

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

2 **IN THE MATTER OF:**

) **CONSENT ORDER**

3 **DUCKWORTH CONSTRUCTION, INC.,**  
4 **A DOMESTIC BUSINESS CORPORATION**

5 **RESPONDENT**

) **CASE NO. C2014-0054**

6           The Oregon State Plumbing Board (Board) conducted an investigation and determined that  
7 Respondent violated certain provisions of the Oregon Building Codes Statutes, administrative rules,  
8 and specialty codes.

9           The parties wish to settle this matter informally. Respondent understand that Respondent has  
10 the right to a hearing under the Administrative Procedures Act (chapter 183), Oregon Revised Statutes  
11 (ORS), and fully and finally waives the right to a contested case hearing and any appeal therefrom by  
12 the signing and entry of this Consent Order in the Board's records. Respondent agrees to conduct all  
13 future business in compliance with the applicable statutes, administrative rules (OAR), and specialty  
14 codes. Respondent understands that, once final, this order is a public record.

15                   **FINDINGS OF FACT**

- 16           1. On or about February 25, 2014, at 1120 W. Fairview Drive, Space 67, Springfield, Oregon,  
17 Respondent permitted or suffered Fred Ward, an unlicensed individual, to install and repair  
18 kitchen and bathroom water service piping and remove and replace a bathroom sink faucet and  
19 shower fixture for the account of another.
- 20           2. At no relevant time did Respondent have an active Oregon plumbing contractor license.
- 21           3. At no relevant time did Respondent obtain a permit for the work performed at 1120 W.  
22 Fairview Drive, Space 67, Springfield, Oregon.

23                   **APPLICABLE LAW**

- 24           1. ORS 447.010(6) defines plumbing as the art of installing, altering or repairing, among other  
25 things, building pipes, fixtures and other apparatus for bringing in the water supply.

- 1 2. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or  
2 purport to be a plumbing contractor without having obtained a plumbing contractor license.  
3 3. Under OAR 918-785-0200(1)(a), a person may not do plumbing work without first obtaining a  
4 plumbing permit and paying the appropriate fees to the authorized permit issuing agency.

5 **CONCLUSIONS OF LAW**

- 6 1. Repairing and installing kitchen and bathroom water service piping and removing and replacing  
7 a bathroom sink faucet and shower fixture are plumbing installations as defined by ORS  
8 447.010(6).  
9 2. By making plumbing installations without a valid plumbing contractor license, Respondent  
10 violated ORS 447.040(1).  
11 3. By making plumbing installations without first obtaining a plumbing permit and paying the  
12 appropriate fees to the authorized permit issuing agency, Respondent violated OAR 918-785-  
13 0200(1)(a).

14 **SETTLEMENT AGREEMENT**

15 Respondent and the Board agree to resolve this matter without a hearing according to the  
16 following terms:

- 17 1. The Board hereby assesses a \$4,000 civil penalty for violating ORS 447.040(1) and OAR 918-  
18 785-0200(1)(a), of which \$3,000 will be suspended for a period of five years under the  
19 following terms:

- 20 1.1. Respondent agrees to pay the remaining \$1,000 of the civil penalty. *(An invoice will be*  
21 *included with Respondent's copy of the final order after the Board signs it.)*  
22 1.2. Respondent agrees to pay \$83 postmarked by September 25, 2014, with monthly  
23 payments in that amount continuing for eleven (11) months, and a final payment of \$87  
24 in the twelfth (12<sup>th</sup>) month. All payments are due (postmarked) by the 25<sup>th</sup> day of the  
25

1 month. As long as the payments remain timely, there shall be no interest added to  
2 Respondent's balance.

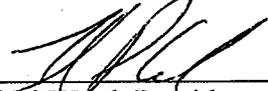
- 3 1.3. Respondent understands that a single failure to comply with any of the terms of this  
4 Settlement Agreement could result in the entire civil penalty, including the suspended  
5 amount, becoming immediately due and payable. Failure to comply includes failure to  
6 pay the civil penalty amount by the due date.
- 7 2. Respondent agrees to cooperate with the Building Codes Division's enforcement efforts in  
8 cases against other entities or individuals that rely on the underlying facts in this case.
- 9 3. Respondent agrees not to commit violations of the Building Code Division's statutes and rules.
- 10 4. Respondent understands that if Respondent fails to comply with any of the terms of this  
11 consent agreement that the entire civil penalty, including the amount suspended, will be  
12 immediately due and payable. Failure to comply includes failure to pay the civil penalty  
13 amount on the Final Demand Notice by the due date, or failure to make payments according to  
14 the terms of any payment arrangement or Final Demand Notice.
- 15 5. Respondent understands and agrees that any violation of the terms of this Consent Order  
16 will result in further enforcement action.
- 17 6. Respondent understands and agrees that any violation of the Building Code Division's statutes  
18 or rules not alleged in this order, whether committed before or after the execution of this  
19 Consent Order, may be the basis for further enforcement action.
- 20 7. Respondent understands that failure to comply with this settlement agreement may result in the  
21 denial of future licensing applications and/or suspension of licensing or certification  
22 issued by the Division and/or other state agencies.
- 23 8. Respondent understands the suspended civil penalty will be waived five years after the  
24 execution of this Consent Order, provided Respondent complies with its terms and has not  
25 committed any further violations of Building Code Division's statutes and rules.

1 9. Respondent has read and fully understand the terms of this Consent Order, freely and  
2 voluntarily consents to the entry of this order without further hearing, without any force or  
3 duress, and expressly waives all rights to hearing or appeal in this matter.

4 10. Respondent understands that, upon signature of all parties, this Consent Order will be a FINAL  
5 ORDER.

6 11. Respondent understands that once this Settlement Agreement and Consent Order becomes a  
7 FINAL ORDER, it becomes a public document.

8  
9 **FOR THE RESPONDENT**

10   
11 \_\_\_\_\_  
Fred Ward, President

Date: Aug 10 -14

12 **FOR THE STATE PLUMBING BOARD**

13   
14 \_\_\_\_\_ for  
15 Chair  
State Plumbing Board  
State of Oregon

Date: 8-11-14