

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

ELECTRICIANS' BOARD

**In Re: Brian Haskell
License 11248**

Docket No.: 2022-Elec-001

**FINAL DECISION AND
ORDER – 10/04/22**

I. ATTENDEES:

Matthew C. Connors, Board Chair
Henry Szumiesz, Board Member
William J. Infantine, Board Member
Michael Palmeri, Board Member
Phil Biron, Board Member
Christine Horne, Board Administrator
Shana Warriner, Board Administrator
Sheri Phillips, Esq., Board Counsel with NH DOJ
Nikolas K. Frye, Esq., OPLC Hearings Examiner and Board Presiding Officer
Brian Haskell, Licensee
John Garrigan, Esq., OPLC Division of Enforcement and Hearing Counsel
Michael Soucy, Safety Bureau Administrator, NH Department of Energy
Henry Lesage, Chief Electrical Inspector, OPLC

II. CASE SUMMARY/PROCEDURAL HISTORY:

During an unannounced random inspection at Home Depot in Salem, New Hampshire on 10/19/21, Chief Electrical Inspector Michael Soucy and Inspector Joe LeSage encountered two unsupervised individuals conducting electrical work for Brian Haskell ("Licensee") without a valid New Hampshire electrical license or apprentice card. After further investigation, the Board voted pursuant to RSA 319-C:12(I) to commence an adjudicative proceeding in this matter on 06/06/22. A final adjudicative hearing was held on 10/04/21 at 10:30 am.

III. SUMMARY OF THE EVIDENCE:

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 212.05:

A. Exhibits were submitted by OPLC Enforcement, numbered as follows:

1. Michael Soucy Report of Investigation re: Marcelo Araujo, dated 12/01/21
2. Michael Soucy Report of Investigation re: Brian Haskell, dated 12/28/21
3. Letter from Attorney Sakib Khan with Respondent's written response to complaint and attached documents, dated 01/20/22
4. Eduardo Silva Application for New Apprentice Electrician and fee payment receipt, dated 10/21/21
5. Town of Salem Permit
6. State of New Hampshire Notice of Violation for Marcel Araujo and Voltech
7. Bruno Monteiro Apprentice Licensure Records
8. State of New Hampshire Notice of Violation for Brian Haskell

B. Exhibits were submitted by Licensee, designated as follows:

A. None

C. Sworn testimony was received from:

1. Michael Soucy (called by Hearing Counsel)
2. Henry Lesage (called by Hearing Counsel)
3. Brian Haskell (called by Brian Haskell)

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

The Licensee appeared for the hearing as anticipated. The Chair disclosed a potential conflict with respect to the Licensee. The Licensee indicated he had no concern with the Chair serving on the Board for his case. The Presiding Officer next explained the process to the parties and reviewed the filed exhibits with them. After hearing from the parties with respect to each exhibit, the Presiding Officer determined they were material and relevant and admitted them as full exhibits.¹ Pursuant to Rule 207.10, OPLC Enforcement has the burden of proving its case by a preponderance of the evidence. The credible evidence presented at the hearing allows the Board to find the following facts.

HEARING COUNSEL CASE-IN-CHIEF:

Michael Soucy

¹ The Licensee had no objection to any of the exhibits.

Hearing Counsel's first witness was Michael Soucy. He began by testifying to his training and experience as an electrician. He stated he is a master electrician and currently the Safety Bureau Administrator at the New Hampshire Department of Energy. In addition, he explained he has previously held the following positions, which are listed from most to least recent: Chief Electrical Inspector at OPLC for approximately 1.5-2 years, Regional Electrical Inspector for approximately 1 year, Electrical Inspector for the city of Manchester, private electrician business owner, and military electrician. He surmised that in total he has approximately 35 years' experience as an electrician with his work in inspection commencing in 2015.

