

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

3 **IN THE MATTERS OF:**

CONSENT ORDER

4 **AMERICORP CONSTRUCTION LLC,**
5 **A DOMESTIC LIMITED LIABILITY**
6 **COMPANY,**

7 **AND**

8 **RONALD E. YOUNG, JR.,**
9 **AN INDIVIDUAL**

10 **RESPONDENTS.**

BCD CASES C2015-0124 AND C2015-0178

11
12 **INTRODUCTION**

13 The Building Codes Division (Division) conducted an investigation on behalf of the
14 Director of the Department of Consumer and Business Services (Director) and determined that
15 Americorp Construction LLC (Americorp Construction) and Ronald E. Young, Jr. (Young)
16 (collectively, Respondents) violated certain provisions of the Division's statutes and administrative
17 rules as identified below.

18 The parties agree to resolve this matter without a hearing. Respondents understand that
19 Respondents have the right to a contested case hearing under the Administrative Procedures Act,
20 Oregon Revised Statutes (ORS) chapter 183, and Respondents fully and finally waive the right to a
21 hearing and any judicial review therefrom by the signing of this Consent Order.

22 **FINDINGS OF FACT**

- 23 1. Respondent Young is the owner, sole member,¹ and registered agent of Respondent
24 Americorp Construction.
25 2. In BCD case C2013-0216, Americorp Construction was assessed \$15,000 in civil penalties

¹ There is also a registered manager of Americorp Construction LLC named Michelle Young.

1 for violating ORS 479.620(1) (engaging in the business of making electrical installations
2 without holding an electrical contractor license); ORS 479.550(1) (making electrical
3 installations without first obtaining a permit); ORS 455.450(2) (procuring an unlicensed
4 individual to make electrical installations); ORS 479.710 (failing to meet minimum safety
5 standards of the National Electric Code); ORS 447.040(1) (engaging in the business of a
6 plumbing contractor without a plumbing contractor license); ORS 693.030(2)(a) (permitting
7 an unlicensed individual to work as a journeyman plumber); and OAR 918-785-0200(1)(a)²
8 (performing plumbing work without first obtaining a permit).

9 3. On June 23, 2014, BCD case C2013-0216 became a final order when Americorp
10 Construction and the Electrical and Elevator Board and the State Plumbing Board of the
11 State of Oregon entered into a consent order. That consent order resulted in the assessment
12 of \$15,000 in civil penalties against Americorp Construction, \$11,400 of which was
13 suspended for a period of five (5) years provided that Americorp Construction did not
14 violate the terms of that order or violate any of the Division's statutes or rules during that
15 five-year period. The consent order further stated that if Americorp Construction did violate
16 the terms of that order or any of the Division's statutes or rules within the five-year period,
17 then any unpaid amount of the \$15,000 civil penalty would become due and payable.
18 Americorp Construction has paid \$3,600 of the \$15,000 civil penalty, and \$11,400 was
19 stayed.

20 4. During or about the end of 2014 through 2015, Respondents performed electrical work at
21 42177 Vista Drive in Port Orford, Oregon (the Vista Drive residence). This work included
22 installing wires, installing electrical receptacles, installing junction boxes, and otherwise
23 completing the rough-in electrical work on a new residential structure.³

24 5. During or about the end of 2014 through 2015, Americorp Construction employed Brandon
25

² OAR 918-785-0200(1)(a) has been renumbered OAR 918-780-0065.

³ See related BCD case C2015-0178.

