

MAINE PLUMBERS' EXAMINING BOARD

NORMAN CROCHERE) DECISION-LICENSE RENEWAL &
RE: 2007-PLU-3933 and 2008-PLU-4642) DISCIPLINARY ACTION

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S. Sec. 3403-A. (2), *et seq.*, 5 M.R.S. Sec. 9051, *et seq.* and 10 M.R.S. Sec. 8001, *et seq.*, the Plumbers' Examining Board (Board) met in public session at the Board's offices located in Gardiner, Maine on August 20, 2008 for the purpose of determining in a consolidated hearing whether grounds exist for the Board to take disciplinary action against Norman Crochere's Journeyman Plumber's License and whether the licensee's application for renewal of his journeyman's license should be approved. 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, Richard St. John, and Larry Dempsey. Carrie Carney, Asps'. Attorney General presented the State's case. Norman Crochere was present and not represented by legal counsel. 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 State, the admission into the record of State's exhibits 1-7 regarding complaint # 2007-PLU-3933 and State's exhibits 1-6 regarding complaint # 2008-PLU-4642, 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

Norman Crochere was first issued a Maine journeyman plumber's license on June 16, 1999, the current edition of which expired on April 30, 2008. The licensee applied for a renewal of his license on April 30, 2008. The Board, by letter dated May 27, 2008, initially denied Norman

Crochere's application based on his failure to pay the Oil and Solid Fuel Board its ordered fines and costs totaling \$4,354 pursuant to that Board's November 1, 2007 Decision and Order. (See 10 M.R.S. Sec. 5-A.A.9.) Norman Crochere has paid \$250 towards those sanctions.

Norman Crochere was hired by John Holmes, Durham, Maine in the fall of 2005 to install plumbing in the house which Mr. Holmes and his wife had built. Mr. Holmes was present in the house almost every day and was able to observe the plumbing work performed by two men hired by Norman Crochere who knew that neither of these individuals had a plumbing license. In fact, the licensee, by his own admission, hired the men because they needed work and one of them was "dating his stepdaughter."

A friend with some knowledge of the Maine Internal Plumbing Code (Code) visited the Holmes' residence at some time subsequent to February 2006. At that time, he noticed several violations of the Code. In response, John Holmes requested Norman Crochere to return to the residence and correct the violations. Mr. Crochere did not return as he was owed approximately \$2,500 which the homeowner refused to pay until the work complied with the Code requirements. The homeowner had paid Norman Crochere \$13,200 for his plumbing and heating installations.

Mr. Holmes subsequently hired a master plumber to make the necessary corrections which took 2 1/2 days at a cost of \$600-\$700. In order for the corrections to be made, Mr. Holmes needed to tear out several walls which he did since he had experience as a contractor. Mr. Holmes estimated that it would have cost him approximately \$3,000 if he had hired a contractor to perform this work.

Mr. Holmes filed a complaint with the Board which resulted in an inspection of the plumbing at his residence on February 23, 2007. The Board's senior inspector found numerous violations of the Code at that time and later notified the licensee of these violations. Norman Crochere responded by letter dated October 15, 2007 in which he asserted that "the violations A-G noted were not installed by me. They were installed by someone else." The licensee further stated that "I had J. Don Arbour employed by me. He is a master plumber."

III.

CONCLUSIONS OF LAW

At the hearing in this matter, 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 4-0 that Norman Crochere violated the following provisions of Maine statutes and Rules.

1. 32 M.R.S. § 3404(3), a violation of a rule adopted by the Board, and Board Rule chapter 2 § 2(A), the practice of fraud or deceit in connection with service rendered as a plumber, for being a journeyman plumber who contracted plumbing without employing a master plumber as a full-time employee. There is no credible evidence to support the licensee's assertion that J. Don Arbour served as the master plumber on this project.