Mr. Soucy's testimony was then directed to the night of 10/19/21. His testimony revealed that he was OPLC's Chief Electrical Inspector at that time and he was conducting inspections in the Salem, New Hampshire area with the then Regional Inspector, Henry ("Joe") Lesage. According to Mr. Soucy, he and Mr. Lesage inspected the Home Depot in that area between approximately 10:00 PM and 10:20 PM. He testified that while there, they identified an individual working on a light fixture inside the store, who he later identified as Bruno Monteiro. He clarified that another individual, Eduardo Silva, later appeared and claimed to be helping Mr. Monteiro. He noted that most of the conversation with these individuals occurred with Mr. Silva, because Mr. Monteiro did not speak English well. Mr. Soucy then testified that when he explained who he was and asked Mr. Silva and Mr. Monteiro for their New Hampshire electricians' licenses, Mr. Silva told him he did not have one and Mr. Monteiro produced an apprentice license that had expired in September of 2021. Mr. Soucy explained that Mr. Silva claimed he and Mr. Monteiro's supervisor for the project was Brian Haskell (the Licensee), he was not present on site, and they did not know where he was. Mr. Soucy's testimony revealed that he was unsuccessful in reaching Mr. Haskell by telephone, so he escorted Mr. Monteiro and Mr. Silva out of the building and explained

they could not return until supervision was present. He indicated he also explained the licensing requirements to them and issued a written warning to Mr. Monteiro.

Mr. Soucy next testified regarding how he followed up on the 10/19/21 Home Depot inspection. According to his testimony, he went to the town's building department the next day and located the permit for the project. *See* Exh. 5. He testified that the Licensee's name was on the permit for a disconnect/reconnect job at the Home Depot, where he had found Mr. Monteiro and Mr. Silva. Mr. Soucy also stated that he had checked Mr. Silva's and Mr. Monteiro's histories with the Board. His query revealed he had dealt with Mr. Monteiro in a similar incident about a year beforehand when he was previously registered for a project with a permit showing Voltech and Aurajo listed as master electrician. Mr. Soucy also noted that the Board records show that the Mr. Monteiro was only registered as an apprentice on 09/23/20. *See* Exh. 7. Likewise, the Board records show that Mr. Silva completed only one application with the Board and that did not occur until after the 10/19/21 incident. *See* Exh. 4.

Mr. Soucy lastly addressed his contact with Mr. Haskell after the 10/19/21 incident. According to his testimony, the first time he spoke with the Licensee was on 10/20/21. Mr. Soucy explained that Mr. Haskell told him the reason he was not on site on 10/19/21 was because of a scheduling mix-up. Mr. Soucy also testified that Mr. Haskell claimed neither Mr. Monteiro nor Mr. Silva were his employees and later clarified that Voltech had paid him \$500.00 to obtain the work permit with the understanding that he would work with Voltech's employees on the project. Mr. Soucy's testimony revealed he had requested that Mr. Haskell provide him with information about the scope of work conducted for the Home Depot project. Despite the Licensee's assurance that he would get Mr. Soucy the information, it was never received.

Mr. Soucy also testified that he had further communication with Mr. Haskell on 10/26/21, when he returned to the Home Depot to check on the work again. According to his testimony, Mr. Haskell was

on site that day working with Mr. Silva, who was able to provide an apprenticeship card that time. Mr. Soucy also stated that he called and texted Mr. Haskell after this encounter to again inquire about obtaining information on the work conducted at the Home Depot but never heard back. Consequently, Mr. Soucy issued violation notices to Mr. Haskell, as well as Mr. Aurjao. *See* Exhs. 6 and 8. Mr. Soucy's testimony revealed that after sending the notice, he received a telephone call from Mr. Haskell in which he apologized for lying to him, as he had been covering up for Voltech. According to Mr. Soucy, Mr. Haskell said the truth was that Voltech was not keeping him informed as to when he was needed for the job site. Mr. Soucy testified that during this conversation he again requested information on where electrical work had been done in the Home Depot for this project, but never received the requested information.