1 Gallagher.

- 2 6. During or about February, March, or April 2015, Gallagher installed two or three electrical
3 boxes and two electrical receptacles at the Vista Drive residence while employed by
4 Americorp Construction. During or about the middle of June 2015, Gallagher disconnected a
5 ground wire, re-routed it, and then terminated it with a wire nut in order to ground the meter
6 at the Vista Drive residence.
- 7 7. At no relevant time has Gallagher held a general supervising or a journeyman electrician
8 license in Oregon.
- 9 8. During or about the end of 2014 through the beginning of 2015, Respondents agreed to
10 perform and performed plumbing work at the Vista Drive residence. This included
11 completing the rough-in plumbing on a new residential structure.
- 12 9. Respondents encouraged the owners of the Vista Drive residence to obtain homeowner
13 permits using their (the homeowners') name(s), which they did. Respondents did not obtain
14 an electrical or plumbing permit prior to performing work at the Vista Drive residence.
- 15 10. During or about late 2014 through 2015, Respondents agreed to perform and performed
16 electrical work at 41401 Emma Way in Port Orford, Oregon (Emma Way residence). This
17 work included installing wire and making other electrical installations on a new residential
18 structure.
- 19 11. During or about late 2014 through 2015, Respondents agreed to perform and performed
20 plumbing work at the Emma Way residence. This included performing the rough-in
21 plumbing on a new residential structure.
- 22 12. Respondents encouraged the owners of the Emma Way residence to obtain homeowner
23 permits using their (the homeowners') name(s), which they did. Respondents did not obtain
24 an electrical or a plumbing permit prior to performing work at the Emma Way residence.
- 25 13. During or about 2012 and 2013, Respondents agreed to perform and performed electrical

1 work at 93410 Chris Lane in Port Orford, Oregon (Chris Lane residence). This work
2 included pulling wire and making other electrical installations on a new residential structure.

3 14. Respondents encouraged the owners of the Chris Lane residence to obtain a homeowner
4 permit using their (the homeowners') name(s), which they did. Respondents did not obtain
5 an electrical permit prior to performing work at the Chris Lane residence.

6 15. At no relevant time has Americorp Construction held a plumbing contractor license in
7 Oregon.

8 16. At no relevant time has Americorp Construction held an electrical contractor license in
9 Oregon.

10 17. At no relevant time has Young held a journeyman plumber license.

11 18. At no relevant time has Young held a supervising or journeyman electrician license.

12 **ULTIMATE FINDINGS OF FACT**

13 1. On multiple occasions, Respondent Americorp Construction has contracted to perform and
14 performed electrical installations without obtaining permits and without holding an electrical
15 contractor license.

16 2. On multiple occasions, Respondent Americorp Construction has contracted to perform and
17 performed plumbing installations without obtaining permits and without holding a plumbing
18 contractor license.

19 3. Respondent Americorp Construction has employed at least one unlicensed person to perform
20 electrical work.

21 4. On multiple occasions, Respondent Young has performed electrical installations without
22 holding a supervising or journeyman electrician license.

23 5. On multiple occasions, Respondent Young has performed plumbing work without holding a
24 journeyman plumber license.

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APPLICABLE LAW

1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 447.010(1)-(6), ORS 455.010(1)-(10), ORS 693.010(1)-(5), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-0010(1)-(11), OAR 918-090-0010(1)-(12), OAR 918-098-1005(1)-(20), OAR 918-251-0090(1)-(43), and OAR 918-690-0420(1)-(14).
2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product.
3. Under ORS 479.550(1), no person shall work on any new electrical installation for which a permit has not been issued.
4. Under OAR 918-309-0000(5), an electrical permit, other than a restricted energy electrical permit as provided in OAR 918-309-0400, issued to one person or firm is not transferable and shall not permit any other person or firm to perform any electrical work thereunder.
5. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.
6. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any other license regulated by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to perform work for which a license or permit is required under Oregon law, including but not limited to a single instance.
7. Under ORS 479.620(3), a person may not make any electrical installation without a supervising or journeyman electrician's license.
8. Under ORS 455.450(2), a person may not engage in, or procure or assist any other person to engage in, any conduct or activity for which a permit, label, license, certificate, registration

1 or other formal authorization is required without first having obtained such permit, label,
2 license, certificate, registration or other formal authorization.

3 9. Under ORS 447.010(6), plumbing is defined as the art of installing, altering, or repairing
4 pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and
5 water-carried waste.

