



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Building Codes Division

1535 Edgewater Street NW

P.O. Box 14470

Salem, OR 97309-0404

503-378-4133

Fax: 503-378-2322

bcd.oregon.gov

State Plumbing Board

Late submission meeting agenda to include item III.C.4

Thursday, April 16, 2015, 9:30 a.m.

Conference Room A

Board meetings are broadcast live via the Internet at

<http://bcd.oregon.gov/>

Click on "View live meetings"

I. Board business

- A. Call to order
- B. Roll call
- C. Approval of agenda and order of business
- D. Approval of the February 19, 2015, board meeting minutes
- E. Date of the next regularly scheduled meeting: June 18, 2015

II. Public comment

*This time is available for individuals wanting to address the board on **non-agenda items only**. The board will not take action on non-agenda items raised under public comment at this meeting. Testimony on agenda items will be heard when the item is called. (See "Issues to remember when addressing board" at the end of this agenda).*

III. Reports

- A. Building Codes Division report
- B. Plumbing program update
- C. Final orders after hearing
 1. Consideration of final order in the matter of Stanley R. Brooks, Case No. C2014-0264
 2. Consideration of final order in the matter of Charles L. Lozier, Case No. C2014-0247
 3. Consideration of final order in the matter of Randy A. Lapham, Case No. C2014-0199
 4. Consideration of settlement offer in the matter of Ken Van Hoesen, Case No. 2013-0060
- D. Summary of enforcement actions previously taken by the division outlined on the enforcement board report (*No board action required*)
- E. Conditioned license in the matter of David Louis King, dba Castle Plumbing (*No board action required*)

IV. Communications - None

V. Appeals - None

VI. Unfinished business - None

VII. New business

Review and approve committee's recommendations on new continuing education courses and instructors applications

VIII. Announcements - None

IX. Adjournment

Issues to remember when addressing the board:

- All public participation is subject to the discretion of the board Chair for order of testimony, length and relevance.
- Speakers are generally limited to five minutes.
- Please register on the attendance registration form and on the public testimony registration form, listing the appropriate agenda item.
- The board Chair will call you to the front testimony table.
- Please state your name and the organization you represent (if any).
- Always address your comments through the Chair.
- If written material is included, please provide 20 three-hole-punched copies of all information to the boards coordinator prior to the start of the meeting and, when possible, staff respectfully requests an electronic copy of materials 24 hours prior to the meeting.

Interpreter services or auxiliary aids for persons with disabilities are available upon advance request. Persons making presentations including the use of video, DVD, PowerPoint, or overhead projection equipment are asked to contact boards coordinator 24 hours prior to the meeting. For assistance, please contact Debi Barnes-Woods at (503) 378-6787.

Please do not park vehicles with "E" plates in "customer only" spaces.

Note: For information regarding re-appointments or board vacancies, please visit the Governor's website.

State of Oregon

**State Plumbing Board
Regular meeting minutes
February 19, 2015**

- Members present:** Travis Argue - Journeyman plumber, Chair
Matthew Rozzell - Building official, Vice-chair
Rick Bosch - Registered plumbing business
Melissa Gitt - Plumbing inspector
- Members absent:** Michael Perry - Department of Human Services
Skai Dancey - Mechanical engineer
Vacancy - Public at large
- Staff present:** Brett Salmon, manager, Policy and Technical Services
Andy Skinner, plumbing program chief, Policy and Technical Services
Homer Humelbaugh, plumbing program assistant chief, Policy and Technical Services
Judith Moore, enforcement policy analyst, Enforcement Services
Richard Baumann, policy analyst, Policy and Technical Services
Debi Barnes-Woods, division boards administrator, Policy and Technical Services
- Guests present:** GF Scheuermann, IAPMO

I. Board business

A. Call to order

Chairman Travis Argue called the February 19, 2015, State Plumbing Board meeting to order at 9:30 a.m. The meeting was held at the Building Codes Division in Conference Room A, 1535 Edgewater Street NW, Salem, Oregon.

B. Roll call

Skai Dancey was absent excused. Michael Perry was absent unexcused.

This board has one vacant position: Member of the general public.

C. Approval of agenda and order of business

Chair Argue ruled the agenda and order of business approved.

D. Approval of the December 18, 2014, board meeting minutes

Chair Argue ruled the minutes of December 18, 2014, approved as written.

E. Date of the next regularly scheduled meeting: April 16, 2015

II. Public comment - None

III. Reports

A. Building Codes Division report

Brett Salmon, manager, Policy and Technical Services, discussed two legislative bills:

- Senate Bill 133 allows the division to continue developing and implementing a system that provides electronic access to building codes information.
- House Bill 2843 authorizes interagency agreements with the Department of Consumer and Business Services and Construction Contractors Board to perform duties related to the state building code.

B. Program update

Andy Skinner, plumbing program chief, Policy and Technical Services, said April 22, 2015, is the start of the cross-training program for specialized plumbing inspectors.

