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HVAC

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
AGENCY CASE NO. 2014-0011-HVAC
(Division Case# KY-14-08-0013-CE)

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION COMPLAINANT

v. AGREED ORDER

JAMES F. MATTINGLY

RESPONDENT

* * * * *

1. The Department of Housing, Buildings and Construction ("DHBC") is responsible for regulating and licensing 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 is responsible for enforcement of all statutes, regulations, and applicable code requirements related to HVAC work in the Commonwealth of Kentucky.

2. James F. Mattingly ("Respondent") was, at all relevant times herein, a Kentucky resident, whose residence is located at [REDACTED]

3. Respondent was at all relevant times herein a Kentucky licensed master HVAC contractor (license #HM00445) and a journeyman HVAC mechanic (license #HJ10211).

4. KRS 198B.678(1) prohibits a firm, company, or corporation from engaging in the practice of HVAC contracting in the Commonwealth of Kentucky unless the person in responsible charge of the HVAC work is a master HVAC contractor and is an employee or subcontractor of the firm, company, or corporation.

5. Respondent was at all relevant times herein the master HVAC contractor in responsible charge of the HVAC work performed by Cair Heating & Cooling LLC.

6. On July 24, 2014, DHBC inspector William Penna discovered that Cair Heating & Cooling LLC had begun installation of an initial HVAC system in a single-family home located at 95 Grape Vineyard Way in Fisherville, Kentucky without applying for a permit.

7. This conduct was in violation of KRS 198B.6671(1), 815 KAR 8:070, Section 2, and the 2013 Kentucky Residential Code, Section R105.1, which require anyone installing an initial HVAC system to apply for a permit prior to beginning the installation.

8. This is the fourth instance since August 2013 in which Respondent failed to obtain a permit prior to beginning installation of an initial HVAC system.

9. 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 \$1000 per violation, with each day the violation continues constituting a separate offense. *See* KRS 198B.990(1).

10. In this case, the DHBC has assessed a fine against Respondent in the amount of one thousand dollars (\$1,000.00) for beginning the installation of an initial HVAC system without obtaining the required permit in violation of KRS 198B.6671(1), 815 KAR 8:070, Section 2, and the 2013 Kentucky Residential Code, Section R105.1.

11. In the interest of economically and efficiently resolving the violation(s) described herein, the parties agree as follows:

- a. Respondent agrees to a fine assessment in the total amount of one thousand dollars (\$1,000.00) for the violation(s) described herein;
- b. Respondent agrees to and shall pay the total fine assessed herein no later than November 10, 2014. 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: John C. Allender, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601; and
- c. Respondent shall obtain the required permit prior to performing any HVAC work subject to permitting. Respondent shall devote the time and resources reasonably necessary to ensure continual and full compliance with all statutory and regulatory requirements set forth in KRS 198B.650 to 198B.689 and 815 KAR Chapter 8.

12. Respondent waives his right to demand a hearing at which he would be entitled to legal representation, to confront and cross-examine witnesses, and to present evidence on his own behalf, or to otherwise appeal or set aside this Order.

13. 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.

14. 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 arising out of or by reason of this investigation, this disciplinary action, this settlement or its administration.

15. 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.

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

IT IS SO ORDERED on this the 19th day of November, 2014.

Gary A. Veck
GARY A. VECK
ACTING COMMISSIONER

Consented to:

This 18 day of November, 2014.

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

This 7th day of November, 2014.

James F. Mattingly
James F. Mattingly

ACKNOWLEDGEMENT

STATE/Commonwealth of Ky

COUNTY OF Jefferson

On this the 7th day of November, 2014, before me James Mattingly the undersigned, James F. Mattingly, 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: 11/23/15

May I Perez
Notary Public

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing *Agreed Order* was served via certified mail, U.S. Postal Service, first class, postage prepaid on this the 20th day of November 2014, to the following:

James F. Mattingly

[REDACTED]
[REDACTED]
[REDACTED]

James F. Mattingly

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Amber Arnett

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