6 10. Under OAR 918-780-0065, no person, firm, or corporation shall do plumbing work in the
7 State of Oregon without first obtaining a plumbing permit or minor label when required and
8 paying the appropriate fees to the authorized permit issuing agency.

9 11. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or
10 purport to be a plumbing contractor, without having obtained a plumbing contractor license.

11 12. Under ORS 693.030(1), a person may not engage in the trade of journeyman plumber
12 without a journeyman plumber license.

13 13. Under ORS 455.775(2), if the Director has reason to believe that any person has been
14 engaged, or is engaging, or is about to engage in any violation of the state building code or
15 ORS chapters 447 or 693 or ORS 479.510 to 479.945 or any rule adopted under those
16 statutes, the Director may issue an order, subject to ORS 183.413 to 183.497, directed to the
17 person to cease and desist from the violation or threatened violation.

18 14. Under OAR 918-001-0036(4), civil penalties may be assessed by a board, the Director, or a
19 board's designee acting as agent for a board. A board or the Director may take into account
20 any appropriate factors, including previous directives, in determining the penalty amount or
21 conditions within an order. The statutorily defined maximum penalty may only be assessed
22 upon a finding of a pattern of violation.

23 15. Under OAR 918-001-0036(6), the Director may, subject to approval of a board, develop a
24 penalty matrix for the board's use to promote equality and uniformity in proposing the
25 amount and terms of civil penalties and conditions under which the penalties may be

1 modified based on the circumstances in individual cases.

2 **CONCLUSIONS OF LAW**

- 3 1. Installing wires, installing electrical receptacles, installing junction boxes, and completing
4 rough-in electrical work are electrical installations under ORS 479.530(10). Disconnecting a
5 ground wire, re-routing it, and terminating it with a wire nut are also electrical installations
6 under ORS 479.530(10).
- 7 2. By making the foregoing electrical installations at the Vista Drive, Emma Way, and Chris
8 Lane residences without holding a supervising or journeyman electrician license,
9 Respondent Young violated ORS 479.620(3).
- 10 3. By failing to obtain a permit prior to performing the foregoing electrical installations,
11 Respondent Americorp Construction violated ORS 479.550(1) while working at the Vista
12 Drive, Emma Way, and Chris Lane residences.
- 13 4. Under OAR 918-030-0010(8), contracting or agreeing to perform or performing the
14 foregoing electrical installations constitutes engaging in the business of an electrical
15 contractor.
- 16 5. By engaging in the business of an electrical contractor without holding an electrical
17 contractor license, Respondent Americorp Construction violated ORS 479.620(1) while
18 working at the Vista Drive, Emma Way, and Chris Lane residences.
- 19 6. By making electrical installations without holding a supervising or journeyman electrician
20 license, Gallagher violated ORS 479.620(3).
- 21 7. By procuring Gallagher, unlicensed individual, to make electrical installations for which a
22 license is required, Respondent Americorp Construction violated ORS 455.450(2).
- 23 8. Performing rough-in plumbing constitutes plumbing under ORS 447.010(6).
- 24 9. By engaging in the trade of a journeyman plumber without holding a journeyman plumber
25 license, Respondent Young violated ORS 693.030(1) while working at the Vista Drive and

1 Emma Way residences.

2 10. By failing to obtain a permit prior to performing the foregoing plumbing work, Respondent
3 Americorp Construction violated OAR 918-780-0065 while working at the Vista Drive and
4 Emma Way residences.

5 11. Under OAR 918-030-0010(8), contracting or agreeing to perform or performing the
6 foregoing plumbing work constitutes engaging in the business of a plumbing contractor.

7 12. By engaging in the business of a plumbing contractor without holding a plumbing contractor
8 license, Respondent Americorp Construction violated ORS 447.040(1) while working at the
9 Vista Drive and Emma Way residences.

