O'Connor, P., Page 1 of 5 BEFORE IOWA PLUMBING AND MECHANICAL SYSTEMS BOARD

IN THE MATTER OF	) NOs. PM20100049 & PM20100051	
Patrick T. O'Connor,	) NOTICE OF HEARING ) AND STATEMENT OF CHARGES	
Respondent.	)	
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NOs. PM20100049 & PM20100051

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 holds Iowa master license number 5304 in the plumbing, HVAC, hydronics, and refrigeration trades. Respondent's license is active and will next expire on June 4, 2014.

# A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on November 20, 2013, before the Plumbing and Mechanical Systems Board. The hearing shall begin at 9:45 a.m., and shall be located in State Hygienic Lab, 2220 S. Ankeny Blvd., Ankeny, Iowa, Iowa Lab Facility rooms 207 and 208.

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 12<sup>th</sup> Street, Des Moines, Iowa, 50319.

<u>Presiding Officer</u>. 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.

<u>Pre-hearing Conference</u>. 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.

<u>Prosecution</u>. 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.

<u>Communications</u>. 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

### B. LEGAL AUTHORITY AND JURISDICTION

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

<u>Legal Authority</u>. 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.

<u>Default</u>. 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 by making "false representations of a material fact, whether by word or by conduct."

### D. FACTUAL CIRCUMSTANCES

- 1. On or about June 4, 2009, Respondent applied for and was issued journey-level licenses in the HVAC and refrigeration trades pursuant to Iowa Code section 105.18(4)(b) (the Licensure by Experience provision).
- 2. On or about November 5, 2009, Respondent applied for and was issued journey-level licenses in plumbing and hyronics pursuant to the Licensure By Experience provision.

- 3. On or about December 1, 2009, Respondent requested to upgrade to master level licenses in all four trades based on the experience he had listed on his journey-level applications. This request was granted.
- 4. On his applications for licensure, Respondent indicated that he had had the requisite experience in all four trades. To establish this experience, Respondent listed journey-level experience with the following employers:
  - -Bierschbach Equipment in Sioux City, Iowa
  - -Arctic Ice Company in North Sioux City, Iowa
  - -O'Connor Trucking
  - -Farrell's Heating and Air Conditioning
- 5. Respondent had little to no experience in the relevant trades at the employers listed on his applications, and he did not have five or more years of experience prior to July 1, 2008, in any of the trades for which he applied and received master licenses.
- 6. Respondent knew or should have known that he did not qualify for Licensure by Experience.

#### 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 16<sup>th</sup> day of July, 2013, the Iowa Plumbing and Mechanical Systems Board found

probable cause to file this Notice of Hearing and Statement of Charges.

Chair, Iowa 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

Patrick O'Connor ADDRESS ON FILE