## BEFORE IOWA PLUMBING AND MECHANICAL SYSTEMS BOARD

IN THE MATTER OF	)	NO. PMUL20130072
Richard Bash,	)	NOTICE OF INTENT TO IMPOSE CIVIL PENALTY
Respondent.	j j	

#### THIS IS NOT A FINAL ORDER.

# YOU HAVE THE RIGHT TO REQUEST A HEARING. YOU HAVE 30 DAYS TO DO SO.

## IF YOU DO NOT REQUEST A HEARING, YOU WILL BE ASSESSED A FINE AS STATED BELOW.

COMES NOW the Iowa Plumbing and Mechanical Systems Board (Board) and hereby files this Notice of Intent to Impose Civil Penalties pursuant to Iowa Code section 105.27 and 641 Iowa Administrative Code (IAC) 32.5. Respondent, Richard Bash, is not licensed to perform plumbing or mechanical work in Iowa.

## A. LEGAL AUTHORITY AND JURISDICTION

<u>Jurisdiction</u>. The Board has jurisdiction in this matter pursuant to Iowa Code sections 272C.3 and 105.27.

<u>Legal Authority</u>. Pursuant to Iowa Code sections 105.27, the Board has authority to issue an order imposing a civil penalty up to \$5000 per offense for practices made unlawful by chapter 105.

#### B. SECTIONS OF STATUTES AND RULES INVOLVED

Iowa Code section 105.10 requires all persons who perform plumbing and mechanical services in the State of Iowa to possess a license issued by the Board.

Iowa Code section 105.25(1) states that only a person who is duly licensed

pursuant to chapter 105 may advertise the fact that the person is licensed.

Under 641 IAC 32.5(1)(a) and (c) the following are unlawful practices and subject to civil penalty:

- 1) "Acts or practices by unlicensed persons which require licensure to install or repair plumbing, HVAC, refrigeration, or hydronic systems;"
- 2) "Engaging in the business of designing, installing, or repairing plumbing, HVAC, refrigeration, or hydronic systems without employing a licensed master;" and
  - 3) "Other violations of Iowa Code chapter 105."

#### C. FACTUAL CIRCUMSTANCES

1. Respondent executed the rough-in of water and drain lines while finishing the basement at a Pleasant Hill, Iowa, residence in 2013.

#### D. AMOUNT OF CIVIL PENALTY

The Board intends to issue an Order Imposing Civil Penalty in the amount of \$250.1

## E. RIGHT TO HEARING, WAIVER OF HEARING, ISSUANCE OF ORDER

Hearing. You are entitled to a hearing in this matter upon timely, written request. To be timely, a request for hearing must be made within **30 days** of the date you receive this notice or are served this notice. Mail your written hearing request to the following address:

Iowa Department of Public Health Iowa Plumbing and Mechanical Systems Board Lucas State Office Building 321 E 12<sup>th</sup> St. Des Moines, IA 50319

<sup>&</sup>lt;sup>1</sup>This represents \$250 per violation.

A hearing held in this matter shall be open to the public.

Waiver of Hearing. At any time before or after requesting a hearing in accordance with 641 IAC 32.5, and upon mutual consent of the Board, you may waive the right to hearing and all attendant rights and enter into a Consent Order imposing a civil penalty and requiring compliance with Iowa Code chapter 105.

Issuance of Order. If a request for hearing is not timely made, the board chairperson or the chairperson's designee may issue the Order Imposing Civil Penalty. If this occurs and you fail to pay the civil penalty within thirty (30) days, the Board shall notify the Attorney General, who may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

#### E. OTHER ENFORCEMENT

Nothing in this Notice prevents the Board from seeking an injunction against you in the district court, or referring the matter for criminal prosecution. Pursuant to Iowa Code section 105.25(3), a person who fraudulently claims to be a licensed plumbing professional is guilty of a simple misdemeanor.

#### F. CEASE AND DESIST

You must immediately cease any practice for which a license you do not possess is required under Chapter 105. You must not engage in the installation and repair of plumbing, HVAC, refrigeration, or hydronic systems if you do not have a license in the applicable discipline.

### F. PROBABLE CAUSE FINDING

On this 22<sup>nd</sup> day of January, 2014, the Iowa Plumbing and Mechanical Systems Board found probable cause to file this Notice of Intent to Impose Civil Penalty.

Chair, Plumbing and Mechanical Systems Board

Copies to:

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

Richard Bash