C. Consideration of a license denial after hearing in the matter of Michael W. Fjeldheim, Case No. C2014-0209

Judith Moore, enforcement policy analyst, said the division denied Mr. Fjeldheim's application because he does not meet the academic experience requirement for Oregon. He requested a hearing and the administrative law judge issued a proposed order finding in favor of the division. Mr. Fjeldheim filed exceptions, which are included in the board packet.

Motion by Chair Argue to issue a final order and adopt the proposed order with no changes

Motion carried unanimously

D. Summary of enforcement actions previously taken by the division outlined on the enforcement board report. (*No board action required*)

Judith Moore, enforcement policy analyst, was available for questions.

E. Enforcement license suspension for Pilot Plumbing & Heating LLC (*No board action required*)

Judith Moore, enforcement policy analyst, was available for questions.

IV. Communications

2014 Oregon Plumbing Specialty Code Errata

Chief Skinner said the Errata is posted to the division [website](#).

V. Appeals - None

VI. Unfinished business - None

VII. New business

Board review and approve committee's recommendation on continuing education courses and instructors

Richard Baumann, policy analyst, Policy and Technical Services, updated the board on the continuing education committee's recommendations for continuing education courses and instructors applications for board approval. Mr. Baumann said that the committee is reviewing instructor's applications during this code cycle to ensure that all instructors have appropriate qualifications for the courses they are providing. This process will ensure that both the instructor application and the course application meet the guidelines for approval.

Motion by Rick Bosch to approve the committee's recommendations for approval or denial of courses or instructors.

Motion carried unanimously

VIII. Announcements - None

IX. Adjournment

There was no other business to discuss. The meeting was adjourned at 9:45 a.m.

Respectfully submitted by,
Debi Barnes-Woods, Boards Administrator/Coordinator

State of Oregon

Board memo

Building Codes Division

April 16, 2015

To: State Plumbing Board

From: Judith I. Moore, policy analyst, Enforcement Section

Subject: Final Order on Stanley R. Brooks (Applicant); Case No. C2014-0264 (License Application)

Action requested:

Consideration of final order for Case No. C2014-0264.

Discussion:

On September 25, 2014, Charles R. Brooks submitted an application to the division for a journeyman plumber's license. The division denied Mr. Brooks' application because he did not meet the requirement of 576 hours (144 hours/year) of academic training. Mr. Brooks did not establish that he is eligible to take the examination for a journeyman plumber's license.

Mr. Brooks subsequently requested a hearing, which was held on December 15, 2014. On January 20, 2015, the presiding administrative law judge (ALJ) issued a proposed order finding Mr. Brooks did not meet the requirements to obtain a journeyman plumber's license. The ALJ therefore affirmed the division's Notice of Application Denial.

Mr. Brooks did not submit any exceptions to the proposed order. The proposed order and final order are attached for the board to review.

Recommendation:

The division recommends the board adopt the proposed order and issue a final order denying Mr. Brooks application.

Options:

- Issue a final order and adopt the proposed order with no changes.
- Amend the proposed order and ask that it be brought back to the next board meeting for consideration.
- Disapprove the proposed order, thus approving Mr. Brooks' application.

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2015 JAN 22 A 9:23

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION**

IN THE MATTER OF:) **PROPOSED ORDER**
)
STANLEY R. BROOKS) OAH Case No.: 1403942
) Agency Case No.: C2014-0264

HISTORY OF THE CASE

On October 3, 2014, the Building Codes Division (Division) mailed a Notice of Application Denial to Stanley R. Brooks (Respondent). On October 20, 2014, Respondent requested a hearing.

On October 29, 2014, the Division referred the hearing request to the Office of Administrative Hearings. Administrative Law Judge (ALJ) Marni J. Davis was assigned to preside at hearing.

ALJ Davis held a contested case telephone hearing on December 15, 2014. Respondent appeared and testified on his own behalf. Judith Moore represented the Division. Homer Humelbaugh testified for the Division. The record closed at the conclusion of the hearing.

ISSUE

Whether Respondent meets the requirements to obtain a journeyman plumber's license, as set forth in OAR 918-695-0030 or OAR 918-030-0030 through OAR 918-030-0050.

EVIDENTIARY RULINGS

Exhibits A1 and A2, offered by the Division, were admitted into the record without objection.

FINDINGS OF FACT

1. On September 25, 2014, Respondent applied for a journeyman plumber's license. (Ex. A1.)
2. In June 1986, Respondent received a diploma from Columbia Falls High School in Columbia Falls, Montana. (Ex. A1.)
3. In approximately 1987, Respondent completed technical drafting studies at the Phoenix Institute of Technology. (Ex. A1; test. of Respondent.)

4. For approximately 16 years, Respondent worked as a plumber in Arizona. He was not required to have a journeyman plumber's license. He did not attend an apprenticeship or training program for plumbing. (Ex. A1; test. of Respondent.)

CONCLUSION OF LAW

Respondent does not meet the requirements to obtain a journeyman plumber's license, as set forth in OAR 918-695-0030 or OAR 918-030-0030 through OAR 918-030-0050.

