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**BEFORE THE PLUMBING BOARD OF THE STATE OF OREGON**

	)	
<b>IN THE MATTER OF:</b>	)	<b>CONSENT ORDER</b>
	)	
<b>KISS CONSTRUCTION, LLC, A DOMESTIC</b>	)	
<b>LIMITED LIABILITY COMPANY</b>	)	<b>CASE NO. 2013-0182</b>
	)	
<b>RESPONDENT</b>	)	

The State Plumbing Board (Board) conducted an investigation and determined that Respondent violated certain provisions of the Oregon Building Codes statutes.

Respondent and the Board prefer to settle this matter informally by the entry of this consent order. Respondent understands that it has the right to a hearing under the Administrative Procedures Act (chapter 183, Oregon Revised Statutes), and fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing and entry of this order in the Board's record. Respondent agrees to conduct all future business in compliance with the applicable statutes, administrative rules, and specialty codes. Respondent understands that, once final, this order is a public record.

**FINDINGS OF FACT**

- (1) During or about the period July 13, 2013 through August 21, 2013, at 19575 River Road #37, Gladstone, Oregon, Respondent installed a new shower, hot and cold water lines, new shower diverter valve and shower floor drain, for the account of another, without having an Oregon plumbing contractor's license.
- (2) Respondent made the installations at 19575 River Road #37, Gladstone, Oregon, without first obtaining a plumbing permit.

**WHAT THE LAW SAYS**

- 1. Oregon Revised Statutes (ORS) 447.010(6) defines plumbing to include the art of installing, altering or repairing in or adjacent to or serving building pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes.
- 2. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or purport to be a plumbing contractor, and a member or employee of a firm, partnership or corporation may not engage in the business of layout or superintending of plumbing installations, without having obtained the plumbing contractor license required under ORS 447.010 to 447.156.<sup>1</sup>

<sup>1</sup> OAR 918-030-0010(8) For purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law, including a single instance.

- 1 3. Under ORS 693.030(1), a person may not engage in the trade of journeyman plumber  
without a journeyman plumber license.
- 2 4. Under Oregon Administrative Rules (OAR) 918-785-0200(1)(a), no person, firm, or  
3 corporation shall do plumbing in the State of Oregon without first obtaining a plumbing  
4 permit or minor label when required and paying the appropriate fees to the authorized  
permit issuing agency.

5 **CONCLUSIONS OF LAW**

- 6 1. Installing a new shower, hot and cold water lines, a new shower diverter valve and  
shower floor drain is plumbing as defined in ORS 447.010(6).
- 7 ~~2. By making plumbing installations without an Oregon plumbing contractor's license,~~  
8 ~~Respondent violated ORS 447.040(1).~~
- 9 3. By making plumbing installations without first obtaining a plumbing permit, Respondent  
10 violated OAR 918-785-0200(1)(a).

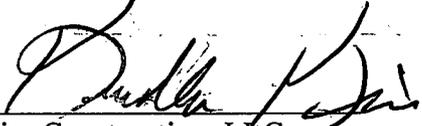
11 **SETTLEMENT AGREEMENT**

12 Respondent and the State Plumbing Board agree to resolve this matter without a hearing  
with the entry of this consent order subject to the following terms and conditions:

- 13 1. The Board hereby assesses a civil penalty of \$4,000 for violating ORS 447.040(1) and  
14 OAR 918-785-0200(1)(a), of which \$3,500 will be suspended for a period of five years  
under the following terms:
- 15 1.1 Respondent agrees to pay the remaining \$500 of the civil penalty.  
16 *(The invoice will be included with your copy of the Final Order after it is signed  
by the Board.)*
- 17 1.1. Respondent agrees to pay \$150 postmarked by the 25th day of each month once  
18 the Consent Order becomes final; for two (2) months. The final, third payment  
19 will be \$200 and postmarked by the 25<sup>th</sup> day of the month. As long as the  
payments remain timely, there shall be no interest added to Respondent's balance.
- 20 1.2. If Respondent fails to make a payment or otherwise defaults on any term of this  
21 Settlement Agreement, including failure to make a timely monthly payment, the  
22 case will be turned over to the Department of Consumer and Business Services  
collections department for collection of the entire \$4,000 civil penalty, along with  
interest and applicable fees.
- 23 2. Respondent agrees if a final order is issued by a board or the Director finding Respondent  
24 violated any of Building Codes Division's statutes or rules within five years from the date  
25 this order was signed by the Board, then Respondent will pay any subsequent penalty and  
the suspended penalty from this order.

3. Respondent agrees not to commit further violations of Building Codes Division's statutes or rules.
4. Respondent understands that if it fails to comply with any of the terms of this settlement agreement, then the entire civil penalty, including the amount suspended, will be immediately due and payable. Failure to comply includes failure to pay the civil penalty amount on the Final Demand Notice by the due date, or failure to make payments according to the terms of any payment arrangement or Final Demand Notice.
5. Respondent understands and agrees any violation of the terms of this consent order will result in further enforcement action.
6. Respondent understands and agrees that any violations of Building Code Division's statutes or rules not alleged in this order, whether committed before or after the execution of this consent order, may be the basis for further enforcement action.
7. Respondent understands the suspended civil penalty will be waived five years after the execution of this consent order, provided Respondent complies with its terms and has not committed any further violations of Building Codes Division's statutes or rules.
8. Respondent has read and fully understands the terms of this consent order, freely and voluntarily consents to the entry of this order without further hearing, without any force or duress, and expressly waives all rights to a hearing or appeal in this matter.
9. Respondent understands that, upon the signature of all parties, this consent order will be a FINAL ORDER.
10. Respondent further agrees by signing this consent order that he is the Respondent or authorized representative for the Respondent in this matter.

**FOR THE RESPONDENT**

  
Kiss Construction, LLC

Date: 5-26, 2014

**FOR THE BOARD**

 for  
Chair  
State Plumbing Board  
State of Oregon

Date: 6-4, 2014