

STATE OF NEW HAMPSHIRE
ELECTRICIANS' BOARD
CONCORD, NH

In the matter of:
Kenneth Babineau
Lic. #8768M – Master Electrician

DOCKET #23-ELEC-011

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public, the New Hampshire Electricians' Board (hereinafter "Board") and Kenneth Babineau, a master electrician licensed by the Board, ("Respondent") do hereby stipulate and agree to resolve certain allegations of misconduct now pending before the Board according to the following terms and conditions:

- 1) Pursuant to RSA 319-C:6-a, RSA 541-A, RSA 310:9, RSA 310:10, and the Electrician's Board Administrative Rules ("Elec") 105.03(a)(4), 203, 207, and 405, the Board has jurisdiction to investigate and adjudicate allegations of misconduct committed by electricians. Pursuant to RSA 310:10, VIII(a), and Plc 205.04 the Board may dispose of such allegations by settlement at any time prior to a decision on the merits.
- 2) The Board first granted the Respondent a license to practice electrical installations in the State of New Hampshire as a master electrician on 4/19/1990. He currently holds master electrician license number 8768M.
- 3) On October 7, 2022, an OPLC electrical inspector found two employees of New Horizon Technologies (of which the Respondent is master of record) performing an unsupervised electrical installation in Concord, NH. One individual was a registered apprentice, while the other individual was unregistered and unlicensed.
- 4) On October 4, 2023, the Board issued a Notice of Hearing against the Respondent.
- 5) The Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would present evidence of the following facts, from which the Board could find that he engaged

unprofessional conduct in violation of Elec 404.05 and 405.01:

- A. On October 7, 2022, Electrical Inspector Joe LeSage performed an unannounced inspection of a jobsite at 304 Loudon Road in Concord, NH.
 - B. Inspector LeSage found two individuals performing an electrical installation.
 - C. Both individuals were employees of New Horizon Technologies.
 - D. The Respondent is the master electrician of record for New Horizon technologies.
 - E. The first individual, Thomas Girouard, was unlicensed and unregistered with the Board.
 - F. The second individual, Derek Maylin, was a registered apprentice (Reg #21508A).
 - G. During the inspection, the Inspector found no licensed master nor licensed journeyman present to supervise the individuals.
 - H. During follow up communications with the Board inspector, the Respondent was cooperative and did not refute or deny the allegations.
- 6) The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, the Respondent engaged in unprofessional conduct pursuant to Elec 404.05 and 405.01.
- 7) The Respondent acknowledge that the above-described conduct constitutes grounds for the Board to take disciplinary action against the Respondent's licenses to practice as a master electrician in the State of New Hampshire, as stated in Elec 405.02.
- 8) The Respondent has no past disciplinary history.
- 9) The Respondent is willing to accept that these are first offenses as described in Elec 405.03(c)(1).
- 10) This shall be considered as a disciplinary action until seven years after the execution of this *Settlement Agreement* as described in Elec 405.03(i).
- 11) For the purposes of determining disciplinary action, multiple offenses that occur on one job site or in one incident shall be considered separate offenses as described in Elec 405.03 (g).
- 12) The Respondent consents to the Board imposing the following discipline, pursuant to RSA

310:12, Elec 405.01, Elec 405.02, Elec 405.03(c)(1).

- a) The Respondent's license is **SUSPENDED** for a period of one (1) year. The suspension will be **DEFERRED** for a two (2) year period provided the Respondent does not violate any Board law or administrative rules, and the Respondent advises the Board on a monthly basis in a written report by completing the *Probation Reporting Form* of the location of any current and projected jobs and subcontracted jobs in NH as required under Elec 405.02
- (b). The reports shall include jobs and subcontracted jobs (completed or projected) from the first day of the month to the first day of the following month. The report form, supplied by the Board, shall be received in the Board's office by the first day of the month, with the first report due on the first day of the month following the execution of this *Settlement Agreement* and the last report due twenty-four (24) months after the execution of this *Settlement Agreement*. A report shall be filed each month even if no work is performed in NH.
- 13) The Board may consider the Respondent's compliance or non-compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding the the Respondent's license.
- 14) The Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute misconduct pursuant to Elec 405.01, and shall be a separate and sufficient basis for further disciplinary action by the Board. The deferred suspension may then be brought forward in addition to any further disciplinary action. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against the Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this *Settlement Agreement* as a factor in determining appropriate discipline should any further

misconduct be proven against the Respondent in the future.

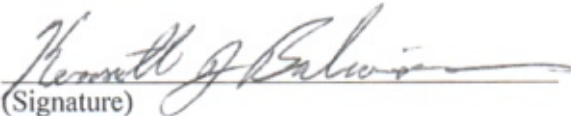
- 15) This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.
- 16) The Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
- 17) The Board agrees that in return for the Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
- 18) The Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
- 19) The Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this *Settlement Agreement*.
- 20) The Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void and Respondent's admissions herein shall be of no effect and inadmissible in any proceeding or matter. The Respondent specifically waives any claims that any disclosures made to the Board during its review of this agreement have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
- 21) The Respondent is not under the influence of any drugs or alcohol and are otherwise of sound mind at the time they sign this *Settlement Agreement*.
- 22) The Respondent certifies that he has read this *Settlement Agreement*. The Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal any decision as allowed by law. Further, the Respondent fully understands the nature,

qualities, and dimensions of these rights. The Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein.

23) This agreement shall take effect as an Order of the Board pursuant to the process dictated by Plc 205.04.

FOR RESPONDENT

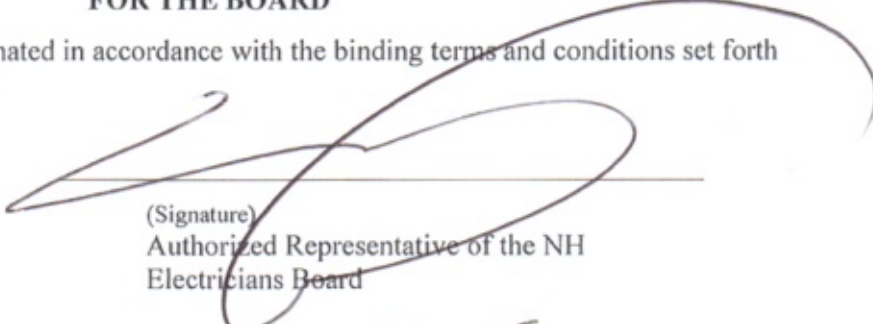
Date: 11/9/2023


(Signature)
Kenneth Babineau

FOR THE BOARD

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 11/7/23


(Signature)
Authorized Representative of the NH
Electricians Board

Mark C Connor
Chairman