OPINION

The Division denied Respondent's application for a journeyman plumber's license. Respondent has the burden to establish, by a preponderance of the evidence, that he meets the licensing requirements. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of the fact or position); *Metcalf v. AFSD*, 65 Or App 761, 765 (1983) (in the absence of legislation specifying a different standard, the standard of proof in an administrative hearing is preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

OAR 918-695-0030 provides, in part:

Qualifications. The minimum qualifications to take the journeyman plumber's certificate examination are:

- (1) Satisfactory completion of a minimum four-year plumbing apprentice program in Oregon; or
- (2) Equivalency requirements of at least four years academic training and on-the-job experience as an apprentice plumber, lawful journeyman plumber, or combination of both meeting the following minimum requirements:
 - (a) General items. 144 hours of academic training per year for each of at least four years generally in the following as it applies to plumbing[:]

* * * * *

(G) Total Minimum Subject Hours:

- (i) Residential – 3,850
- (ii) Commercial – 3,850

OAR 918-030-0030 provides, in part:

All applicants must submit proof of qualifying criteria as required by the appropriate rules and in the manner established by this rule.

(1) Submit to training and experience verification as follows:

(a) A certificate of completion from a registered apprenticeship program, or a referral letter from either the registered training committee or a board approved training program stating the applicant is qualified to take the examination. The division will accept completion from an apprenticeship program that is not registered only if it meets the Oregon standard for apprenticeship training.

(b) A copy of a valid license from a reciprocal jurisdiction or a letter from the reciprocal jurisdiction stating that the applicant is currently licensed. Only reciprocal jurisdiction licenses obtained through examination meet this requirement; or

(c) Other verification of equivalent training and experience submitted in the manner established in OAR 918-030-0040 and 918-030-0050.

* * * * *

(4) For purposes of qualifying for a license, the division will consider no more than 2,000 hours of experience per year.

Respondent confirmed that he has had no academic training for plumbing and that he has not enrolled in a plumbing apprenticeship program. In accordance with the OAR 918-030-0030(4), the Division will consider no more than 2,000 hours of experience per year. While the evidence is persuasive that Respondent completed numerous hours of on-the-job training and worked in Arizona as a plumber for more than 16 years, without academic training Respondent does not meet the equivalency requirements of OAR 918-695-0030(2). Respondent has not established that he is eligible for a journeyman plumber's license as set forth in OAR 918-695-0030 and OAR 918-030-0030.

ORDER

I propose that the Building Codes Division issue the following order:

Stanley R. Brooks' application for a journeyman plumber's license is denied.

Marni J. Davis

Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager, Policy and Technical Services
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On January 20, 2015, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 1403942.

By: First Class Mail

Stanley Brooks
6310 SW Mcewin Rd
Lake Oswego OR 97035

Judith Moore
Building Codes Division
PO Box 14470
Salem OR 97309-0404

Ryan Clark
Administrative Specialist
Hearing Coordinator

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

2 **IN THE MATTER OF:**) **FINAL ORDER**
3 **STANLEY R. BROOKS,**)
4) **OAH CASE NUMBER 1403942**
5 **APPLICANT**) **BCD CASE NUMBER 2014-0264**
6 _____)

7 The State Plumbing Board of the State of Oregon hereby adopts and incorporates by
8 reference the attached proposed order and denies Applicant’s application to test for a journeyman
9 plumber’s license.

10
11
12 Dated this _____ day of _____, 2015

13
14 _____
15 Chair
16 State Plumbing Board
17 State of Oregon

18 **NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW (COURT OF APPEALS)**

19 Applicant is entitled to judicial review of this Final Order pursuant to Oregon Revised
20 Statutes (ORS) 183.482. Judicial review may be initiated by filing a petition for review with the
21 Oregon Court of Appeals within sixty (60) days from the date this Final Order was mailed to
22 Applicant.
23
24
25

State of Oregon

Board memo

Building Codes Division

April 16, 2015

To: State Plumbing Board

From: Judith I. Moore, Policy Analyst, Enforcement Section

Subject: Final Order on Charles L. Lozier (Applicant); Case No. C2014-0247 (License Application)

Action requested:

Consideration of final order for Case No. C2014-0247.

Discussion:

On August 8, 2014, Charles Lozier submitted an application to the division for a journeyman plumber's license. The division denied Mr. Lozier's application because he did not meet the requirement of 576 hours (144 hours/year) of academic experience. Mr. Lozier did not establish that he is eligible to take the examination for a journeyman plumber's license.

Mr. Lozier subsequently requested a hearing, which was held on December 10, 2014. On January 20, 2015, the presiding administrative law judge (ALJ) issued a proposed order finding Mr. Lozier did not meet the requirements to obtain a journeyman plumber's license. The ALJ therefore affirmed the division's Notice of Application Denial.

Mr. Lozier did not submit any exceptions to the proposed order. The proposed order and final order are attached for the board to review.

Recommendation:

The division recommends the board adopt the proposed order and issue a final order denying Mr. Lozier's application.

Options:

- Issue a final order and adopt the proposed order with no changes.
- Amend the proposed order and ask that it be brought back to the next board meeting for consideration.
- Disapprove the proposed order, thus approving Mr. Lozier's application.

