

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

MECHANICAL SAFETY AND LICENSING BOARD

**In Re: Christopher P. Mitchell
License # 184034/GFE0202394
Master Plumber/ Gas Fitter**

Docket No.: 23-MECH-010

NOTICE OF DECISION DATED 4/5/2024

Enclosed please find a copy of the Board's Order dated 4/5/2024 relative to:

DISCIPLINARY HEARING FINAL DECISION AND ORDER

PETITIONS FOR REHEARING:

Pursuant to N.H. Code Admin. Rs. Plc 206.31(b), 206.33 ("Rules") and RSA 310:14, II, petitions for rehearing shall be filed within 30 calendar days after service of a final adjudicative order. Pursuant to Rule 206.31(c) and (d), the Petition shall: 1) clearly identify the respondent, by name and license number, and the docket number of the matter for which the petition is being filed, for rehearing in a disciplinary or non-disciplinary remedial proceeding; 2) clearly state whether the petitioner is seeking to have the decision reversed or modified and, if modified, the specific modification(s) sought; 3) clearly identify the specific findings of fact or conclusions of law, or both, that the petitioner asserts are erroneous; 4) contain such argument in support of the petition as the petitioner desires to present, including an explanation of how substantial justice would be done by granting the relief requested; and 5) be served by the petitioner on all other participants in accordance with Plc 206.11. Pursuant to Rule 206.31(e), the petitioner or petitioner's representative shall sign the petition. Pursuant to Rule 206.31(f), such signature shall constitute attestation that: 1) the signer has read the petition for rehearing; 2) the signer is authorized to file the petition for rehearing; 3) to the best of the signer's knowledge, information, and belief, there are good grounds to support the petition for rehearing; and 4) the petition for rehearing has not been filed solely or primarily for purposes of delay or harassment in any pending or contemplated administrative, civil, or criminal proceeding. Pursuant to Rule 206.31(g), no answer to a petition for rehearing shall be required, but any answer or objection filed shall be delivered to the presiding officer's office within 5 working days following receipt of service of the petition for rehearing. Pursuant to RSA 541:5, upon the filing of such petition for rehearing, the Board or Presiding Officer shall within ten days either grant or deny the same, or suspend the order or decision complained of pending further consideration, and any order of suspension may be upon such terms and conditions as the Board or Presiding Officer may prescribe. The Presiding Officer and/or Board shall rule upon a Motion for Rehearing in accordance with Rule 206.32. Pursuant to Rule 206.32(e), a decision on reconsideration shall be issued after fully considering the petition and any responses thereto, which reconsideration shall include a hearing on the factual issues identified in the motion if the board determines a hearing to be necessary to a full consideration of the facts.

RIGHT TO APPEAL:

Pursuant to RSA 310:14, III, appeals from a decision on a petition for rehearing shall be by appeal to the New Hampshire Supreme Court pursuant to RSA 541. Pursuant to RSA 541:6, within 30 days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the decision on such rehearing, the applicant may appeal by petition to the New Hampshire Supreme Court. Pursuant to RSA 310:14, III, no sanction shall be stayed by the Board during an appeal. *See also* Rule 206.33.

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FINAL DECISION AND ORDER – 03/14/24

I. PARTICIPANTS:

Board Members¹:

Jesse Doucette, Board Chair and Member
Peter M. Kendrigan, Board Member
Elisha Cole, Board Member

Board Support Staff and Counsel:

Teresa Boyer, OPLC Board Administrator
Elizabeth Eaton, OPLC Board Counsel

Presiding Officer:

Nikolas Frye, OPLC Administrative Law Judge

Parties:

Christopher P. Mitchell, Licensee
Marissa Schuetz, OPLC Hearing Counsel

II. CASE SUMMARY/PROCEDURAL HISTORY:

¹ Joseph Nash was present but recused himself. He did not sit with the Board for the hearing, and did not participate in the hearing or the deliberation.

On 04/24/23 the Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Division of Enforcement”), acting on behalf of the Mechanical Safety and Licensing Board (“Board”), received a complaint alleging that Christopher P. Mitchell (“Licensee”) was allegedly pulling plumbing permits for an unregistered business entity with unlicensed personnel in New Hampshire. After investigation, the Board voted on 09/13/23 to initiate a disciplinary proceeding in this matter. The Board held a prehearing conference on 02/26/2024 at 10:00 AM EST. A final hearing was held on 03/13/24. This Final Decision and Order follows.

