The same interests are relevant to any profession that is licensed by the State.

---

<sup>4</sup> *Iowa Supreme Court Attorney Disciplinary Bd. v. Schmidt*, 796 N.W.2d 33, 42 (Iowa 2011).

After considerable discussion, the Board determined that a civil penalty and reprimand would not be sufficient to remedy the severity of the violation. The Board determined that a suspension must be imposed to make that point. While the Board believes it unlikely that Respondent will commit a similar violation in the future, the imposition of a license suspension is necessary to serve as an effective deterrent to Respondent, and will serve notice to other licensees and the public in general.

### **DECISION AND ORDER**

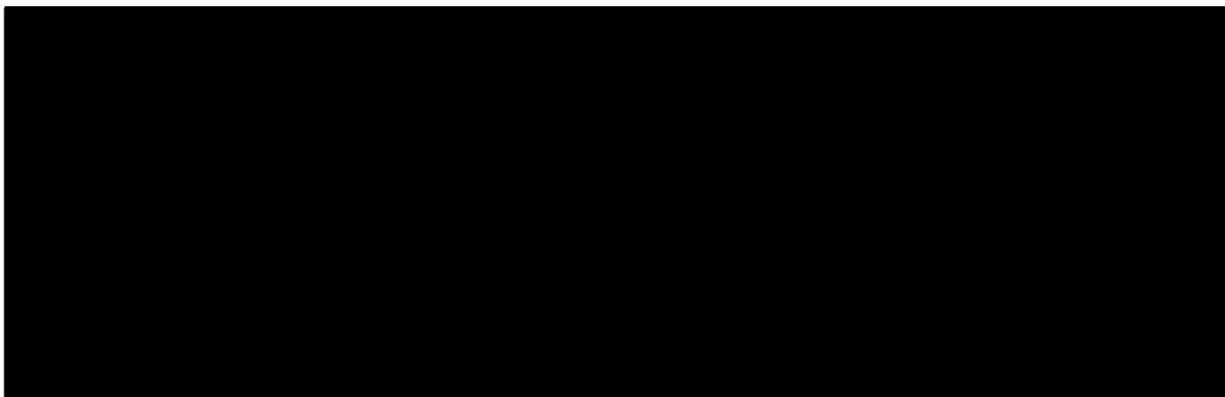
The Iowa Plumbing and Mechanical Systems Board finds that Jeremy J. Timm committed a violation of Iowa Code section 105.22(10) and 641 IAC 32.2(11) by permitting an unlicensed person to use his license to obtain and perform work in the plumbing field. As a sanction, the Board takes the following action:

**Reprimand and warning:** The Board issues a formal reprimand to Respondent and warns him that any similar conduct in the future, or any other violation of the Board's statutes and regulations, may result in additional investigation and disciplinary action.

**Civil penalty:** Respondent shall pay a civil penalty of \$250.00 to the Board at the following address: Lucas State Office Building, 321 East 12<sup>th</sup> Street, Des Moines, Iowa 50319. Payment shall be made within 30 days from the date of this order.

**Suspension:** Respondent's plumbing license shall be suspended for 30 days beginning on January 1, 2012. This suspension shall not effect Respondent's license in the other three trades.

**Fees:** Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive secretary/director of the Board may bill Respondent for any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondent shall remit for these expenses within thirty days of receipt of the bill.



DIA No. 11PMB007  
Case No. PM20110004  
Page 5

cc: September Lau, Assistant Attorney General  
Respondent

**Notice**

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.