

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

2
3 **IN THE MATTER OF:**

4 **DAVID SHELTON, AN INDIVIDUAL**

5
6 **RESPONDENT**

)
) **NOTICE OF PROPOSED ASSESSMENT**
) **OF A CIVIL PENALTY AND FINAL**
) **ORDER ON DEFAULT**

)
)
) **CASE NO. 2013-0163**
)
)

8
9 Under ORS 455.895(1)(a) and OAR 918-001-0036, the Oregon Plumbing Board
10 (Board) proposed disciplinary action against you in the form of a \$3,000 civil penalty because
11 you violated Building Codes Division statutes and rules as follows:

12 **FINDINGS OF FACT and CONCLUSIONS OF LAW**

13 (1) Beginning on or about July 9, 2013, on www.craigslist.com, you advertised to
14 perform plumbing work for the account of another, without an Oregon plumbing contractor's
15 license, in violation of ORS 447.040(1).

16 **WHAT THE LAW SAYS**

17 (1) Under ORS 447.040(1), subject to OAR 918-695-0020, a person may not
18 advertise or purport to be a plumbing contractor, without a plumbing contractor's license.

19 **ORDER**

20 Under ORS 455.895(1)(a) and OAR 918-001-0036, the Oregon Plumbing Board assesses
21 the following:

22 (1) a \$3,000 civil penalty for violating ORS 447.040(1).

23 The total civil penalty assessed is \$3,000.

FINAL ORDER

As of: November 29, 2013

24 **NOTICE OF RIGHT TO HEARING**

25 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, Oregon
Revised Statutes, Chapter 183. If Respondent requests a hearing, the request must be in writing
and filed with the Division. The postmarked date on the request for hearing must be no later than

1 20 days from the date the Notice of Intended Action (Notice) is served on the Respondent. If
2 this Notice was served to Respondent in person, the service date is the date Respondent received
3 this Notice. If this Notice was served through the mail, the service date is the day the Notice was
4 mailed, not the day Respondent received it.

5 If a request for hearing is not received with a postmark dated within 20 days, Respondent's right
6 to a hearing is considered waived unless the failure to request a hearing was beyond
7 Respondent's reasonable control. Mail hearing requests to Building Codes Division,
8 Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

9 Respondent has the right to be represented by legal counsel. ORS 183.457 provides that a
10 corporation may be represented by an authorized representative at the hearing. If Respondent
11 requests a hearing, Respondent will be notified of the time and place of the hearing and be given
12 information on procedures, right of representation and other rights of parties relating to the
13 hearing before it begins.

14 **NOTICE OF FINAL ORDER**

15 If Respondent does not timely request a hearing, withdraws a hearing request, notifies the Board
16 or the administrative law judge that they will not appear, or fails to appear at a scheduled
17 hearing, the Board will issue a Final Order by Default. If the Board issues a Final Order by
18 Default, it designates the file, including any materials submitted by Respondent that relate to this
19 matter, as the record for purpose of proving a prima facie case.

20 Respondent is entitled to judicial review of any final order issued in the matter of this Notice of a
21 Proposed Civil Penalty. Judicial review may be obtained by filing a petition for review with the
22 Oregon Court of Appeals within 60 days after the Final Order is served. See ORS 183.482. If
23 the Order was served in person, the service date is the date Respondent received the Order. If the
24 Order was served through the mail, the service date is the day the Order was mailed, not the day
25 it was received by Respondent. If Respondent does not file a petition for judicial review within
60 days, Respondent will lose the right to appeal. The informational phone number for the
Oregon Court of Appeals is (503) 986-5555.

26 Dated this 29 day of August, 2013

27 Andrea Simmons for
28 Chairman
29 Plumbing Board
30 State of Oregon