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**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION**

IN THE MATTER OF:) **PROPOSED ORDER**
CHARLES L. LOZIER)
) OAH Case No.: 1403907
) Agency Case No.: C2014-0247

HISTORY OF THE CASE

On September 30, 2014, the Building Codes Division (Division) mailed a Notice of Application Denial to Charles L. Lozier (Respondent). On October 14, 2014, Respondent requested a hearing.

On October 16, 2014, the Division referred the hearing request to the Office of Administrative Hearings. Administrative Law Judge (ALJ) Marni J. Davis was assigned to preside at hearing.

ALJ Davis held a contested case telephone hearing on December 10, 2014. Respondent appeared and testified on his own behalf. Judith Moore represented the Division. Andrew Skinner testified for the Division. The record closed at the conclusion of the hearing.

ISSUE

Whether Respondent meets the requirements to obtain a journeyman plumber's license, as set forth in OAR 918-695-0030 or OAR 918-030-0030 through OAR 918-030-0050.

EVIDENTIARY RULINGS

Exhibits A1 through A4, offered by the Division, were admitted into the record without objection.

FINDINGS OF FACT

1. On August 8, 2014, Respondent applied for a journeyman plumber's license. (Ex. A1.)
2. On June 6, 1987, Respondent received a diploma from Parkrose High School in Portland, Oregon. (Ex. A1.)

3. Respondent has a master plumber's license in Maine. In Maine, Respondent was not required to take academic training or participate in an apprenticeship program to obtain the license. Maine only requires on-the-job training for its licenses. (Ex. A1; test. of Respondent.)

CONCLUSION OF LAW

Respondent does not meet the requirements to obtain a journeyman plumber's license, as set forth in OAR 918-695-0030 or OAR 918-030-0030 through OAR 918-030-0050.

OPINION

The Division denied Respondent's application for a journeyman plumber's license. Respondent has the burden to establish, by a preponderance of the evidence, that he meets the licensing requirements. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of the fact or position); *Metcalf v. AFSD*, 65 Or App 761, 765 (1983) (in the absence of legislation specifying a different standard, the standard of proof in an administrative hearing is preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

OAR 918-695-0030 provides, in part:

Qualifications. The minimum qualifications to take the journeyman plumber's certificate examination are:

- (1) Satisfactory completion of a minimum four-year plumbing apprentice program in Oregon; or
- (2) Equivalency requirements of at least four years academic training and on-the-job experience as an apprentice plumber, lawful journeyman plumber, or combination of both meeting the following minimum requirements:
 - (a) General items. 144 hours of academic training per year for each of at least four years generally in the following as it applies to plumbing[:]

* * * * *

(G) Total Minimum Subject Hours:

- (i) Residential – 3,850
- (ii) Commercial – 3,850

OAR 918-030-0030 provides, in part:

All applicants must submit proof of qualifying criteria as required by the appropriate rules and in the manner established by this rule.

(1) Submit to training and experience verification as follows:

(a) A certificate of completion from a registered apprenticeship program, or a referral letter from either the registered training committee or a board approved training program stating the applicant is qualified to take the examination. The division will accept completion from an apprenticeship program that is not registered only if it meets the Oregon standard for apprenticeship training.

(b) A copy of a valid license from a reciprocal jurisdiction or a letter from the reciprocal jurisdiction stating that the applicant is currently licensed. Only reciprocal jurisdiction licenses obtained through examination meet this requirement; or

(c) Other verification of equivalent training and experience submitted in the manner established in OAR 918-030-0040 and 918-030-0050.

* * * * *

(4) For purposes of qualifying for a license, the division will consider no more than 2,000 hours of experience per year.

Respondent confirmed that he has had no academic training and that he has not enrolled in an apprenticeship program. In accordance with OAR 918-030-0030(4), the Division will consider no more than 2,000 hours of experience per year. While the evidence is persuasive that Respondent completed numerous hours of on-the-job training and was licensed in Maine as a master plumber, no evidence was presented that these hours meet the equivalency requirements of OAR 918-695-0030(2). Thus, Respondent has not established that he is eligible for a journeyman plumber's license as set forth in OAR 918-695-0030 and OAR 918-030-0030.

ORDER

I propose that the Building Codes Division issue the following order:

Charles L. Lozier's application for a journeyman plumber's license is denied.

Marni J. Davis

Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager, Policy and Technical Services
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On January 20, 2015, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 1403907.

By: First Class Mail

Charles Lozier
10660 SE 74th
Milwaukie OR 97222

Judith Moore
Building Codes Division
PO Box 14470
Salem OR 97309-0404

Ryan Clark for Carol Buntjer
Administrative Specialist
Hearing Coordinator

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

2 **IN THE MATTER OF:**) **FINAL ORDER**
3 **CHARLES L. LOZIER,**)
4) **OAH CASE NUMBER 1403907**
5 **APPLICANT**) **BCD CASE NUMBER 2014-0247**
6)

7 The State Plumbing Board of the State of Oregon hereby adopts and incorporates by
8 reference the attached proposed order and denies Applicant’s application to test for a journeyman
9 plumber’s license.

