

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

2 **IN THE MATTER OF:**

3 **DAVID LOUIS KING, AN INDIVIDUAL,**
4 **ABN CASTLE PLUMBING,**

5 **RESPONDENT.**

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)
) **CONSENT ORDER**
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) **CASE NO. 2014-0245**
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BUILDING CODES

7 The Building Codes Division (BCD) conducted an investigation on behalf of the State
8 Plumbing Board (Board) and determined that Respondent violated certain provisions of the Oregon
9 Building Codes statutes, administrative rules, and specialty codes.

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

13 **FINDINGS OF FACT**

- 14 1. During all relevant times, Respondent held Oregon journeyman plumber license number
15 8661JP.
- 16 2. Respondent performed plumbing work for the account of another without having an Oregon
17 plumbing contractor license on the following dates and locations:
 - 18 a. During or about May 5, 2014 through June 23, 2014, at 30365 Redwood Highway,
19 Cave Junction, Oregon, roughed in and finished an Americans with Disabilities Act
20 (ADA) compliant bathroom. On July 24, 2014, Respondent applied with Josephine
21 County for plumbing permit 7-136-14. This permit received final inspection on August
22 15, 2014.
 - 23 b. On or about August 12, 2014, removed and replaced PEX lines and roughed in
24 plumbing for a new home at 616 The Trees Drive, Williams, Oregon. Respondent
25 applied with Josephine County for plumbing permit 08-56-14. The permit was cancelled
by the county for lack of a plumbing contractor license.
 - c. On or about September 23, 2014, installed a walk-in tub at 2098 Dowell Road, Grants
Pass, Oregon. Respondent applied with Josephine County for plumbing permit 9-158-14
and this permit received final inspection on September 24, 2014.

1 d. On September 29, 2014, at 337 Country Aire Drive, Grants Pass, Oregon, moved stop
angles and a hose bib.

2 e. On October 2, 2014, moved a shower head at 327 Country Aire Drive, Grants Pass,
3 Oregon, (Invoice 2014-251).

4 3. Respondent applied for an Oregon plumbing contractor license on October 22, 2014.

5 **APPLICABLE LAW**

- 6 1. ORS 447.010(6) defines plumbing to include the art of installing, altering or repairing pipes,
7 fixtures and other apparatus in or adjacent to or serving buildings for bringing in the water
supply and removing liquid and water-carried waste, including the water supply distributing
8 pipes.
- 9 2. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or
10 purport to be a plumbing contractor, and a member or employee of a firm, partnership or
corporation may not engage¹ in the layout or superintending of plumbing installations, without
having obtained a plumbing contractor license.
- 11 3. Under ORS 455.129(2)(g), the State Plumbing Board may deny a license, certificate,
12 registration or application or may suspend, revoke, condition or refuse to renew a license,
13 certificate or registration if the Board finds that the licensee, certificate holder, registrant or
applicant has engage in business as a specialty code contractor without holding a valid specialty
14 code contractor license, certification or registration required for the business.

15 **CONCLUSIONS OF LAW**

- 16 1. Roughing in plumbing for an ADA-compliant bathroom, roughing in plumbing and replacing
PEX lines for a new home's kitchen and bathrooms, and installing a walk-in tub and hose bib
are plumbing as defined in ORS 447.010(6).
- 17 2. Respondent worked as a plumbing contractor by engaging in the layout or superintending of
18 plumbing installations at the locations listed in Findings of Fact paragraph (2), without a
plumbing contractor license, in violation of ORS 447.040(1).
- 19 3. By failing to comply with ORS 447.040(1), the State Plumbing Board may condition
20 Respondent's plumbing contractor license.

21 **SETTLEMENT AGREEMENT**

22 Respondent and the State Plumbing Board agree to resolve this matter without a hearing with
23 the entry of this Consent Order subject to the following terms and conditions:

24
25 ¹ OAR 918-0930-0010(8) states that 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 but not limited to a single instance.

