

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

2 **IN THE MATTER OF:** )  
3 **GARY LAPE, AN INDIVIDUAL** ) **STIPULATED ORDER**  
4 **RESPONDENT** ) **CASE NO. C2014-0158**  
5 )

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

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

15 **FINDINGS OF FACT**

- 16 1. At all relevant times Respondent was an employee of Al's Plumbing Inc., a domestic  
17 business corporation and specialty contractor, which holds Oregon plumbing contractor  
18 license 27-27PB.
- 19 2. On or about July 3, 2013, at 1378 Center Drive, Medford, Oregon, Respondent worked on  
20 the installation of a plumbing trap distribution box, which involved Respondent fitting the  
21 trap primer distribution box and cutting copper pipes to obtain the correct height for the box  
22 to be fitted. Respondent performed this work for the account of another.
- 23 3. At no relevant time did Respondent hold an active Oregon journeyman plumber license.

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### APPLICABLE LAW

1. Under ORS 447.010(6) plumbing is defined as the art of installing, altering or repairing in or adjacent to or serving buildings including pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes, fixtures and fixture traps; soil, waste and vent pipes; and storm water drainage, with their devices, appurtenances and connections.
2. ~~ORS 693.030(1) states a person may not engage in the trade of journeyman plumber without a journeyman plumber license issued under this chapter.~~

### CONCLUSIONS OF LAW

1. The installation of a plumbing trap distribution box, including the fitting of a trap primer distribution box and cutting copper pipes to obtain the correct height for the box to be fitted, is plumbing as defined by ORS 447.010(6).
2. By performing plumbing without a valid journeyman plumber license, Respondent violated ORS 693.030(1).

### ORDER

The Respondent and the Board agree to resolve this matter without a hearing according to the following terms:

1. The Director hereby assesses a \$2,000 total civil penalty for violating ORS 693.030(1), of which \$1,500 will be suspended for a period of five years under the following terms:
  - 1.1. Respondent agrees to pay the remaining \$500 of the civil penalty. *(An invoice will be included with Respondent's copy of the Final Order after the Board Chair signs it.)*
  - 1.2. Respondent agrees to make payments of \$125 per month for four months, beginning with the first payment due on October 25, 2014, and all payments due (postmarked) by the 25<sup>th</sup> day of each month thereafter. As long as the payments remain timely,

1           there shall be no interest added to Respondent's balance. There are no early payoff  
2           penalties.

- 3           2. Respondent understands that a single failure to comply with any of the terms of this  
4           Stipulated Order could result in the entire civil penalty, including the suspended amount,  
5           ~~becoming immediately due and payable. Failure to comply includes, but is not limited to,~~  
6           failure to pay the civil penalty amount on the Final Demand Notice by the due date.
- 7           ~~3. Respondent agrees to fully cooperate with the Building Codes Division's enforcement~~  
8           efforts in cases against other entities or individuals that rely on the underlying facts in this  
9           case. Cooperation may include, but not be limited to, making sworn statements or testifying  
10          in administrative hearings.
- 11          4. Respondent agrees not to commit violations of the Building Codes Division's statutes and  
12          rules.
- 13          5. Respondent understands and agrees that any violation of the terms of this Stipulated Order  
14          will result in further enforcement action.
- 15          6. Respondent understands and agrees that any violation of the Building Codes Division's  
16          statutes or rules not alleged in this order, whether committed before or after the execution of  
17          this Stipulated Order, may be the basis for further enforcement action.
- 18          7. Respondent understands that failure to comply with this Stipulated Order may result in the  
19          denial of future licensing applications and/or suspension of licensing or certification issued  
20          by the Division and/or other state agencies.
- 21          8. Respondent understands the suspended civil penalty will be waived five years after the  
22          execution of this Stipulated Order, provided Respondent complies with its terms and has not  
23          committed any further violations of Building Codes Division's statutes and rules.

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- 9. Respondent has read and fully understands the terms of this Stipulated Order, freely and voluntarily consents to the entry of this order without further hearing, without any force or duress, and expressly waives all rights to hearing or appeal in this matter.
- 10. Respondent understands that, upon signature of all parties, this Stipulated Order will be a

FINAL ORDER.

IT IS SO STIPULATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014

  
Gary Lape

IT IS SO ORDERED THIS 28 DAY OF October, 2014

  for  
Chair  
State Plumbing Board  
State of Oregon