10 13. Because Respondent Americorp Construction violated the Division's statutes or rules within
11 five (5) years from the date that the consent order in BCD case C2013-0216 became a final
12 order, the suspended penalty in that case (\$11,400) is due and payable.

13 14. Based on the foregoing Findings of Fact and Conclusions of Law, the Director has reason to
14 believe that Respondents have been engaged, are engaging, or are about to engage in
15 violations of the state building code or ORS chapters 447 and 693 and ORS 479.510 to
16 479.945. Therefore, the Director may issue an order, subject to ORS 183.413 to 183.497,
17 directed to Respondents to cease and desist from the violation or threatened violation.

18 15. By violating ORS 479.620(1), ORS 479.550(1), ORS 455.450(2), ORS 479.710, OAR 918-
19 785-0200(1)(a), ORS 447.040(1), and ORS 693.030(2)(a) within the last five years in BCD
20 case C2013-0216 and by violating ORS 455.450(2), OAR 918-780-0065, and ORS
21 447.040(1) in this matter, Respondent Americorp Construction has engaged in a pattern of
22 violation under OAR 918-001-0036(2)(c). Therefore, Respondent Americorp Construction
23 is subject to increased civil penalties in accordance with the Advisory Board Penalty
24 Matrix.⁴

25 ⁴ Although the Penalty Matrix governs civil penalties assessed by the boards rather than by the Director, the Director may, but is not required to, use the Penalty Matrix for guidance in the assessment of civil penalties. The Director may impose a civil penalty of up to \$5,000 for each offense under ORS 455.895(2).

1 **ORDER**

2 1. The Director hereby assesses a total civil penalty of \$53,400.00 against Respondents as
3 follows:

4 a. \$43,400.00 is assessed against Respondent Americorp Construction as follows:

5 i. \$19,750.00 is due and payable. Respondent Americorp Construction shall
6 pay \$8,350.00 for violating ORS 479.550(1), ORS 479.620(1), ORS
7 455.450(2), OAR 918-780-0065, and ORS 447.040. Respondent Americorp
8 Construction shall also pay \$11,400.00, reflecting the stayed penalty from
9 Division case C2013-0216, which is now due and payable. Payment shall be
10 made in accordance with the terms set forth below.

11 ii. \$23,650.00 shall be suspended for a period of five years if there is
12 compliance with all other terms of this Consent Order.

13 b. \$10,000.00 is assessed against Respondent Young as follows:

14 i. \$1,250.00 is due and payable for violating ORS 479.620(3) and ORS
15 693.030(1). Payment shall be made in accordance with the terms set forth
16 below.

17 ii. \$8,750.00 shall be suspended for a period of five years if there is compliance
18 with all other terms of this Consent Order.

19 2. Respondents shall pay the foregoing in civil penalties as follows:

20 a. Respondents agree to pay a total of \$21,000.00 of the civil penalty. Respondents will
21 make fifteen (15) monthly payments on or before the 25th day of each month.
22 Respondents' first three (3) payments shall be in the amount of \$250.00 per month.
23 Respondents' next eleven (11) payments shall be in the amount of \$1,700 per month.
24 Respondents' final payment shall be in the amount of \$1,550.00. Respondents' first
25 payment shall be postmarked no later than the 25th day of the month following the

1 month in which this Consent Order becomes a final order. There are no pre-payment
2 penalties or other consequences to making payments in advance. *(An invoice will be*
3 *included with Respondent's copy of the final order after the Director signs it. This*
4 *is a one-time invoice; Respondent will not receive monthly invoices or other*
5 *reminders to pay. Respondent understands timely payments must be made even if*
6 *no invoice is ever received.)* Payments shall be mailed to Department of Consumer
7 and Business Services, Fiscal Services Section, P.O. Box 14610, Salem, OR 97309-
8 0445.

