

**STATE OF NEW HAMPSHIRE
BOARD OF MECHANICAL SAFETY AND LICENSING
CONCORD, NH**

In the matter of:

DOCKET #23-MECH-006

Edel Chaviano

Lic. #164697 – Journeyman Plumber

Lic. #GFE1206597 – Gas Fitter

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 Mechanical Safety and Licensing Board (“Board”) and Edel Chaviano (“Respondent”) do hereby stipulate and agree to resolve certain allegations of unprofessional conduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 153:27-a, RSA 310:9, RSA 541-A, and Board Administrative Rule Mec 202.01, 204.01, and 205.01, the Board has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by licensees. Pursuant to Mec 213.01 and Plc 205.04, the Board may, at any time, dispose of such allegations by settlement and without commencing an adjudicative hearing.
2. The Respondent holds Gas Fitter License # GFE1206597. The license is currently active and expires on January 31, 2024. The Respondent also holds Journeyman Plumber license #164697. The license is currently active and expires on January 31, 2025.
3. The Respondent stipulates that the Board could make the following factual findings:

- A. On or between April 23, 2020 and September 29, 2023, the Edel and Eduardo Chaviano solicited Christopher Mitchell to pull at least 12 plumbing or gas fitting permits in Salem, Hollis, and Portsmouth, NH for licensed jobs.
 - B. Neither Edel nor Eduardo Chaviano were properly licensed as a Mechanical Business Entity.
 - C. Neither Edel nor Eduardo Chaviano had the required level of licensure to pull their own permits.
 - D. Christopher Mitchell did not have his own Mechanical Business Entity license.
 - E. Christopher Mitchell provided advice on several of the jobs, but did not directly supervise Edel or Eduardo Chaviano in the performance of their work.
 - F. Edel and Eduardo Chaviano paid Christopher Mitchell at least \$500 for his role in signing and pulling the permits.
 - G. The Respondent cooperated in the investigation of this matter.
 - H. The Respondent has no prior disciplinary history.
4. Based on these facts, the Board could find that the Respondent violated Mec 604.01(c)(1) (See Mec 302.06) by soliciting Christopher Mitchell to apply for permits without holding a mechanical business entity license, and by engaging in plumbing and fuel gas fitting jobs without being properly licensed as a mechanical business entity to do said jobs.
 5. Respondent consents to the Board imposing the following discipline, pursuant to Mec 604.02(a)(2) and RSA 310:12:
 - A. Respondent's licenses will be **RESTRICTED** and subject to a period of **PROBATION** for 2 years from the effective date of this agreement:

- 1) During the period of probation, Respondent shall submit performance reports of all gas-fitting jobs requiring a license to the Office of Professional Licensure and Certification (“OPLC”) on a monthly basis. The report shall be submitted to the OPLC on the last day of each month with the first report due the last day of the month that the Board enters this *Settlement Agreement* as the Board’s order. The last report is due 24 months after the execution of this *Settlement Agreement*. A report shall be filed each month even if no work is performed in New Hampshire. The report shall contain the following information:
 - a. Customer name;
 - b. Customer address;
 - c. Dates of work performed; and
 - d. Scope of work performed.
- 2) Monthly reports shall be emailed to the Chief Mechanical Safety Inspector, currently Marc Prindiville at marc.a.prindiville@oplc.nh.gov.
- 3) Customer names and addresses contained in each report shall be exempt from public disclosure pursuant to RSA 91-A:5, IV because identifying information about private citizens is confidential and disclosure would constitute an invasion of privacy.
- 4) During the period of probation, OPLC and the Chief Mechanical Safety Inspector shall have the right to randomly audit jobs performed in New Hampshire and inspect job sites in New Hampshire to confirm that the

work complies with all applicable laws, rules, and standards adopted by the Mechanical Safety and Licensing Board.

5) The Chief Mechanical Safety Inspector shall provide regular updates to the Board regarding the Respondent's compliance with this probationary term.

B. Respondent's licenses shall be subject to a **STAYED SUSPENDED** during 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.

6. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct and a separate and sufficient basis for further disciplinary action by the Board.
7. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the unprofessional conduct described above. However, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.
8. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
9. 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. Respondent further agrees that no coercion or duress from any person has caused him to sign this *Settlement Agreement*.

10. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein. This *Settlement Agreement* shall constitute a final Board action on this matter.
11. Respondent understands that his execution of this *Settlement Agreement* is a final act and not subject to reconsideration, judicial review, or appeal.
12. Respondent acknowledges that he has had the opportunity to seek and obtain the advice of an attorney of his choosing prior to signing this *Settlement Agreement*.
13. 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. Respondent specifically waives any claims that any disclosures made to or by the Board during its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
14. Respondent is not under the influence of any drugs or alcohol and is otherwise of sound mind and judgment at the time he signs this *Settlement Agreement*.
15. Respondent certifies that he has read this and understands all of the terms of this *Settlement Agreement*.
16. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the rights 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 to the courts under RSA 310:14. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the unprofessional conduct described herein.

17. This *Settlement Agreement* shall take effect as an Order of the Board when it is signed by an authorized representative of the Board.

FOR RESPONDENT

Date: 04/05/2024

Edel Chaviano
Edel Chaviano

FOR THE BOARD/*

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

Date: 4/10/24

Jesse Houcette
(Signature)

Jesse Houcette / Board Chair
(Print Name and Title)

Authorized Representative of the
New Hampshire Mechanical Safety
and Licensing Board