

1 **BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS**
2 **SERVICES OF THE STATE OF OREGON**

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

4 **IN THE MATTER OF:**

) **CONSENT ORDER**

5 **CORY THOMAS HAINES,**

)

6 **RESPONDENT.**

) **BCD CASE C2014-0267**
)

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

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

17 **FINDINGS OF FACT**

18 1. During or about September 29, 2014, through October 2, 2014, at 2238 S.E. Wind Rider
19 Lane, Bend, Oregon (subject property), Respondent performed the following work for the
20 account of another:

21 1.1. Cut and capped off water pipes in a residential bathroom following the removal of a
22 whirlpool tub in preparation for the installation of a walk-in shower; and

23 1.2. Installation of a showerhead and the related piping for the showerhead.

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1 2. All installations were for the account of the subject property's homeowners, Ronald and
2 Cinda Johnson, who paid Respondent roughly \$300 to \$500 for the materials and for
3 beginning the project on September 29, 2014.

4 3. At no relevant time was Respondent licensed as a plumbing contractor in the State of
5 Oregon.

6 4. At no relevant time was Respondent licensed as a journeyman plumber in the State of
7 Oregon when he made the installations described in Findings of Fact paragraph 1 at the
8 subject property.

9 5. Respondent did not obtain a plumbing permit prior to making the installations described in
10 Findings of Fact paragraph 1 at the subject property.

11 **APPLICABLE LAW**

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

17 2. ORS 447.040(1) prohibits a person from engaging in the business of working as a plumbing
18 contractor or advertising or purporting to be a plumbing contractor without a plumbing
19 contractor license.

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

22 4. OAR 918-780-0065¹ states no person shall do plumbing work without first obtaining a
23 plumbing permit or minor label.

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25 ¹ At the time the violations in this notice occurred, the requirement that a plumbing permit be obtained prior to performing plumbing work was codified as OAR 918-785-0200(1)(a). In a housekeeping change that took effect October 1, 2014, OAR 918-785-0200(1)(a) was renumbered to OAR 918-780-0065. No substantive changes were made to the rule during the renumbering process.

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

6 CONCLUSIONS OF LAW

7 1. Cutting and capping off water pipes and installing a showerhead with the related piping are
8 all instances of performing plumbing work, as defined in ORS 447.010(6).

9 2. Performing the plumbing work described in Conclusions of Law paragraph 1 requires a
10 journeyman plumber license under ORS 693.030(1).

11 3. By performing the plumbing work described in Conclusions of Law paragraph 1 without a
12 journeyman plumber license, Respondent violated ORS 693.030(1).

13 4. By performing the plumbing work for the account of another without an Oregon plumbing
14 contractor license, Respondent violated ORS 447.040(1).

15 5. By performing plumbing work without first obtaining a valid plumbing permit, Respondent
16 violated OAR 918-780-0065.

17 6. From Findings of Fact paragraphs 1 through 5 and Conclusions of Law paragraphs 1
18 through 5, the Director has reason to believe that Respondent has and may continue to:

19 a. Perform plumbing work without first obtaining a plumbing permit;

20 b. Perform plumbing work without a journeyman plumbing license;

21 c. Operate as a plumbing contractor without the appropriate plumbing contractor
22 license; and

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

1 **ORDER**

2 Respondent, the Board and the Director agree to resolve this matter without a hearing
3 according to the following terms:

4 1. The Board hereby assesses a \$6,000 total civil penalty for violating ORS 447.040(1), ORS
5 693.030(1), and OAR 918-780-0065, of which \$3,000 will be suspended for a period of five
6 years under the following terms:

7 1.1. Respondent agrees to pay the remaining \$3000 of the civil penalty. (*An invoice will*
8 *be included with Respondent's copy of the Final Order after the Board and the*
9 *Director sign it.*)

10 1.2. Respondent agrees to make payments of \$250 per month for 12 months, beginning
11 with the first payment due on June 25, 2015, and all payments due (postmarked) by
12 the 25th day of each month thereafter. As long as the payments remain timely, there
13 shall be no interest added to Respondent's balance. There are no early payoff
14 penalties.

15 1.3. Respondent agrees to immediately CEASE AND DESIST any and all violations of
16 ORS chapters 447, 455, and 693, and the rules adopted thereunder.

17 2. Respondent understands that a single failure to comply with any of the terms of this Consent
18 Order could result in the entire civil penalty, including the suspended amount, becoming
19 immediately due and payable. Failure to comply includes, but is not limited to, failure to pay
20 the civil penalty amount on the Final Demand Notice by the due date.

21 3. Respondent agrees to fully cooperate with the Building Codes Division's enforcement
22 efforts in cases against other entities or individuals that rely on the underlying facts in this
23 case. Cooperation may include, but not be limited to, making sworn statements or testifying
24 in administrative hearings.

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1 4. Respondent agrees not to commit violations of the Building Codes Division's statutes and
2 rules, including but not limited to, performing plumbing work that requires a journeyman
3 plumber license, a plumbing contractor license, and a valid plumbing permit in the state of
4 Oregon unless and until Respondent lawfully holds the proper plumbing licenses and obtains
5 the proper permit(s).

6 5. Respondent understands and agrees that any violation of the terms of this Consent Order
7 will result in further enforcement action.

8 6. Respondent understands and agrees that any violation of the Building Codes Division's
9 statutes or rules not alleged in this Consent Order, whether committed before or after the
10 execution of this Consent Order, may be the basis for further enforcement action.

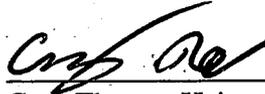
11 7. Respondent understands that failure to comply with this Consent Order may be used, in
12 addition to any other reason provided for in law, as a basis for the denial of future licensing
13 applications and/or suspension of licensing or certification issued by the Division and/or
14 other state agencies.

15 8. Respondent understands the suspended civil penalty will be waived five years after the
16 execution of this Consent Order, provided Respondent complies with its terms and has not
17 committed any further violations of Building Codes Division's statutes and rules.

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- 1 9. Respondent has read and fully understands the terms of this Consent Order, freely and
2 voluntarily consents to the entry of this Consent Order without further hearing, without any
3 force or 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
5 FINAL ORDER.
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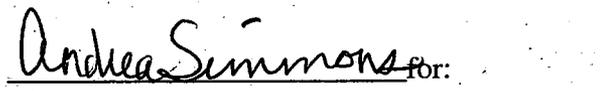
7 IT IS SO AGREED THIS 26th DAY OF May, 2015.

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10 _____
Cory Thomas Haines

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12 IT IS SO AGREED THIS 1 DAY OF June, 2015.

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15 _____ for:
Chair
State Plumbing Board
State of Oregon

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18 IT IS SO AGREED THIS 1 DAY OF June, 2015.

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21 _____ for:
Director
Department of Consumer and Business Services
State of Oregon
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