

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

3 **IN THE MATTER OF:**)
4 **A-1 HOSPITALITY, LLC,**) **CONSENT ORDER**
5 **ABN HOLIDAY INN EXPRESS,**)
6 **RESPONDENT.**) **CASE NO. C2014-0182**

7 The Building Codes Division (BCD) conducted an investigation on behalf of the Director
8 of the Oregon Department of Consumer and Business Services (Director) and determined that
9 Respondent violated certain provisions of the Oregon Building Codes statutes, administrative rules,
and specialty codes.

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

14 **FINDINGS OF FACT**

- 15 1. During or about April through May 2014, at 600 SE Nye Avenue, Pendleton, Oregon,
16 Respondent procured or assisted Cortney C. Magers, an employee of Respondent, and
17 Steven Greenwald, an independent contractor, neither of whom hold an Oregon journeyman
18 plumber license, to install approximately 60 floor drains, overflow and hot-and-cold mixing
19 valves and faucets in guestrooms of a commercial establishment when such work requires an
Oregon journeyman plumber license to perform it.
- 20 2. Respondent hired a licensed plumbing contractor that obtained a plumbing permit for the
above-mentioned installations which are all in compliance.

21 **APPLICABLE LAW**

- 22 1. ORS 447.010(6) defines plumbing to include the art of installing, altering or repairing in or
23 adjacent to or serving buildings pipes, fixtures and other apparatus for bringing in the water
supply and removing liquid and water-carried waste, including the water supply distributing
pipes.
- 24 2. Under ORS 455.450(2), a person may not engage in, or procure or assist any other person to
25 engage in any conduct or activity for which a permit, label, license, certificate, registration
or other formal authorization is required by any specialty code or any rule adopted or order
issued for the administration and enforcement of those provisions, without first having

obtained such permit, label, license, certificate, registration or other formal authorization.

CONCLUSIONS OF LAW

1. Installing floor drains, overflow and hot-and-cold mixing valves and faucets in guestrooms of a commercial establishment is plumbing as defined in ORS 447.010(6).
2. By procuring Cortney C. Magers and Steven Greenwald to engage in conduct or activity for which a permit and license are required by the Building Codes Division's statutes or rules, and for which the persons Respondent procured do not possess Oregon journeyman plumber licenses, Respondent violated ORS 455.450(2) twice.

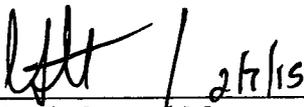
SETTLEMENT AGREEMENT

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

1. The Director hereby assesses a \$4,000 total civil penalty for violating ORS 455.450(2) on two occasions, of which \$3,500 will be suspended for a period of five (5) years under the following terms:
 - 1.1. Respondent agrees to pay the remaining \$500 of the civil penalty.
(The invoice will be included with Respondent's copy of the Final Order after it is signed by the Board)
 - 1.2. If Respondent fails to comply with the terms of this settlement agreement, then the case will be turned over to the Department of Consumer and Business Services collections unit for collection of the entire \$4,000 civil penalty, along with interest and applicable fees.
2. Respondent understands that a single failure to comply with any of the terms of this Consent Order could result in the entire civil penalty, including the suspended amount, becoming immediately due and payable.
3. Respondent agrees not to commit violations of the Building Codes Division's statutes and rules.
4. Respondent understands and agrees that any violation of the terms of this Consent Order will result in further enforcement action.
5. Respondent understands and agrees that any violation of the Building Codes Division's statutes or rules not alleged in this order, whether committed before or after the execution of this Consent Order, may be the basis for further enforcement action.
6. Respondent understands that failure to comply with this Consent Order may result in the denial of future licensing applications and/or suspension of licensing or certification issued by the division and/or other state agencies.

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7. Respondent understands the suspended civil penalty will be waived five years after the execution of this Consent Order, provided Respondent complies with its terms and has not committed any further violations of Building Codes Division's statutes and rules.
 8. Respondent's representative has read and fully understands the terms of this Consent 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.
 9. Respondent's representative understands that, upon signature of all parties, this Consent Order will be a FINAL ORDER.

8 **FOR THE RESPONDENT**

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10  / 2/7/15
11 Vishal Patel, General Manager
12 A-1 Hospitality, LLC

Date: Feb 7, 2015

13 **FOR THE DIRECTOR**

14  for
15 Director
16 Department of Consumer and Business Services
17 State of Oregon

Date: Feb. 23, 2015