

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
AGENCY CASE NO. 2013-0001**

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION COMPLAINANT

v.

AGREED ORDER

JOSEPH T. PHILLIPS

RESPONDENT

* * * * *

1. The Department of Housing, Buildings and Construction ("DHBC") is responsible for regulating and licensing plumbers in accordance with the provisions set forth in KRS Chapter 318.

2. Joseph T. Phillips ("Respondent") was, at all relevant times herein, a Kentucky licensed master and journeyman plumber. Respondent's master plumber license number is M5034, and his journeyman plumber license number is J9445.

3. Respondent represents Nuday Inc. as its licensed plumber in accordance with KRS 318.110. By letter dated October 15, 2009, Respondent verified to DHBC as follows: "I shall be responsible for all the plumbing activities of this company including the procurement of all plumbing construction permits, the supervision of all licensed journeymen (sic) plumbers, and for the conformity to all provisions of the Kentucky State Plumbing Code."

4. In October 2013, DHBC began an investigation of work completed by Nuday Inc. at the Country Hills Apartments, 565 Schenkel Lane in Frankfort, Kentucky based on information received indicating that illegal plumbing work may be underway at this location. This investigation revealed that thirty-three (33) water heaters were installed by Nuday Inc. at the Country Hills Apartments, and that no permits were taken out for the installations. Further, no inspections were requested by Nuday Inc. for the

installations. This conduct was in violation of KRS 318.134(1) and 815 KAR 20:050 §2, which require anyone constructing, installing, or altering any plumbing in the Commonwealth of Kentucky to first obtain a permit from DHBC. Each water heater installation constitutes a violation of these provisions. In addition, the failure to obtain inspections of each installation was in violation of 815 KAR 20:150, which requires inspections by the DHBC of all plumbing fixtures.

5. The DHBC possesses a range of statutory and administrative authority in addressing violations of KRS 318.010 through 318.990 and 815 KAR 20:010 through 20:195, including license revocation and suspension, and the imposition of fines in an amount up to \$100 per violation. *See* KRS 318.064; 318.990.

6. In this case, the DHBC has assessed a fine against Respondent in the amount of three thousand, three hundred dollars (\$3,300.00) for failure to obtain permits or inspections for the 33 heater installations performed by Respondent at the Country Hills Apartments in violation of KRS 318.134(1) and 815 KAR 20:050, Section 2.

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

- a. Respondent agrees to a fine assessment in the amount of three thousand, three hundred dollars (\$3,300.00) for the violation(s) described herein;
- b. Respondent agrees to and shall pay the total fine assessed herein in twelve (12) installment payments of two hundred seventy five dollars (\$275.00) each, which shall be due on the first calendar day of each month beginning on February 1, 2014, until paid in full.

Said payments 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 devote the time and resources necessary to ensure continual and full compliance with all statutory and regulatory requirements set forth in KRS 318.010 through 318.990 and 815 KAR 20:010 through 20:195.

7. 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.

8. 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.

9. 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.

Certificate of Service

I, John C. Allender, hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 10th day of February, 2014, by certified mail, to the following:



John C. Allender
Department of Housing, Buildings and
Construction
101 Sea Hero Road
Suite 100
Frankfort, Kentucky 40601
502-573-0365 ext. 107 (phone)
502-573-1057 (facsimile)
Counsel for Complainant