

Opinion No. 62-77

June 26, 1962

BY: OPINION OF EARL E. HARTLEY, Attorney General William E Snead, Assistant Attorney General

TO: Mr. Robert L. Thompson, Engineer Electrical Administrative, Board 1824 Lomas Blvd., N.E. Albuquerque, New Mexico

QUESTION

QUESTIONS

1. A master electrician who holds a contractor's license associates with a corporation, partnership, individual, or other business for purpose of entering the business of electrical contracting with the master electrician as supervisor. What procedure should be used for obtaining a license in the name of the new company?
2. If the master electrician is named as supervisor in the new license may he still be named as supervisor on his original license?
3. When the master electrician disassociates himself from the new business, does he have to apply for a new license?
4. If the new business is a partnership with the master electrician as a partner does the license continue in effect upon the disassociation of the master electrician?

CONCLUSIONS

1. See analysis.
2. No.
3. Yes.
4. No.

OPINION

ANALYSIS

We have paraphrased slightly the questions presented in your request for an opinion in order to facilitate answering.

The answer to the first question involves merely a reading of the statute. The question and answer has been posed by us merely to clarify and give basis for the other questions.

Section 67-19-8 (A), N.M.S.A., 1953 Compilation provides:

"(A) no person, firm, partnership or corporation shall engage in the business of electrical contractor in political subdivisions to which this act (67-19-1 to 67-19-19) applies, unless such person, firm, partnership or corporation shall have received a license from the boards as such. Each application for an electrical contractor's license shall be made in writing on forms prescribed and furnished by the board, stating the names and places of business of the applicant, the name of the representative of the applicant that will supervise the work to be done under said license, and shall be accompanied by the prescribed examination fee. The designated representative of such applicant shall be examined by the board to determine his knowledge of the orders, rules and regulations governing the installation of electrical wiring issued under authority of this act. Each license issued in accordance with the provisions of this act shall state the name of the person, firm, partnerships or corporation licensed, who shall be known as the holder of the license, and shall also state the name of the person who has passed the examination and is designated as supervisor of the work to be done under the license. The person designated as supervisor may be a person in the employ of the holder of the license; or, if the holder is a person, may be the holder himself; or if the holder is a corporation, may be an officer of the corporation. The same person shall not be designated as supervisor in more than one (1) electrical contractor's license issued to different persons, firms, partnerships or corporations. In event the business association of the supervisor shall terminate with any electrical contractor granted a license hereunder, the holder of such license shall immediately notify the board of such termination and said license shall become null and void within sixty (60) days after such termination, unless another supervisor is qualified in accordance with the above requirements. Before any license shall be granted, or any expiring license renewed, the applicant shall pay to the board a fee in the amount specified herein and shall also file with the electrical administrative board of the state of New Mexico an indemnity bond in favor of the people of the state of New Mexico in the sum of one thousand dollars (\$ 1,000.00). This bond is to be conditioned upon the faithful performance of all work entered upon or contracted for by any licensed electrical contractor. An action may be maintained on said bond by any person injured or damaged through the want of skill or the use of unsuitable or improper material in the performance of any work contracted for or undertaken by said licensee."

It is evident from a reading of this provision that when a business, regardless of the nature of its organization (partnership, corporation, etc.) is formed with the intention of entering into the electrical contracting business, it should obtain an electrical contractor's license by written application stating the name of the business designated as holder and the qualified person named as supervisor. The supervisor must be the master electrician.

The next question essentially is whether the master electrician may be named as supervisor on two licenses. It is our opinion that he may not. Reference to the above quoted provision shows that the same person shall not be designated as supervisor in more than one electrical contractor's license. Assuming that the master electrician in the present case was named as supervisor in the license under which he was operating prior to his new association, he would come squarely within the prohibition if he remained supervisor under that license and at the same time became supervisor under the new license. This is not to say that he may not be associated with two businesses operating under electrical contractor's licenses as long as he is not named as supervisor of both.

Question three presents the problem arising where the master electrician disassociates himself from the new business but wants to continue contracting. Assuming the correctness of the answer to question number two, the result follows uncontrovertibly that the master electrician must obtain a new license. It was necessary for him to give up the license under which he was originally named as supervisor in order to become supervisor under the license of the new business. The new business is, of course, named as the owner of the new license. **When the master electrician disassociates himself from the business the business has sixty days in which to qualify a new supervisor** under the provision quoted above. The license remains with its owner, the new business, assuming that the master electrician was not a partner. The master electrician now, **ipso facto**, has no electrical contractor's license. He must, therefore, apply for and obtain a new one before engaging in the electrical contracting business again.

The situation presented by question four arises because under the Uniform Partnership Act, in force in New Mexico, a partnership is dissolved when one of the partners ceases to be associated with the carrying on of the business of the partnership, Section 66-1-29, N.M.S.A., 1953 Compilation. The effect of dissolution is that the partnership is terminated upon the winding up of partnership affairs. Section 66-1-30, N.M.S.A., 1953 Compilation.

Assuming that the master electrician was a partner in the new business, his disassociation served to dissolve the partnership with the consequent termination thereof. No citation of authority is needed to show that upon termination of the partnership-the owner of the license-the license becomes void just as though the business had been a sole proprietorship and the owner had died. The license is effective only as long as there is an owner. We emphasize that this opinion, as far as question four is concerned, applies only to partnerships due to the unique legal status of a partnership.