

MAINE PLUMBERS' EXAMINING BOARD

DAVE GOBEIL

) DECISION

RE: 2007-PLU-3940

) DISCIPLINARY ACTION

I.

PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S.A. Sec. 3403-A. (2), *et seq.*, 5 M.R.S.A. Sec. 9051, *et seq.* and 10 M.R.S.A. Sec. 8001, *et seq.*, the Plumbers' Examining Board (Board) met in public session at the Board's offices located in Gardiner, Maine on June 11, 2008 for the purpose of determining whether grounds exist for the Board to take disciplinary action against Dave Gobeil's Master Plumber's License. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Board Chairman Percy L. Brown, Jr., public member Lawrence W. Kent, and Richard St. John. Carrie Carney, Ass't. Attorney General, presented the State's case. Mr. Gobeil was present and represented by Herschel L. Lerman, Esq. James E. Smith, Esq. served as Presiding Officer.

The Board convened the hearing after determining that there were no conflicts of interest. The Board then took administrative notice of its statutes and Rules. Following the opening statements by the parties, the admission into the record of State's exhibits 1-5, testimony of the witnesses, and the parties' closing arguments, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the respondent's license.

II.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dave Gobeil was first issued a Maine master plumber's license on December 13, 1984, the current edition of which expires on August 31, 2008. Daniel Legros holds a Maine trainee plumber's license and is also a licensed gas heating technician. In September 2007, he owned his own gas heating and plumbing business. In that capacity, Daniel Legros has periodically during the past 10 years contracted with Dave Gobeil as a master plumber and as his supervising master plumber when Legros is acting as a trainee plumber. On August 7, 2007, Daniel Legros applied for

and received a plumbing permit to install internal plumbing at the home of Paul Poulin in Dayton, Maine. Mr. Legros hired Dave Gobeil to supervise the work before it began. Mr. Gobeil is listed as the supervising master for Daniel Legros on the Board's licensing management system. Legros began the plumbing installation on or about September 15, 2007, although he "might have jumped the gun and started early" since Dave Gobeil had not arrived and was "running a day late." Mr. Legros stopped installing the plumbing at approximately 1:00 p.m. on that day since the respondent had not arrived at the home although had been told that the project would begin that morning.

The plumbing activity was apparently observed by another plumber who filed a complaint with Dana Tuttle, the Board's senior plumbing inspector. Mr. Tuttle arrived at the home on September 16, 2007 and observed the following violations of the Maine State Plumbing Code, which are violations of the Board's Rules pursuant to Chapter 2.2.E.

1. The vent pipe for the downstairs bathroom was connected to the drainage piping for the upstairs bathroom, inside the house and below the second story floor. (Rules Chapter 9.905.1)
2. The vent pipe for the upstairs water closet was not taken off above the centerline of the drainage pipe to prevent the waste discharged from the water closet from entering the dry vent piping. (Rules Chapter 9.905.1)
3. The illegal use of a reducing bushing in the horizontal position which can create a backup in the drainage line. (Rules Chapter 2.2.D).

Three days later, a second inspection was conducted by Mr. Tuttle, the town's code enforcement officer, and the licensed plumbing inspector. At that time, Mr. Gobeil said that he was helping Mr. Legros and had corrected the violations. He further asserted that he hadn't been aware that Mr. Legros was going to perform any plumbing work at the Poulin home until the latter contacted him the night before he made the repairs. Mr. Gobeil additionally denied both that Daniel Legros had contacted him the night before Legros began work at the Poulin home on September 15, and that he told Legros he would be at the site the next morning. None of these denials was found credible by the Board.

The Board, having observed and considered the demeanor of the witnesses and exercising its training and experience in these matters, found by a vote of 3-0 that Dave Gobeil was hired by Legros to perform plumbing work and supervise Daniel Legros at the Poulin home. The respondent had a 10 year professional relationship with Daniel Legros and was listed as his supervising master plumber. He knew that Legros most likely would begin plumbing work at the Poulin home on the

morning of September 15, 2007, and failed in his responsibility as the master plumber to supervise his trainee, Daniel Legros. The lack of supervision led to the above noted 3 violations which were also found by the Board by a 3-0 margin.

III.

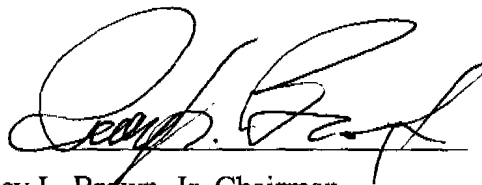
SANCTIONS

The Board then voted 3-0 for the following sanctions as a result of the above 3 violations.

1. Dave Gobeil shall pay a **fine of \$750** (\$250 for each of the 3 violations) **within 60 days** of the date of this Decision. Payment shall be made by certified check or money order, made payable to the Treasurer, State of Maine and mailed to Cathy Neumann, Complaint Coordinator, Department of Professional and Financial Regulation, Office of Licensing and Registration, 35 State House Station, Augusta, Maine 04333-0035.
2. Dave Gobeil shall **pay the \$542 costs** of the hearing **within 60 days** of the date of this Decision. (Hearing Officer-Hearing-3 hours at the hearing; 1 hour and 45 mins. to write Decision @ \$115 per hour = 517.50; copying costs-100 pp. @\$.25=\$25). The certified check or money order shall be made payable to the Maine Plumbers' Examining Board and mailed to Cathy Neumann, Complaint Coordinator, Department of Professional and Financial Regulation, Office of Licensing and Registration, 35 State House Station, Augusta, Maine 04333-0035.

SO ORDERED.

Dated: August 20, 2008



Percy L. Brown, Jr. Chairman
Maine Plumbers' Examining Board

IV.

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. Sec. 11001.1 and 11002, any person who is aggrieved by this Decision and Order must file a Petition for Review within 30 days of the date of receipt of this Order with the Superior Court for the county where: One or more of the petitioners reside or have their principal place of business; the agency has its principal office; or the activity or property which is the subject of the proceeding is located. The Petition for Review shall specify the person(s) seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief, which may be in the alternative. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Plumbers' Examining Board, all parties to the agency proceedings, and the Attorney General.