Henry "Joe" Lesage

The second witness to testify for Hearing Counsel was Henry "Joe" Lesage". Mr. Lesage began by testifying about his credentials, which include being the current Chief Electrical Inspector for OPLC, a former Regional Inspector for OPLC, a former City of Manchester Electrical Inspector, and work as a contractor before his time as an inspector. Like Mr. Soucy, he also holds a master electrician license in New Hampshire.

Chief Inspector Lesage's testimony then turned to his participation in the inspection and investigation of the 10/19/21 incident. As part of his duties, he obtained Exhibit 3, which is a written submission from Mr. Aurajo's attorney, responding to the notice of violation his client received from Mr. Soucy. In relevant part, the response claims that the Licensee was hired by Mr. Aurajo to get a permit and supervise work at the Home Depot location. It claims that Mr. Monteiro and Mr. Silva were under the direction and supervision of Mr. Haskell. Documentation provided with the response shows 4 checks made out to Mr. Haskell from Voltech, totaling \$2,280.00. The response further indicates that the Licensee was acting as an independent subcontractor on the project.

Chief Inspector Lesage also discussed his communication with the Licensee. He testified that the Licensee contacted him to schedule a meeting to discuss the case, but one never occurred, despite Mr. Lesage having reached back out to him and leaving a voicemail saying that a meeting could happen. Chief Inspector Lesage also noted that a review of the Licensee's history shows he has no past discipline and that his license lapsed after 07/31/22. On cross examination by the Licensee, Chief Inspector Lesage acknowledged that the first check to the Licensee is dated 10/19/21 and covers the expense of the permit. All other checks made out to the Licensee postdate 10/19/21.

LICENSEE'S CASE-IN-CHIEF:

Brian Haskell

The Licensee's sole witness was himself. He testified that Marcelo Aurajo had called and asked him to work with some of his employees, which the Licensee had agreed to do because he had worked with Mr. Aurajo on other projects with no issue. According to the Licensee's testimony, Mr. Aurajo never informed Mr. Haskell what the schedule for the project was, so Mr. Silva and Mr. Monteiro were working at the Home Depot on 10/19/21 without his knowledge. He explained that the permit was for him to work, not for the employees to work without him.

On cross examination by Hearing Counsel, the Licensee acknowledged he has significant training and experience as a Master Electrician with 20 years of experience— both with respect to practice and laws, rules and regulations governing his profession. He admitted he needed to be supervising the employees and that this was not the first time he had obtained a permit under his license, but clarified it was the first time he had employees working on his site without him first being informed of the schedule. The Licensee also admitted he had lied to Mr. Soucy initially to protect Mr. Aurajo and his company. On Board questioning, the Licensee again agreed he was the one who took out the permit and therefore took responsibility. Nonetheless, he explained that from his perspective these were not his employees, and he

was not “chasing the job down.” He stated that he was paid for the permit by Aurajo and “went to work and did what I had to do.” Lastly, he confirmed his license had lapsed and indicated he planned to reapply in the future.

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

After reviewing all the evidence, and accounting for the presentation and demeanor of all the witnesses, the Board finds, by a preponderance of the evidence, that there is more than sufficient evidence that the Licensee has committed professional misconduct. Licensee candidly admitted that he applied for and obtained the work permit for the project at which Eduardo Silva and Bruno Monteiro were working unsupervised and without licenses on 10/19/21. Further, the Licensee candidly admitted that he originally lied to former Chief Inspector Soucy in relation to the inspection and investigation into the 10/19/20 incident. The Board finds that his actions and inactions placed the safety and well-being of both the public and Mr. Silva and Mr. Monteiro in potential danger. Based upon the evidence presented and the findings of facts made herein, the Board concludes as follows:

A. The Licensee committed professional misconduct, as defined at RSA 319-C:12, II(c) when in October of 2021, he allowed two unsupervised, unlicensed individuals to conduct electrical work under a permit he had obtained under his license at a Home Depot in Salem, New Hampshire. (*See, i.e.* Rules 404.05(a), 405.01(a)(1),(3), and RSA 319-C:1)

B. The Licensee committed professional misconduct, as defined at RSA 319-C:12, II(c) when he was untruthful to Chief Inspector Soucy during his investigation in to the 10/19/21 incident and failed to provide Mr. Soucy with a requested list of all the dates and parts of the store where he did electrical work. (*See, i.e.* Rules 405.01(a)(1),(3), and (4)).

