COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
AGENCY CASE NO. 2014-0015-HVAC
(Division Case# KY-15-01-00007-CE)

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION BOARD OF HVAC CONTRACTORS — COMPLAINANT

v. **AGREED ORDER**

DAVID S. BOWMAN, II — RESPONDENT

* * * * * * * * *

1. The Department of Housing, Buildings and Construction and the Board of HVAC Contractors ("DHBC") regulate and license heating, ventilation, and air conditioning ("HVAC") master contractors and journeyman mechanics in accordance with the provisions set forth in KRS 198B.650 through 198B.689. Additionally, the DHBC Division of HVAC enforces all statutes, regulations, and applicable code requirements related to HVAC work in the Commonwealth of Kentucky.

2. David S. Bowman, II ("Respondent") was, at all relevant times herein, a resident, located at

3. Respondent is currently a Kentucky licensed Journeyman HVAC Mechanic (license #HJ12758), since September 12, 2014.

4. In August 2014, for purposes of obtaining employment, Respondent provided a Kentucky Journeyman HVAC Mechanic license card to Fayette Heating & Air indicating that he was currently licensed even though Respondent's last Kentucky Journeyman HVAC Mechanic license expired on June 30, 2009. The Department further alleges that the Respondent was not licensed in Kentucky as a Journeyman

HVAC Mechanic while employed with Fayette Heating & Air as a journeyman mechanic, from June 4, 2014, through August 25, 2014.

5. The DHBC maintains that the Respondent's actions set forth above violated KRS 198B.656(2), which prohibits an individual from holding himself out as a Journeyman HVAC Mechanic without a valid Journeyman HVAC Mechanic's license; the 2013 Kentucky Building Code, Section 122.3, and the 2013 Kentucky Residential Code, Section R101.6 as applicable, which require that all HVAC work be provided by a licensed Journeyman HVAC Mechanic.

6. Accordingly, on November 20, 2014, the DHBC notified Respondent in writing of the intent to revoke his license and impose fines, advised him of his right to request an administrative hearing pursuant to KRS Chapter 13B, and offered him the opportunity to voluntarily surrender his license and resolve the matter via agreed order.

7. Respondent disputes the DHBC's interpretation of these provisions on the grounds that KRS 198B.674(1) has, at all times relevant hereto, exempted him from the provisions of KRS 198B.650 through 198B.689.

8. The DHBC possesses a range of statutory and administrative authority in addressing violations of KRS 198B.650 through 198B.689, the regulations promulgated thereunder, and the Uniform State Building Code, including license revocation and suspension, and the imposition of fines in an amount up to $1,000 per violation, with each day the violation continues constituting a separate offense. *See* KRS 198B.990(1).

9. While Respondent disputes that his actions as set forth above constitute a violation of law, in the interest of economically and efficiently resolving the matter described herein, the Respondent and DHBC agree as follows:

a. Respondent agrees to voluntarily surrender his Journeyman HVAC Mechanic's license #HJ12758 and agrees that he shall be ineligible to apply for Kentucky HVAC licensure for six (6) months from the date of this Agreed Order;

b. Respondent agrees to and shall pay a total fine of $5,625.00 no later than February 13, 2015. Said payment shall be in the form of a certified check or money order made payable to "Kentucky State Treasurer" and mailed to the Department of Housing, Buildings and Construction, Attn: Amber Arnett, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky, 40601;

c. Respondent shall devote the time and resources reasonably necessary to ensure continual and full compliance with the Uniform State Building Code, and all statutory and regulatory requirements set forth in KRS 198B.650 to 198B.689 and 815 KAR Chapter 8; and

d. The DHBC agrees to pursue no further administrative action based upon the alleged violations described herein.

10. Respondent waives his right to an administrative hearing or to otherwise appeal or set aside this Order.

11. Respondent consents to and acknowledges the jurisdiction of the DHBC over this matter and that this Agreed Order is a matter of public record and may be disseminated as such.

12. In consideration of execution of this Agreed Order, Respondent for himself, and for his successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, the DHBC, Office of Legal Services, and each of their members, agents, and employees in their individual capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands

whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph or Agreed Order arising out of or by reason of this investigation, this disciplinary action, this settlement, or its administration.

13. By signing below, the parties acknowledge they have read the foregoing Agreed Order, know and fully understand its contents, and that they are authorized to enter into and execute this Agreed Order and legally bind their respective parties.

14. This Agreed Order shall constitute the Final Order in this matter.

IT IS SO ORDERED on this the 12th day of February 2015.

GARY A. FECK
Acting Commissioner
Department of Housing, Buildings
and Construction

Chairman
Board of HVAC Contractors

Agreed to:

This 11th day of February 2015.

Roger Banks, Acting Director
Division of HVAC
Department of Housing, Buildings and Construction

Agreed to:

This 6th day of February 2015.

David S. Bowman, II

ACKNOWLEDGEMENT

STATE/COMMONWEALTH OF KENTUCKY

COUNTY OF Fayette)

On this the 6th day of February 2015, before me Kellie Jo Lambert, the undersigned, David S. Bowman, II, did personally appear and entered into and executed the foregoing instrument for the purposes therein contained.

In witness whereof I hereunto set my hand.

My Commission Expires: 11/30/18

Kellie Jo Lambert
Notary Public #522864

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing *Agreed Order* was served via U.S. Postal Service, first class, postage prepaid on this the 13th day of February 2015, to the following:

Kristopher D. Collman
The Getty Law Group, PLLC
1900 Lexington Financial Center
250 West Main Street
Lexington, KY 40507
Attorney for Respondent,
David S. Bowman, II

Amber Arnett

Alea Amber Arnett
Assistant Counsel
Office of Legal Services
Department of Housing, Buildings and Construction
101 Sea Hero Road, Ste. 100
Frankfort, KY 40601
(502) 573-0365 ext. 107
(502) 573-1057 facsimile
AmberA.Arnett@ky.gov
Counsel for Complainant