

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

2 **IN THE MATTER OF:**

3 **BRIAN JAMES DARDIS**
4 **DBA BRIAN'S PLUMBING SERVICE, AN**
5 **ACTIVE ASSUMED BUSINESS NAME**

6 **RESPONDENT**

)
) **NOTICE OF PROPOSED ASSESSMENT**
) **OF A CIVIL PENALTY AND DENIAL OF**
) **PLUMBING CONTRACTOR LICENSE**
) **APPLICATION AND FINAL ORDER ON**
) **DEFAULT**

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)
) **CASE NO. 2013-0130**

FINAL ORDER

As of: Dec. 31, 2013

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9 Under ORS 455.895(1)(a) and OAR 918-001-0036, the Plumbing Board of the State of Oregon
10 (Board) proposes disciplinary action against Respondent in the form of civil penalties totaling
11 \$26,000, and under ORS 455.125(1)(a), the Board proposes to deny Respondent's plumbing
12 contractor application because Respondent violated Building Codes Division (BCD) statutes or
13 rules as follows:

14 **FINDINGS OF FACT**

15 (1) During all relevant times, Respondent was not licensed as a plumbing contractor.

16 (2) Beginning in approximately February 2013 through August 2013, at the following
17 locations, Respondent made plumbing installations, for the account of another, without first
18 obtaining a plumbing permit in violation of OAR 918-785-0200(1)(a):

- 19 a. Installation of storm drain, underfloor plumbing, and water service at 27169 SW
20 Smithville Road, Sheridan, Oregon, on or about February 21, 2013.
21 b. Installation of vent pipe at 524 SW Linfield Avenue, McMinnville, Oregon, on or
22 about May 22, 2013.
23 c. Installation of galvanized pipe at 140 SE Evans, McMinnville, Oregon, on or about
24 June 7, 2013.
25 d. Installation of grease trap, floor sinks, trap primers, plumbing piping and fittings, at
877 Keck Drive, McMinnville, Oregon, on or about July 5, 2013.
e. Installation of water lines, shut off valves, sink, and faucet at 25537 NW Dodson
Road, Yamhill, Oregon, on or about July 2013.
f. Installation of copper piping, plumbing lines, and a full port ball valve at 1600 SW
Fellows Street, McMinnville, Oregon (Columbus Elementary School), on or about
July 10, 2013.
g. Installation of top out above floor plumbing at 7576 Thompson Lane, Dayton,
Oregon, on or about August 2, 2013.

(3) Beginning in approximately February 2013 through August 2013, at the following

1 locations, Respondent engaged in the business of a plumbing contractor, for the account of
2 another, without being licensed as a plumbing contractor in violation of ORS 447.040:

- 3 a. Installation of vent pipe at 524 SW Linfield Avenue, McMinnville, Oregon, on or
4 about May 22, 2013.
5 b. Installation of galvanized pipe at 140 SE Evans, McMinnville, Oregon, on or about
6 June 7, 2013.
7 c. Installation of water lines, shut off valves, sink, and faucet at 25537 NW Dodson Road,
8 Yamhill, Oregon, on or about July 2013
9 d. Installation of copper piping, plumbing lines, and a full port ball valve at 1600 SW
10 Fellows Street, McMinnville, Oregon (Columbus Elementary School), on or about
11 July 10, 2013.
12 e. Installation of top out above floor plumbing at 7576 Thompson Lane, Dayton, Oregon,
13 on or about August 2, 2013.

14 (4) Installing storm drains, underfloor plumbing, water service, vent piping, galvanized
15 piping, grease traps, floor sinks, trap primers, plumbing piping, copper piping, water lines, shut
16 off valves, sinks, faucets, ball port valves, and above floor plumbing are plumbing installations
17 as defined in ORS 447.010(6).

18 CONCLUSIONS OF LAW

19 (1) By contracting to make and making plumbing installations which Respondent was not
20 properly licensed to make, as outlined in the findings of fact, Respondent violated ORS
21 447.040(1).

22 (2) By making plumbing installations without first obtaining a plumbing permit, as
23 outlined in the findings of fact, Respondent violated OAR 918-785-0200(1)(a).

24 (3) By failing to comply with rules adopted under chapter 447, as outlined above, the
25 Board may deny Respondent's plumbing contractor application.

26 APPLICABLE LAW

27 (1) Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise
28 or purport to be a plumbing contractor, and a member or employee of a firm, partnership or
29 corporation may not engage in the layout or superintending of plumbing installations, without
30 having obtained the plumbing contractor license.²

31 (2) Under OAR 918-785-0200(1)(a), no person, firm, or corporation shall do plumbing
32 work in the State of Oregon without first obtaining a plumbing permit or minor label.

33 ² OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630 and any other license regulated
34 by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to
35 perform, work for which a license or permit is required under Oregon law, including but not limited to a single
instance.

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ORDER

Under ORS 455.895(2) and OAR 918-001-0036, the Oregon Plumbing Board assesses the following:

- (1) \$21,000 civil penalty for violating ORS 447.040(1) on seven occasions.
- (2) \$5,000 civil penalty for violating OAR 918-785-0200(1)(a) on five occasions.

The civil penalties assessed total \$26,000.

Under ORS 455.125(1)(a), the Board denies Respondent's plumbing contractor application, for failing to comply with the provisions of ORS 447.040.

NOTICE OF RIGHT TO HEARING

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

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

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

NOTICE TO ACTIVE DUTY SERVICE MEMBERS

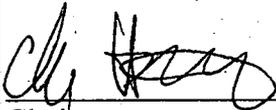
Active duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. Contact the Oregon State Bar at 800-452-8260 or the Oregon Military Department at 800-452-7500 for more information. If you need help finding legal assistance, visit the United States Armed Forces Legal Assistance Legal Services Locator website at <http://legalassistance.law.af.mil/content/locator.php>.

NOTICE OF FINAL ORDER

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

6 Respondent is entitled to judicial review of any final order issued in the matter of this Notice of a
7 Proposed Civil Penalty. Judicial review may be obtained by filing a petition for review with the
8 Oregon Court of Appeals within 60 days after the Final Order is served. See ORS 183.482. If
9 the Order was served in person, the service date is the date Respondent received the Order. If the
10 Order was served through the mail, the service date is the day the Order was mailed, not the day
11 it was received by Respondent. If Respondent does not file a petition for judicial review within
12 60 days, Respondent will lose the right to appeal. The informational phone number for the
13 Oregon Court of Appeals is 503-986-5555.

14 Dated this 9 day of December, 2013

15  Chris Antist for
16 Chairman
17 Plumbing Board
18 State of Oregon
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