C. The Licensee committed professional misconduct, as defined at RSA 319-C:12, II(d) when in October of 2021, he both willfully and negligently allowed two unsupervised individuals to conduct electrical work under a permit he had obtained under his license at a Home Depot in Salem, New Hampshire. (*See* Rule 404.05(a) and RSA 319-C:1).

D. The Licensee committed professional misconduct, as defined at RSA 319-C:12, II(g), by willfully violating provisions of RSA 319-C or Board Rules when in October of 2021, he allowed two unsupervised, unlicensed individuals to conduct electrical work under his license at a Home Depot in Salem New Hampshire. (*See* Rules 404.05(a), and 405.01(a)(1),(3), and RSA 319-C:1).

E. The Licensee committed professional misconduct, as defined at RSA 319-C:12, II(g), by willfully violating provisions of RSA 319-C or Board Rules when he was untruthful to Chief Inspector Soucy during his investigation in to the 10/19/21 incident and failed to provide Mr. Soucy with a requested list of all the dates and parts of the store where he did electrical work. (*See, i.e.* Rules 405.01(a)(1),(3), and (4)).

F. Pursuant to RSA 319-C:12, III(b) and Rule 405.02(c)(1), in the event the Licensee reapplies for licensure and the Board determines that he qualifies for licensure pursuant to RSA 319-C and applicable Board Rules, the Board hereby **SUSPENDS** his license for a period of 2 years, commencing from the date the Board approves his application for licensure. The entire suspension shall be suspended, conditioned upon the following:

1. For a period of 6 months, commencing from the date the Board approves the Licensee's application for licensure, his license shall be restricted by downgrading it from a master to a journeyman, pursuant to Rule 405.02(c)(1); and
2. For a period of 18 months, commencing from the date the 6 month downgrade of licensure expires, the Licensee shall be subject to a limitation of certification in the form of monthly reporting to the Board. Licensee shall file monthly written reports with the Board 30 days after he is upgraded to master electrician and every month thereafter for 17 months. The reports shall, among other things, detail what jobs he is supervising and the employees under him. Failure to comply with this requirement shall result in the imposition of the full 2-year suspension detailed above coming forward and commencing upon the occurrence of the Licensee's violation of this provision; and
3. The Licensee remaining in good behavior for a period of two years, commencing from the date the Board approves the Licensee's application for licensure. Good behavior as used herein is defined as no violations of RSA 319-C or Board Rules. The full 2-year license suspension shall come forward and commence upon the occurrence of the Licensee violating RSA 319-C or Board Rules during the two year period after approval of the Licensee's application for licensure.

G. Pursuant to RSA 319-C:12 and Rule 405.03(j) and (k), the Board, in imposing the above-referenced sanctions, considered the following factors: the lack of prior disciplinary infractions, the possible creation of a hazard to public safety, the lack of cooperation with the investigation or the board, the severity of the offense.

H. Pursuant to RSA 319-C:12 and Rule 405.02, the Licensee is subjected to the above-referenced discipline as the minimum sanction that the Board believes will, based on the facts and circumstances of this particular case, both protect the public and deter the Licensee and any other licensees from engaging in such misconduct in the future.

In determining whether and when to apply for licensure as an electrician, and given the testimony was the Licensee's license lapsed on 07/31/22, the Licensee should be cognizant of Rule 402.01, which

addresses the additional requirements for licensure for applicants failing to renew within one year from when their license expired, three years from when their license expired, 6 years from when their license expired, 10 years from when their license expired, and over 10 years from when their license expired.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 319-C:12, and Rule 405, the Board hereby administers the discipline outlined above.

DATED: 10/6/2022

_____/s/ Nikolas K. Frye, Esq. _____
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