10
11
12 Dated this _____ day of _____, 2015

13
14 _____
15 Chair
16 State Plumbing Board
17 State of Oregon

18 **NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW (COURT OF APPEALS)**

19 Applicant is entitled to judicial review of this Final Order pursuant to Oregon Revised
20 Statutes (ORS) 183.482. Judicial review may be initiated by filing a petition for review with the
21 Oregon Court of Appeals within sixty (60) days from the date this Final Order was mailed to
22 Applicant.
23
24
25

State of Oregon

Board memo

Building Codes Division

April 16, 2015

To: State Plumbing Board

From: John D. Adams, contested case representative, Enforcement Section

Subject: Final Order for Randy A. Lapham; Case No. C2014-0119 (Civil Penalties and Order to Cease and Desist)

Action requested:

Board to decide on adoption of the proposed order and issuance of a final order.

Discussion:

The case before the board involves Randy A. Lapham, an unlicensed individual. Following a complaint filed with the division by Southern Oregon enforcement person Mike Weaver, an investigation found Mr. Lapham had performed plumbing work for the account of another by installing an Eco-Smart green energy water heater system in a home remodeling project. The work occurred between approximately October 2013 and February 2014 in Ashland, Oregon.

On August 26, 2014, the division issued Mr. Lapham a notice of proposed assessment of a civil penalty on behalf of the board, assessing penalties totaling¹ \$6,000 for engaging in the business of plumbing without an Oregon plumbing contractor's license, in violation of [ORS 447.040\(1\)](#); for making plumbing installations without an Oregon journeyman plumber's license, in violation of [ORS 693.030\(1\)](#); and for doing plumbing without first obtaining a plumbing permit, in violation of OAR 918-785-0200(1)(a).² The division issued an amended version of the notice on January 2, 2015, added an Order to Cease and Desist on behalf of the Director of the Department of Consumer and Business Services.

A hearing was held on January 21, 2015, in the matter following a request by Mr. Lapham after informal resolution failed to settle the case. Administrative Law Judge (ALJ) Marni Davis presided over the hearing. On March 6, 2014, ALJ Davis issued a proposed order that found, among other things, that Mr. Lapham violated ORS 447.040(1), 693.030(1), and OAR 918-780-

¹ The August 26, 2014, Notice of Proposed Assessment of Civil Penalties was a combined notice issued by the division on behalf of the Director of the Department of Consumer and Business Services, the State Plumbing Board and the Electrical and Elevator Board. The combined civil penalties proposed totaled \$12,000.

² OAR 918-785-0200(1)(a) was renumbered as OAR 918-780-0065 in a housekeeping change that took effect October 1, 2014.

0065, and also found that the \$6,000 penalty was appropriate. ALJ Davis therefore affirmed the Notice of Proposed Assessment of a Civil Penalty and the Order to Cease and Desist. The proposed order is attached for the board to review. A Final Order adopting ALJ Davis's Proposed Order is enclosed with three corrections of scrivener's errors (correcting citations); no substantive changes were made to the ALJ's Proposed Order. A representative for the Director of the Department has already signed the Final Order regarding the Order to Cease and Desist. The Electrical and Elevator Board will consider the proposed order regarding the electrical violations at its May 28, 2015, meeting.

Options:

- Issue a final order and adopt the proposed order with the corrections of the scrivener's errors.
- Amend the proposed order and ask that it be brought back to the next board meeting for consideration.
- Disapprove the proposed order, which will dismiss the plumbing violations of the case.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
ELECTRICAL AND ELEVATOR BOARD
AND
STATE PLUMBING BOARD**

IN THE MATTER OF:) **PROPOSED ORDER**
)
RANDY A. LAPHAM) OAH Case No.: 1403951
) Agency Case No.: C2014-0119

HISTORY OF THE CASE

On August 26, 2014, the Electrical and Elevator Board and the Plumbing Board (Board) of the Building Codes Division (Division) issued a Notice of Proposed Assessment of Civil Penalty and Final Order on Default to Randy A. Lapham (Respondent). On September 12, 2014, Respondent requested a hearing.

On November 10, 2014, the Division referred the hearing request to the Office of Administrative Hearings. Administrative Law Judge (ALJ) Marni J. Davis was assigned to preside at hearing. On January 2, 2015, the Boards issued an Amended Notice of Proposed Assessment of a Civil Penalty and Final Order on Default and an Order to Cease and Desist.

ALJ Davis held a contested case telephone hearing on January 21, 2015. Respondent appeared and testified on his own behalf. John Adams represented the Division. Richard Hug, Mike Weaver, Shawn Haggin, Andrew Skinner and Andrea Simmons testified on behalf of the Division. The record closed at the conclusion of the hearing.