2. 32 M.R.S. § 3404(3), a violation of a rule adopted by the Board, and Board Rule chapter 2 §2(E), for the following violations of the Maine Internal Plumbing Code:

a. Installing "S" traps in the kitchen sink, three lavatories and the shower, in violation of Chapter 10 § 1004.0;

b. Failing to install water hammer arrestors for the water lines to the washing machine and dishwashing machine hook-ups, in violation of Chapter 6 § 609.10;

c. Failing to install horizontal drainage lines connecting with other horizontal drainage lines that enter through forty-five (45) degree (0.79 rad) wye branches, combination wye and one-eighth (1/8) bend branches, or other approved fittings of equivalent sweep, and instead installing regular and street ninety (90) degree elbows throughout the structure, in violation of Chapter 7 § 706.3;

d. Failing to install vertical drainage lines connecting with horizontal drainage lines that enter through forty-five (45) degree (0.79 rad) wye branches, combination wye and one-eighth (1/8) bend branches, or other approved fittings of equivalent sweep, and instead installing regular and street ninety (90) degree elbows throughout the structure, in violation of Chapter 7 § 706.4;

e. Failing to install a cleanout for the kitchen sink waste line, in violation of Chapter 7 § 707.4;

f. Failing to install a vent pipe taken off above the center line of the drain line that it serves for a vent connected to a horizontal pipe, in violation of Chapter 9 § 905.2;

g. Failing to provide an approved dishwasher airgap fitting for the dishwasher drain line, which was directly connected to a drainage system or food waste disposer, in violation of Chapter 8 § 807.4;

h. Failing to install a plumbing fixture trap that is protected against siphonage and back-pressure, and air circulation by means of a vent pipe, but instead installing an air admittance valve as the vent for the kitchen sink, in violation of Chapter 9 § 901.0;

i. Failing to install drainage lines with proper pitch, in violation of Chapter 7 § 708.0; and

j. Failing to have proper clearance in front of a 3 inch cleanout, in violation of Chapter 7 § 710.10.

IV.

SANCTIONS

The Board then voted 4-0 for the following sanctions as a result of the above violations regarding complaint number 2007-PLU-3933. The Board took into consideration that it had no record of prior complaints against the licensee.

1. Norman Crochere shall pay a **fine of \$1,500** for the practice of fraud or deceit in connection with service rendered as a plumber, for being a journeyman plumber who contracted plumbing without employing a master plumber as a full-time employee. This fine is in accordance with past Board sanctions for a similar violation.

2. Norman Crochere shall pay an additional **fine of \$250 each for violations a-j**. These violations do not warrant the imposition of the maximum \$1,500 fine.

3. Norman Crochere shall **pay \$690.00 costs** of the hearing (Hearing Officer-Hearing-2.5 hours at the hearing; 3.5 hours to write Decision @ \$115 per hour = 690.00; copying costs-28 pp. @\$.25=\$42). The 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.

4. The fines, totaling \$4,000 and costs of \$690.00 shall be **paid at a monthly rate of \$150.00** by the last day of each month beginning with October 31, 2008. Payment shall be made by 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.

5. Norman Crochere shall receive a **REPRIMAND** for these violations.

6. Norman Crochere shall also reduce the approximately \$4,000 he owes to the Oil and Solid Fuel Board as a result of that Board's June 5, 2008 decision imposing sanctions for violations of its statutes and Rules. Mr. Crochere admitted that he could make additional payments of \$150 per month to that Board by the last day of each month beginning with October 31, 2008.¹ Payment shall be made by 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.

The Board then resolved complaint number 2008-PLU-4642 by voting 4-0 to issue Norman Crochere a conditional journeyman plumber's license for a period of one year from April 30, 2008. The license is conditioned on his payment of \$150 each month to the Board and the Oil and Solid Fuel Board as above ordered.

SO ORDERED.

Dated: October 22, 2008



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

¹ Norman Crochere admitted evidence which demonstrated that he had earned approximately \$22,000 from January 1, 2008-May 31, 2008 and was still employed as of the date of this hearing.

V.

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.