BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES OF THE STATE OF OREGON

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

BEFORE THE STATE PLUMBING BOARD OF THE STATE OF OREGON

IN THE MATTER OF: **ERIK D. PALO, AN INDIVIDUAL,** **RESPONDENT.**	**CONSENT ORDER** **BCD CASE C2014-0218**

The Building Codes Division (Division) conducted an investigation on behalf of the Director of the Department of Consumer and Business Services of the State of Oregon (Director), the Electrical and Elevator Board of the State of Oregon, and the State Plumbing Board (Boards) and determined that Mathew Scott Selig (Respondent) violated certain provisions of the Boards' statutes and administrative rules.

The parties agree to settle this matter without a hearing. Respondent understands that Respondent has the right to a contested case hearing under the Administrative Procedures Act (Oregon Revised Statutes (ORS) chapter 183), and Respondent fully and finally waives the right to a hearing and any appeal therefrom by the signing of this Consent Order.

FINDINGS OF FACT

1. During or about the period of April 2 through April 5, 2014, at 2098 Dowell Road, Grants Pass, Oregon (the subject property), Respondent made or assisted with the following installations while working for Selig Construction LLC (Selig Construction):
   - 1.1. installed and plumbed a walk-in jetted tub;
   - 1.2. moved a drain;
   - 1.3. ran electrical wiring for a new ground-fault circuit interrupter (GFCI);

1.4. installed an adjustable shower head;

1.5. installed a UV (bacteria) light;

1.6. installed a hydrotherapy pump;

1.7. re-set a toilet.

2. All installations were for the account of Barbara Lawrence, who paid Selig Construction a total of $11,980 for the materials and the labor to make the installations.

3. At no relevant time did Respondent hold a supervising or journeyman electrician license or a journeyman plumber license in the State of Oregon when he made the installations described in Findings of Fact paragraph 1 at the subject property.

APPLICABLE LAW

1. ORS 479.530(10) defines an electrical installation as the construction or installation of electrical wiring and the permanent attachment or installation of electrical products.

2. Under ORS 479.620(3), a person may not make any electrical installation without a supervising or journeyman electrician's license.

3. Under ORS 447.010(6) plumbing is defined as the art of installing, altering or repairing in or adjacent to or serving buildings including pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes; fixtures and fixture traps; soil, waste and vent pipes; and storm water drainage, with their devices, appurtenances and connections.

4. ORS 693.030(1) states that a person may not engage in the trade of journeyman plumber without a journeyman plumber license issued under this chapter.

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5. Under ORS 455.775(2), if the Director has reason to believe that any person has been engaged, or is engaging, or is about to engage in any violation of the state building code, or ORS chapter 447, 455, 479, and 693 or any rule adopted under those statutes, the Director may issue an order, subject to ORS 183.413 to 183.497, directed to the person to cease and desist from the violation or threatened violation.

CONCLUSIONS OF LAW

1. Installing electrical wiring for a new GFCI and installing a hydrotherapy pump are electrical installations as defined in ORS 479.530(10).
2. Making the electrical installations described in Conclusions of Law paragraph 1 requires a valid supervising or journeyman electrician license under ORS 479.620(3).
3. By making the electrical installations described in Conclusions of Law paragraph 1 without a valid supervising or journeyman electrician license, Respondent violated ORS 479.620(3).
4. Installing a walk-in jetted tub, moving a drain, installing an adjustable showerhead, installing a hydrotherapy pump, and re-setting a toilet are all plumbing installation, as defined in ORS 447.010(6).
5. Making the plumbing installations described in Conclusions of Law paragraph 4 requires a journeyman plumber license under ORS 693.030(1).
6. By making the plumbing installations described in Conclusions of Law paragraph 4 without a valid journeyman plumber license, Respondent violated ORS 693.030(1).

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7. From Findings of Fact paragraphs 1 through 3 and Conclusions of Law 1 through 6, the Director has reason to believe that Respondent has and may continue to:

7.1. Perform electrical installations without the appropriate electrical license;

7.2. Perform plumbing installations without the a journeyman plumbing license; and

Respondent has been engaged in, is engaging in, or is about to engage in violations of ORS chapters 447, 455, 479, and 693 and the rules adopted thereunder. Therefore, the Director may issue an order against Respondent to cease and desist from the violations.

ORDER

Respondent agrees to resolve this matter with the Boards and Director without a hearing according to the following terms:

1. The Boards hereby assess a $4,000 total civil penalty for violating ORS 479.620(3) and 693.030(1) as follows:

1.1. $3,000 of the total civil penalty will be suspended for a period of five years if there is compliance with the remaining terms of this Consent Order.

1.2. Respondent agrees to pay the remaining $1,000 of the civil penalty according to the following plan: payments of $100 per month for 10 months, beginning with the first payment due on June 25, 2015, and each subsequent monthly payment due (postmarked) by the 25th day of each month thereafter. As long as the payments remain timely, there shall be no interest added to Respondent's balance. There are no early-payoff penalties. ***(An invoice will be included with Respondent's copy of the final order after the Director signs it.)***

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2. Respondent agrees to cease and desist from violating the Electrical Safety Law (ORS 479.510 - 479.945 and related administrative rules), and the plumbing laws (ORS 447.010 – 447.992, 693.010 – 693.994 and the related administrative rules), including but not limited to making an electrical installation without a supervising or journeyman electrician license (ORS 479.620(3)), and making a plumbing installation without a journeyman plumber license (ORS 693.030(1)).

3. Respondent understands the suspended civil penalty ($3,000) will be waived five years after this Consent Order becomes a final order, provided Respondent complies with its terms and has not committed any further violations of the Division's statutes and rules. Respondent understands and agrees that if Respondent does not comply with the terms of this Consent Order or if Respondent commits any further violations of the Division's statutes or rules, then the entire civil penalty, including the suspended amount, will become immediately due and payable. Failure to comply with this Consent Order includes, but is not limited to, failure to pay the civil penalty ($1,000) on or before the date it is due.

4. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases that rely on the underlying facts in this case. Cooperation may include, but not be limited to, making sworn statements or testifying in administrative hearings.

5. Respondent understands and agrees that further enforcement action may be taken for any violation of the Division's statutes or rules not alleged in this Consent Order, whether committed before or after the execution of this Consent Order, and/or for any violation of the terms of this Consent Order.

6. Respondent understands that failure to comply with this Consent Order may be used, in addition to any other reason provided for in law, as a basis for the denial of future licensing applications and/or suspension or revocation of licensing or certification issued by the Division and/or other state agencies.

7. Respondent understands that this Consent Order is a public record.

8. Respondent has read and fully understands the terms of this Consent Order, freely and voluntarily consents to the entry of this Consent Order without any force or duress, and expressly waives all rights to hearing or appeal in this matter.

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

_____ IT IS SO AGREED THIS 14 DAY OF May, 2015.
Erik D. Palo

Andrea Simmons for IT IS SO AGREED THIS 22 DAY OF May, 2015.
Director,
Department of Consumer and Business Services
State of Oregon

Andrea Simmons for IT IS SO AGREED THIS 22 DAY OF May, 2015.
Chair,
Electrical and Elevator Board
State of Oregon

Andrea Simmons for IT IS SO AGREED THIS 22 DAY OF May, 2015.
Chair,
State Plumbing Board
State of Oregon