ISSUES

1. Whether Respondent made electrical installations without a supervising or journeyman electrician's license, in violation of ORS 479.620(3).
2. Whether Respondent made electrical installations without first obtaining a valid electrical permit, in violation of ORS 479.550(1).
3. Whether Respondent engaged in the business of making electrical installations, including advertising or otherwise purporting to be a business that makes electrical installations, without an electrical contractor's license, in violation of ORS 479.620(1).
4. Whether Respondent engaged in the trade of making plumbing installations without a valid journeyman plumber license, in violation of ORS 693.030(1).

5. Whether Respondent made a plumbing installation without first obtaining a valid plumbing permit, in violation of OAR 918-780-0065.

6. Whether Respondent engaged in the business of working as a plumbing contractor or advertising or purporting to be a plumbing contractor without a plumbing contractor license, in violation of ORS 447.040(1).

7. Whether the Division may impose a civil penalty of \$12,000 against Respondent. ORS 455.895(1) and OAR 918-001-0036.

8. Whether the Division may order Respondent to cease and desist from engaging in any violation of the state building code. ORS 455.775(2).

EVIDENTIARY RULING

Exhibits A1 through A21, offered by the Division, were admitted into the record without objection.

FINDINGS OF FACT

1. Randy A. Lapham (Respondent) is not a licensed journeyman electrician, licensed electrical contractor, licensed journeyman plumber or licensed plumbing contractor. (Ex. A10; test. of Simmons and Respondent.)

2. Beginning in approximately October 2013, Respondent performed work at a residence located at 739 Park Street, in Ashland, Oregon (the residence). He removed a hot water heater and installed a hot water Eco-Smart green energy system, a new 220 plug for the clothes dryer, a Gree ductless heater on the living room wall, approximately ten grounded plugs inside the residence and one GFI plug outside on the deck. No permits were issued for these installations. (Ex. A1; test. of Respondent, Weaver.) Respondent also installed 14 solar panels on the roof of the residence. (Ex. A1; test. of Hug, Weaver.)

3. The owner of the residence was Genevieve Hug. In late October 2013, she was hospitalized. At that time, her father, Richard Hug, began helping her with her finances and home repairs. Ms. Hug passed away on April 17, 2014. (Test. of Hug.)

4. On December 17, 2013, Mr. Hug paid Respondent \$1,750 for work he performed at Ms. Hug's residence. The payment was made to Respondent's girlfriend's bank account. (Ex. A20; test. of Hug.)

5. On February 9, 2014, Respondent sent Mr. Hug an email attaching pictures of the installed solar panels at Ms. Hug's residence. He also informed Mr. Hug that the remaining balance on the "solar panels project" was \$2,300. (Ex. A17.)

6. On February 10, 2014, Mr. Hug paid Respondent \$1,300. This payment was also made to Respondent's girlfriend's bank account. (Ex. A17.)

7. On May 26, 2014, Mike Weaver, a Division enforcement officer, received a report that Respondent had installed a solar electrical system at the residence. Ms. Hug's mother, Nancy Lauka, reported to Mr. Weaver that Respondent had installed a Gree Inverter, a Gree Ductless heat and disconnect, a Kaco Blueplanet Panel, and an electrical power supply line coming out of the main panel. Ms. Lauka also reported that Respondent had mounted 14 solar panels to the roof and he installed a disconnect on the roof and a hot water Eco-Smart green energy water heater. (Ex. A1; test. of Weaver.)

8. On May 28, 2014, Mr. Weaver contacted Respondent. Respondent informed Mr. Weaver that his last name was spelled "Latham." Respondent confirmed that he helped install a Gree Invertor, a Gree ductless heater on the living room wall, a hot water Eco-Smart green energy system, a new 220 plug for the clothes dryer, ten grounded plugs inside the house and one GFI plug outside on the deck at the residence. He also confirmed that he had relocated the 220 range plug and wire in the kitchen. (Ex. A1; test. of Weaver.) Mr. Weaver wrote a statement regarding the installations Respondent performed and the conversation that day. Respondent reviewed the statement, confirmed that the statement was accurate, but refused to sign it. (Ex. A3; test. of Weaver.)

9. After speaking with Respondent, Mr. Weaver contacted Matt Rodrigues, a Division investigator, to update him on his conversation with Respondent. Mr. Rodrigues questioned the spelling of Respondent's last name. Mr. Weaver contacted Respondent to question him further about his last name. Initially, Respondent confirmed that his last name was spelled "Latham." However, after Mr. Weaver explained that he had checked on the spelling, Respondent confirmed that his last name was spelled "Lapham." (Ex. A1; test. of Weaver.)

10. On June 5, 2014, Division enforcement officer Tom Nicolai mailed a letter to Respondent and requested further information about the installations performed at the residence. (Ex. A5.)

11. On September 12, 2014, Respondent mailed a statement to the Division wherein he denied performing any work at the residence and stated that he was only at the residence to "make sure deliveries made it on time, without damages, & were not stolen." (Ex. A13.)