1. The Board hereby assesses a \$3,000 civil penalty for violating ORS 447.040(1), of which \$1,500 will be suspended for a period of five (5) years under the following terms and conditions:
 - 1.1. Respondent agrees to pay the remaining \$1,500 of the civil penalty. *(An invoice will be included with Respondent's copy of the Final Order after it is signed by the Board.)*
 - 1.2. Respondent agrees to pay \$150 for ten (10) months, beginning once the Consent Order becomes final. As long as the payments remain timely, there shall be no interest added to Respondent's balance. The monthly payments must be postmarked by the 25th day of each month.
 - 1.3. If Respondent fails to make a payment or otherwise defaults on any terms of this settlement agreement, then the case will be turned over to the Department of Consumer and Business Services collections unit for collection of the entire \$3,000 civil penalty, along with interest and applicable fees.
 - 1.4. If Respondent fails to comply with the terms of this settlement agreement, and fails to make full payment of any amount within the time period stipulated in subsection 1.2 or if a payment is returned as insufficient funds or a card is declined or any of the other conditions of this Consent Order is not met, Respondent's plumbing contractor license may be suspended by the Board without appeal.
2. The Board agrees to issue Respondent a plumbing contractor license, and proposes to condition any of Respondent's existing or future licenses for one year under the following terms and conditions:
 - 2.1 Respondent will provide the division's enforcement section quarterly reports using a division-approved format for a period of one year. These reports shall include invoices for work performed, copies of plumbing permits issued when applicable, addresses of where the work was performed, and the customers' contact information. The first reporting period shall include invoices beginning January 1, 2015 through March 31, 2015. The first report is due no later than April 25, 2015.
 - 2.2 The second quarter begins April 1, 2015. The report is due by July 25, 2015.
 - 2.3 The third quarter begins July 1, 2015. The report is due by October 25, 2015.
 - 2.4 The fourth quarter begins October 1, 2015. The report is due by January 25, 2016.
3. Respondent understands that a single failure to comply with any of the terms of this settlement agreement could result in the entire civil penalty, including the suspended amount, becoming immediately due and immediate suspension of Respondent's plumbing contractor license.
4. Respondent understands that failure to comply with this settlement agreement may result in the denial of future licensing applications and/or suspension of licensing or certification issued by the division and/or other state agencies.

- 1 5. Respondent agrees not to commit further violations of the Building Code Division's statutes and rules.
- 2 6. Respondent understands and agrees that any violation of the terms of this settlement agreement
- 3 will result in further enforcement action.
- 4 7. Respondent understands and agrees that any violation of the Building Code Division's statutes
- 5 or rules not alleged in this Consent Order, whether committed before or after the execution of
- 6 this order, may be the basis for further enforcement action.
- 7 8. Respondent understands the suspended civil penalty will be waived five (5) years after the
- 8 execution of this Consent Order, provided Respondent complies with the order's terms and has
- 9 not committed any further violations of Building Code Division's statutes or rules.
- 10 9. Respondent agrees to cooperate with the Building Codes Division in any other cases related to
- 11 the Respondent's case.
- 12 10. Respondent has read and fully understands the terms of this Consent Order, freely and
- 13 voluntarily consents to the entry of this order without further hearing, without any force or
- 14 duress, and expressly waives all rights to hearing or appeal in this matter.
- 15 11. Respondent understands that, upon signature of all parties, this consent order will be a FINAL
- 16 ORDER.
- 17 12. The signatory for Respondent certifies that by signing the consent order, he is the Respondent
- 18 or the authorized representative for the Respondent in this matter.

19 **FOR THE RESPONDENT, DAVID LOUIS KING, ABN CASTLE PLUMBING**

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21 _____
22 David Louis King abn Castle Plumbing

23 Date: 1-13/14, 2015

24 **FOR THE STATE PLUMBING BOARD**

25 
26 _____
27 Chair
28 State Plumbing Board
29 State of Oregon

30 Date: 1-30, 2015