- 9 b. Respondents understand that penalties paid shall be apportioned equally between the
10 Americorp Construction case (Division case C2015-0124) and the Young case
11 (Division case C2015-0178). In other words, each dollar paid shall be split equally
12 toward the balance of each case. Once the Young case (Division case C2015-0178)
13 is paid in full, all monies paid shall be applied to the Americorp Construction case
14 (Division case C2015-0124).
- 15 c. Respondents understand the suspended civil penalty (\$23,650.00 from Americorp
16 Construction in Division case C2015-0124 and \$8,750.00 from Young in Division
17 case C2015-0178) will be considered satisfied five years after this Consent Order
18 becomes a final order, provided Respondents comply with its terms and have not
19 committed any further violations of the Division's statutes and rules within that five-
20 year period. Respondents understand and agree that if Respondents do not comply
21 with the terms of this Consent Order or if Respondents commit any further violations
22 of the Division's statutes or rules within the five-year period, then the entire civil
23 penalty, including any suspended amount, will become immediately due and
24 payable. Failure to comply with this Consent Order includes, but is not limited to,
25 failure to pay the civil penalty amount due by the due date.

- 1 3. Respondent Americorp Construction agrees to cease and desist from the following violations
2 of the State Building Code: ORS 479.550(1) (working on any new electrical installation for
3 which a permit has not been issued); ORS 479.620(1) (engaging in the business of making
4 electrical installations without holding an electrical contractor license); ORS 455.450(2)
5 (procuring any other person to engage in any conduct or activity for which a permit, label,
6 license, certificate, registration or other formal authorization is required without first having
7 obtained such permit, label, license, certificate, registration or other formal authorization);
8 OAR 918-780-0065 (performing plumbing work without first obtaining a plumbing permit);
9 and ORS 447.040 (working as a plumbing contractor, or advertise or purport to be a
10 plumbing contractor, without having obtained a plumbing contractor license).
- 11 4. Respondent Young agrees to cease and desist from the following violations of the State
12 Building Code: ORS 479.620(3) (making any electrical installation without a supervising or
13 journeyman electrician's license); and ORS 693.030(1) (engaging in the trade of
14 journeyman plumber without a journeyman plumber license).
- 15 5. Respondents agree to fully cooperate with the Division's enforcement efforts in other cases
16 that rely on the facts underlying this case. Cooperation may include, but may not be limited
17 to, making sworn statements or testifying in administrative hearings.
- 18 6. Respondents understand that further enforcement action may be taken for any violation of
19 the Division's statutes or rules not alleged in this Consent Order, whether committed before
20 or after the execution of this Consent Order, and/or for any violation of the terms of this
21 Consent Order.
- 22 7. Respondents understand that failure to comply with this Consent Order may be used as a
23 basis for the denial of future license, certificate, registration, or other applications, or for the
24 refusal to renew the same; for the suspension, revocation, or conditioning of a license,
25 certificate, or registration issued by the Division or other state agencies; and/or for any other

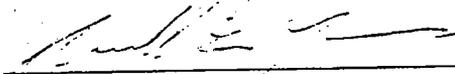
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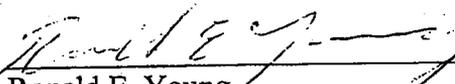
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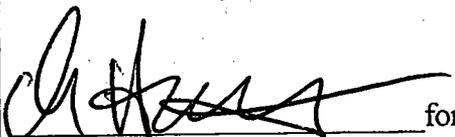
8. Respondents understand that this Consent Order is a public record.

9. Respondents have read and fully understand the terms of this Consent Order, freely and voluntarily consent to the entry of this Consent Order without any force or duress, and expressly waive all rights to hearing or judicial review in this matter.

10. Respondents understand that, upon signature of all parties, this Consent Order will be a Final Order.

 It is so agreed this 10 day of MARCH, 2016.
Ronald E. Young
Authorized Representative
Americorp Construction LLC

 It is so agreed this 10 day of MARCH, 2016.
Ronald E. Young

 for It is so agreed this 9 day of May, 2016.
Director
Department of Consumer and Business Services
State of Oregon