

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

IN THE MATTER OF:

DAVID JOHN WILLIAM CALAWAY, AN INDIVIDUAL ABN CALAWAY PLUMBING

RESPONDENT

) NOTICE OF PROPOSED REVOCATION OF PLUMBING CONTRACTOR LICENSE NUMBER PB1352) FINAL ORDER ON DEFAULT) CASE NO. C2013-0250)

Under Oregon Revised Statutes (ORS) 455.129(2)(r)(B), the Director of the Department of Consumer and Business Services (Director) proposes disciplinary action against Respondent in the form of revocation of plumbing contractor license number PB1352 for violations of Building Codes Division statutes and rules as follows:

FINDINGS OF FACT

- 1. From February 6, 2008, through April 8, 2011, Respondent served as President of Calaway Plumbing, Inc., a domestic business corporation against which civil penalties were assessed by the State Plumbing Board.
2. Calaway Plumbing, Inc. was administratively dissolved through the Oregon Secretary of State on April 8, 2011.
3. On May 5, 2009, the State Plumbing Board mailed Notice of Proposed Civil Penalty and Final Order on Default to Calaway Plumbing, Inc., for case number 2009-0108, for allowing an unlicensed individual to perform plumbing installations.
4. On May 5, 2009, the State Plumbing Board mailed Notice of Proposed Civil Penalty and Final Order on Default to David J. Calaway, for case number 2009-0070, for making plumbing installations without a journeyman plumber license.
5. On May 27, 2009, the Final Order for case numbers 2009-0108 and 2009-0070 became final.
6. On or about August 11, 2010, the Department of Consumer and Business Services (Department) mailed notice of Proposed License Suspension for Calaway Plumbing, Inc.'s plumbing contractor's license number PB526, case number 2009-0184; for failure to pay civil penalties in the amount of \$3,850 for case number 2009-0108.

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FINAL ORDER

As of: July 2, 2014

- 1 7. On September 2, 2010, the Final Order for case number 2009-0184 became final, and
2 Calaway Plumbing, Inc.'s plumbing contractor's license number PB526 was suspended.
- 3 8. On or about December 18, 2013, the Department mailed notice of Proposed Civil Penalty
4 to Respondent for engaging in the trade of journeyman plumber without a journeyman
5 plumber license for case number 2013-0105, which was a second violation within five (5)
6 years of violations that were cited in case number 2009-0108.
- 7 9. On February 24, 2014, the Final Order for case number 2013-0105 became final.
- 8 10. On April 24, 2012, Respondent registered as a sole proprietor with the assumed business
9 name Calaway Plumbing with the Oregon Secretary of State.
- 10 11. On June 6, 2013, Respondent obtained plumbing contractor's license number PB1352 as
11 an individual.
- 12 12. On December 10, 2013, the State Plumbing Board mailed a Notice of Proposed Civil
13 Penalty and Final Order on Default to Calaway Plumbing for case number 2013-0181, for
14 allowing an unlicensed individual to perform plumbing installations.
- 15 13. On January 8, 2014, the Final Order for case number 2013-0181 became final.

12 APPLICABLE LAW

- 13 1. Under ORS 447.040 (2), a plumbing contractor license does not authorize the contractor
14 to work as a journeyman plumber.
- 15 2. Under ORS 693.030(2)(a), a person required under ORS 447.101 to be licensed as a
16 plumbing contractor may not permit or suffer any person to work as a journeyman
17 plumber who does not hold a valid journeyman plumber license.
- 18 3. Under ORS 693.030(1), a person may not engage in the trade of a journeyman plumber
19 (plumbing) without a valid journeyman plumber's license.
- 20 4. Under ORS 455.129(2)(r)(B), the Department of Consumer and Business Services may
21 revoke a license if the Department finds that the licensee is a business, the owner or an
22 officer of which was an owner or officer in another business at the time an act or failure
23 to act by any owner or officer of the other business resulted in action being taken against
24 the license of the other business by the department, the director or any advisory board.

22 CONCLUSIONS OF LAW

- 23 1. By failing to comply with the laws and rules administered by the State Plumbing Board,
24 the Director may revoke Respondent's license under ORS 455.129(2)(r)(B).

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- 1 2. The Director finds that Respondent is a licensee holding plumbing contractor's license
2 number PB1352, and is a sole proprietor with the assumed business name Calaway
3 Plumbing as shown by Respondent's April 24, 2012 registration with the Oregon
4 Secretary of State.
- 5 3. Respondent served as an officer (President) in another business, Calaway Plumbing, Inc.,
6 when failure to act by any owner or officer of Calaway Plumbing, Inc. resulted in the
7 State Plumbing Board suspending Calaway Plumbing, Inc.'s plumbing contractor's
8 license number PB526, as well as imposing civil penalties on that business.

6 **ORDER**

7 Under ORS 455.129(2)(r)(B), the Director of the Department of Consumer and Business
8 Services revokes Respondent's plumbing contractor license number PB1352.

9 **NOTICE OF RIGHT TO HEARING**

10 Respondent is entitled to a hearing as provided by the Administrative Procedures Act,
11 Oregon Revised Statutes, chapter 183. If Respondent requests a hearing, the request must be in
12 writing and postmarked no later than 20 days from the service date. If this Notice of Proposed
13 Revocation of Plumbing Contractor License Number PB1352 was served to Respondent in
14 person, the service date is the date Respondent received this notice. If this notice was served
15 through the mail, the service date is the day the notice was mailed, not the day Respondent
16 received it.

17 If a request for hearing is not received within 20 days, Respondent's right to a hearing is
18 considered waived. Mail hearing requests to Building Codes Division, Enforcement Section,
19 P.O. Box 14470, Salem, Oregon, 97309.

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

25 **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>.

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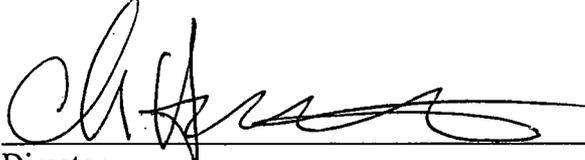
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NOTICE OF FINAL ORDER

If Respondent does not request a hearing within 20 days, withdraws a hearing request, notifies the Director or the administrative law judge that they will not appear, or fails to appear at a scheduled hearing, the Director will issue a Final Order by Default. If the Director issues a Final Order by Default, it designates the file, including any materials submitted by Respondent that relate to this matter, as the record for purpose of proving a prima facie case.

Respondent is entitled to judicial review of any final order issued in the matter of this Notice of Proposed Revocation of Plumbing Contractor License Number PB1352. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after the Final Order is served. See ORS 183.482. If the Final Order was served in person, the service date is the date Respondent received the order. If the order was served through the mail, the service date is the day the order was mailed, not the day 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 phone number for the Oregon Court of Appeals is 503-986-5555.

Dated this 10 day of June, 2014



Director
Department of Consumer and Business Services
State of Oregon