12. Installing a Gree inverter, a Gree ductless heater, a 220-volt electrical clothes dryer receptacle, ten

13. Installing a Gree inverter, a ductless heater, a 220-volt electrical clothes dryer receptacle, ten new grounded electrical receptacles and a GFI electrical receptacle, and relocating a 220-volt electrical receptacle and wire are actions that constitute "making electrical an electrical installation" as defined in ORS 479.530(10). Electrical permits are required prior to making such electrical installations. (Test. of Haggin.)

14. Installing a hot water Eco-Smart green energy system is a plumbing installation, as defined in ORS 447.010(6). A plumbing permit is required prior to making this plumbing installation. (Test. of Skinner).

15. The Board based the proposed penalties in this case on the factors set forth in the Division's penalty matrix. (Ex. A21; test. of Simmons.)

CONCLUSIONS OF LAW

1. Respondent made electrical installations without a supervising or journeyman electrician's license, in violation of ORS 479.620(3).
2. Respondent made electrical installations without first obtaining a valid electrical permit, in violation of ORS 479.550(1).
3. Respondent engaged in the business of making electrical installations, including advertising or otherwise purporting to be a business that makes electrical installations, without an electrical contractor's license, in violation of ORS 479.620(1).
4. Respondent engaged in the trade of making plumbing installations without a valid journeyman plumber license, in violation of ORS 693.030(1).
5. Respondent made a plumbing installation without first obtaining a valid plumbing permit, in violation of OAR 918-780-0065.
6. Respondent engaged in the business of working as a plumbing contractor or advertising or purporting to be a plumbing contractor without a plumbing contractor license, in violation of ORS 447.040(1).
7. The Division may impose a civil penalty of \$12,000 against Respondent.
8. The Division may order Respondent to cease and desist from engaging in any violation of the state building code.

OPINION

The Division contends that Respondent made electrical installations without a supervising or journeyman electrician's license, that he made electrical installations without first obtaining a valid electrical permit, that he engaged in the business of making electrical installations without an electrical contractor's license, that he engaged in the trade of making plumbing installations without a valid journeyman plumber license, that he made a plumbing installation without first obtaining a valid plumbing permit and that he engaged in the business of making plumbing installations without a plumbing contractor's license. The Division also contends that Respondent should be assessed a \$12,000 civil penalty for the violations and that he should be ordered to cease and desist from engaging in any further violation of the state building code. The Division has the burden to show, by a preponderance of the evidence, that Respondent committed the alleged violations and that the proposed civil penalty and the order to cease and desist are appropriate. ORS 183.450(2), *Harris v. SAIF*, 292 Or 683, 690 (1982). Proof by a preponderance of evidence means that the fact finder is persuaded that the facts asserted are more likely true than not true. *Riley Hill General Contractor, Inc. v. Tandy Corp.*, 303 Or. 390 (1987). Based on this record, the Division has met its burden.

Making an Electrical Installation without a Supervising or Journeyman Electrician's License

ORS 479.530(10) provides:

“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. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. “Electrical installation” does not include an oil module.

ORS 479.620(3) provides:

Subject to ORS 679.540, a person may not:

Except as provided in ORS 479.630(10)(c) and (11)(f), direct, supervise or control the making of an electrical installation without a supervising electrician's license.

Respondent admitted at hearing that he performed electrical work at the residence and that he is not a licensed journeyman electrician. While Respondent denied at hearing installing the solar panels, he admitted that he installed a hot water Eco-Smart green energy system, a new 220 plug for the clothes dryer, a Gree ductless heater on the living room wall, approximately ten grounded plugs inside the residence and one GFI plug outside on the deck. These installations are electrical installations as defined in ORS 479.530(10) and they are not exempt from the licensing requirements of 479.620(3). Respondent made electrical installations without the required license, in violation of ORS 476.620(3).

Making an Electrical Installation without Obtaining an Electrical Permit

ORS 479.550(1) provides:

Except as provided in ORS 479.540, no person shall work on any new electrical installation for which a permit has not been issued.

Respondent did not obtain any permits for the electrical installations he made at the residence, in violation of ORS 479.550(1). The electrical installations performed by Respondent are not exempt from the electrical permit requirements as set forth in ORS 479.550(1).

Engaging in the Business of Making Electrical Installations without an Electrical Contractor's License:

ORS 479.620(1) provides:

Subject to ORS 479.540, a person may not:

Without an electrical contractor's license, 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.

Respondent admitted at hearing that he made electrical installations and that he does not have an electrical contractor's license. The evidence is persuasive that Mr. Hug paid Respondent for those electrical installations. Because Respondent agreed to perform this work and received payment for the work, the preponderance of the evidence indicates that he purported to be acting as a business that makes electrical installations and his conduct does not fall within the exemptions as set forth in ORS 479.540. Thus, Respondent engaged in the business of making electrical installations without an electrical contractor's license, in violation of ORS 479.620(1).

Engaging in the Trade of Making Plumbing Installations without a Valid Journeyman Plumber License

ORS 447.010(6) provides:

"Plumbing" is the art of installing, altering or repairing in or adjacent to serving buildings:

- (a) Pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes.
- (b) Fixtures and fixture traps.
- (c) Soil, waste and vent pipes.
- (d) House drain and house sewer to the sewer service lateral at the curb, or in the street, or alley, or other disposal terminal holding human or domestic sewage.
- (e) Storm water drainage, with their devices, appurtenances and connections.
- (f) Pipes, fixtures and other apparatus for medical gas, anesthetic waste gas and vacuum systems.

