

BEFORE THE STATE PLUMBING BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

NOTICE OF PROPOSED ASSESSMENT
OF CIVIL PENALTIES

DUANE R. SNYDER, DBA HIGH DESERT
PLUMBING AND REMODELING,
AN INDIVIDUAL,

NOTICE OF FINAL ORDER ON DEFAULT

FINAL ORDER

As of: December 23, 2015

RESPONDENT.

BCD CASE C2015-0184

**IF YOU DO NOT REQUEST A HEARING IN WRITING WITHIN 20 DAYS
OF THE POSTMARK DATE OF THIS NOTICE,
THIS NOTICE WILL BECOME A FINAL ORDER.**

More information about this Notice and how to request a hearing is included below.

Pursuant to Oregon Revised Statutes (ORS) 455.895(1)(a) and Oregon Administrative Rules (OAR) 918-001-0036, the State Plumbing Board of the State of Oregon (Board) proposes to assess civil penalties totaling \$9,000.00 against Duane R. Snyder, dba High Desert Plumbing and Remodeling (Respondent) because Respondent violated Building Codes Division (Division) statutes and rules as identified below.

FINDINGS OF FACT

1. In or around June 2015, Respondent placed an advertisement in Wise Buys Ads & More (Wise Buys), a written publication circulated in Oregon, offering plumbing services.
2. At no relevant time did Respondent hold either a journeyman plumber or plumbing contractor license.
3. On or around June 15, 2015, Respondent performed the following work at a residence located at 142155 Karen Lane, Crescent Lake, Oregon:
 - a. Replacement of a sewer pipe and drain pipe running from the residence to a septic tank;

- b. Installation of water supply lines to a hot water heater;
- c. Installation of water supply lines to two sinks, one in the bathroom and one in the kitchen; and
- d. Installation of a toilet, including connecting the toilet to water supply lines and a drainpipe.

4. Respondent did not obtain a plumbing permit prior to performing the foregoing work.

5. In or around October 2015, Respondent placed advertisements in Wise Buys and Central Oregon Shopper, a written publication circulated in Oregon, offering plumbing services.

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), OAR 918-001-0005(1)-(4), OAR 918-030-0010(1)-(11), and OAR 918-690-0420(1)-(14).
2. Under ORS 447.010(6), plumbing is defined as the art of installing, altering, or repairing pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and water-carried waste.
3. Under OAR 918-780-0065, no person, firm, or corporation shall do plumbing work in the State of Oregon without first obtaining a plumbing permit or minor label when required and paying the appropriate fees to the authorized permit issuing agency.
4. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or purport to be a plumbing contractor, without having obtained a plumbing contractor license.
5. Under OAR 918-030-0010(8), for purposes of ORS 447.040... "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.
6. Under ORS 693.030(1), a person may not engage in the trade of journeyman plumber

1 without a journeyman plumber license.

2 **CONCLUSIONS OF LAW**

- 3 1. The following constitute plumbing under ORS 447.010(6):
- 4 a. Replacement of a sewer pipe and drain pipe running from a residence to a septic
 - 5 tank;
 - 6 b. Installation of water supply lines to a hot water heater;
 - 7 c. Installation of water supply lines to a sink; and
 - 8 d. Installation of a toilet, including connecting the toilet to water supply lines and a
 - 9 drainpipe.
- 10 2. By performing the foregoing plumbing work, Respondent engaged in the trade of
- 11 journeyman plumber.
- 12 3. By engaging in the trade of journeyman plumber without a journeyman plumber license,
- 13 Respondent violated ORS 693.030(1).
- 14 4. By performing the foregoing plumbing work without first obtaining a plumbing permit,
- 15 Respondent violated OAR 918-780-0065.
- 16 5. By performing the foregoing plumbing work, for which a license and permit were required
- 17 under Oregon law, Respondent engaged in the business of plumbing contractor under OAR
- 18 918-030-0010(8).
- 19 6. By working as a plumbing contractor without having obtained a plumbing contractor
- 20 license, Respondent violated ORS 447.040(1).
- 21 7. By placing the foregoing advertisements, Respondent advertised as a plumbing contractor
- 22 under ORS 447.040(1).
- 23 8. By advertising to be a plumbing contractor without having obtained a plumbing contractor
- 24 license, Respondent violated ORS 447.040(1).

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1 **ORDER**

2 Pursuant to ORS 455.895(1)(a) and OAR 918-001-0036, the Board assesses a total of
3 \$9,000.00 in civil penalties as follows:

- 4 1. \$2,000.00 for violating ORS 693.030(1);
5 2. \$1,000.00 for violating OAR 918-780-0065; and
6 3. \$6,000.00 for violating ORS 447.040(1) in two instances (\$3,000 per violation).

7 **NOTICE OF RIGHT TO HEARING**

8 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, ORS
9 chapter 183. If Respondent requests a hearing, the request must be in writing and postmarked no
10 later than 20 days from the date of service of this Notice. If the Notice was served on Respondent in
11 person, the date of service is the date Respondent received the Notice. If the Notice was served
12 through the mail, the date of service is the day the Notice was mailed, not the day it was received by
13 the Respondent. If a request for hearing is not received within the 20-day period, Respondent's right
14 to a hearing shall be considered waived. Mail hearing requests to Building Codes Division,
15 Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

16 Respondent may be represented by legal counsel. Pursuant to ORS 183.457 and OAR 918-
17 001-0030, a corporate Respondent may be represented by an authorized representative at the
18 hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the
19 hearing. The Division will give Respondent information on the procedures, right of representation,
20 and other rights of parties relating to the conduct of the hearing before the commencement of the
21 hearing.

22 **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

23 Active duty servicemembers have a right to stay proceedings under the Federal
24 Servicemembers Civil Relief Act. Contact the Oregon State Bar at 800-452-8260 or the Oregon
25 Military Department at 800-452-7500 for more information. If Respondent needs help finding legal

1 assistance, visit the United States Armed Forces Legal Assistance Legal Services Locator website at
2 <http://legalassistance.law.af.mil/content/locator.php>.

3 **NOTICE OF FINAL ORDER**

4 This Notice will become a final order by default if Respondent does any of the following:
5 fails to request a hearing in writing within 20 days from the date of service of this Notice;
6 withdraws a hearing request; notifies the Building Codes Division or the administrative law judge
7 that Respondent will not appear at a scheduled hearing; or fails to appear at a scheduled hearing. If
8 this Notice becomes a final order by default, the Division's file on the matter, including all
9 materials submitted by Respondent, becomes the record for the purpose of establishing a prima
10 facie case.

11 **RIGHT TO JUDICIAL REVIEW**

12 Respondent is entitled to judicial review of a final order in this matter. Judicial review may
13 be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after a
14 final order is served upon Respondent. See ORS 183.482. If a final order is served on Respondent in
15 person, the date of service is the date Respondent receives the order. If a final order is served
16 through the mail, the date of service is the day the order is mailed, not the day it is received by the
17 Respondent. If Respondent does not file a petition for judicial review within the 60-day time
18 period, Respondent will lose the right to appeal. The phone number for the Oregon Court of
19 Appeals is 503-986-5555.

20 **FOR THE STATE PLUMBING BOARD OF THE STATE OF OREGON**

21 Andrea Simmons for Date: 12-1-15
22 Chair
23 State of Oregon
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