III. SUMMARY OF THE PROPOSED EVIDENCE AND EVIDENTIARY RULINGS:

The Board received the following evidence pursuant to RSA 541-A:33 and Rules 206.22 and 206.18(d):

A. 03/12/24 Stipulation of Fact submitted jointly by the parties.

B. Sworn testimony was received from:

1. Marc Prindiville, OPLC Board Inspector

Previously submitted Exhibits were not considered by the Board because the parties submitted a Stipulation of Fact and confirmed that there were no facts in dispute. *See* Plc Rule 206.30(b).

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

At the outset of the hearing, both parties confirmed that there were no material facts in dispute in this matter and that they had submitted a Stipulation of Fact. Pursuant to a 03/12/24 Order on Filed Stipulation of Fact and Plc Rule 206.30(b), the Presiding Officer heard oral arguments from the parties as to whether the facts contained in the Stipulation of Fact constitute professional misconduct. Next, the parties presented oral arguments as to what if any sanctions the Board should impose if the Presiding Officer concludes the Licensee has committed professional misconduct. *See* Plc Rule 206.30(b).

V. DISCUSSION, FINDINGS OF FACTS, AND CONCLUSIONS OF LAW:

Pursuant to Plc 206.30, the Stipulation of Facts, which are incorporated by reference herein and attached to this Order, are adopted as the findings of fact.

Based upon the findings of fact/stipulations of fact, the Presiding Officer makes the following conclusions of law pursuant to Plc 206.30(b) and RSA 310:10, IV and VI:

1. Between 04/23/20 and 08/31/23, the Licensee committed professional misconduct as defined at RSA 153:32, II(c) and (g) (*See* Saf-Mec 604.01(c)(5)) by allowing the performance of plumbing and fuel gas fitting work by one or more individuals who were not licensed fuel gas fitters or plumbers, or an apprentice or trainee holding a currently valid registration license.
2. Between 04/23/20 and 08/31/23, the Licensee committed professional misconduct as defined at RSA 153:32, II(c) and (g) (*See* Saf-Mec 302.05 and 302.06) by applying for and receiving one or more permits from one or more municipalities within the State of New Hampshire without being licensed as a mechanical business entity.
3. Between 09/01/23 and 09/29/23, the Licensee committed professional misconduct as defined at Saf-Mec 604.01 (*See* Saf-Mec 604.01(c)(5)) by allowing the performance of plumbing and fuel gas fitting work by one or more individuals who were not licensed fuel gas fitters or plumbers, or an apprentice or trainee holding a currently valid registration license.
4. Between 09/01/23 and 09/29/23, the Licensee committed professional misconduct as defined at Saf-Mec 604.01 (*See* Saf-Mec 302.05 and 302.06) by applying for and receiving permits from one or more municipalities within the state without being licensed as a mechanical business entity.²

Based upon the conclusions of law made by the Presiding Officer, the Board imposes the following disciplinary action:

1. Pursuant to RSA 310:12, I(d), the Board places the Licensee's license on **PROBATION** for a period of two years starting from the below signed date of this Order.
2. Pursuant to RSA 310:12, I(b), the Board imposes a **STAYED SUSPENSION** of the Licensee's license for the probationary period. The suspension shall remain stayed, so long as the Licensee commits no other acts of professional misconduct during the probationary period. The Board may take further disciplinary action against the Licensee's license should it determine, after a disciplinary proceeding, that the Licensee committed professional misconduct during the probationary period.

VI. CONCLUSION AND DECISION:

² Conclusions 1 and 2 above address misconduct occurring before RSA 153:32 was repealed, while conclusions 3 and 4 above address misconduct occurring after RSA 153:32 was repealed.

Pursuant to 310:10 and RSA 310:12, the Presiding Officer and Board make the findings of professional misconduct made herein and subjects the Licensee to the sanctions imposed by the Board.

DATED: 4/5/2024

_____/s/ Nikolas K. Frye, Presiding Officer_____
Presiding Officer
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301