ORS 693.030(1) provides:

A person may not engage in the trade of journeyman plumber without a journeyman plumber license issued under this chapter.

Respondent has conceded that he installed a hot water Eco-Smart green energy system at the residence and that he does not have a journeyman plumber license. This installation is a

plumbing installation as defined in ORS 447.010(6). By installing the hot water Eco-Smart green energy system, Respondent engaged in the trade of a journeyman plumber without the requisite license, and therefore violated of ORS 693.030(1).

Making a Plumbing Installation without Obtaining a Plumbing Permit

OAR 918-780-0065 provides:

No person, firm, or corporation shall do plumbing or medical gas systems 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.

Respondent did not obtain a permit for the plumbing work he performed when installing the hot water Eco-Smart green energy system at the residence. Because the installation constitutes “plumbing work,” Respondent violated OAR 918-780-0065.

Engaging in the Business of Working as a Plumbing Contractor or Advertising or Purporting to be a Plumbing Contractor without a Plumbing Contractor License

ORS 447.040(1) provides:

A person may not work as a plumbing contractor, or advertise or purport to be a plumbing contractor, and a member or employee of a firm, partnership or corporation may not engage in the layout or superintending of plumbing installations, without having obtained the plumber contractor license under ORS 447.010 to 447.156 as provided by State Plumbing Board rules adopted under ORS 455.117.

Respondent has admitted that he made a plumbing installation and that he does not have a plumbing contractor license. The evidence is persuasive that Respondent received payment for making the plumbing installation. Because he agreed to perform this work and received payment for the work, the preponderance of the evidence indicates that he purported to be acting as a plumbing contractor. Thus, he engaged in the business of working as a plumbing contractor without a plumbing contractor license, in violation of ORS 447.040(1).

Civil Penalties

The Division has adopted administrative rules to administer and enforce ORS chapter 693. OAR 918-001-0036(6) provides that the Director may, subject to approval of the Boards, develop a penalty matrix to use as a guideline for assessing civil penalties.

The Division’s penalty matrix provides for a civil penalty of \$3,000 for violating ORS 479.620(1), \$3,000 for violating ORS 447.040(1), \$2,000 for violating ORS 479.620(3), \$2,000 for violating ORS 693.030(1), \$1,000 for violating ORS 479.550(1) and \$1,000 for violating OAR 918-780-0065. Therefore, the \$12,000 civil penalty proposed by the Division is appropriate.

Order to Cease and Desist:

ORS 455.755(2) provides:

If the director has reason to believe that any person has been engaged, or is engaging, or is about to engage in any violation of the state building code, * * *, the director may issue an order, subject to ORS 183.413 to 183.497, directed to the person to cease and desist from the violation or threatened violation.

The Division contends that Respondent has been or is violating state building code law. Such belief is reasonable, based on Respondent's numerous violations in 2013-2014 and his inability to provide consistent and accurate information to the Division during the investigation process. The Division has established grounds to issue an Order to Cease and Desist.

ORDER

I propose the Building Codes Division, Electrical and Elevator Board and Plumbing Board, issue the following order:

Randy A. Lapham shall pay a \$12,000 civil penalty and shall cease and desist from violations of ORS chapters 447, 479, 693 and 455 and the rules adopted thereunder.

Marni J. Davis

Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager, Enforcement and Licensing
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On March 6, 2015, I mailed the foregoing Proposed Order issued on this date in OAH Case No. 1403951.

By: First Class Mail

Randy Lapham
2537 Connell Ave
Medford OR 97501

John Adams
Building Codes Division
PO Box 14470
Salem OR 97309-0404

Lucy Garcia
Administrative Specialist
Hearing Coordinator

2. Whether Respondent made electrical installations without first obtaining a valid electrical permit, in violation of ORS 479.550(1).
3. Whether Respondent engaged in the business of making electrical installations, including advertising or otherwise purporting to be a business that makes electrical installations, without an electrical contractor's license, in violation of ORS 479.620(1).
4. Whether Respondent engaged in the trade of making plumbing installations without a valid journeyman plumber license, in violation of ORS 693.030(1).
5. Whether Respondent made a plumbing installation without first obtaining a valid plumbing permit, in violation of OAR 918-780-0065.
6. Whether Respondent engaged in the business of working as a plumbing contractor or advertising or purporting to be a plumbing contractor without a plumbing contractor license, in violation of ORS 447.040(1).
7. Whether the Division may impose a civil penalty of \$12,000 against Respondent. ORS 455.895(1) and OAR 918-001-0036.
8. Whether the Division may order Respondent to cease and desist from engaging in any violation of the state building code. ORS 455.775(2).

EVIDENTIARY RULING

Exhibits A1 through A21, offered by the Division, were admitted into the record without objection.

FINDINGS OF FACT

1. Randy A. Lapham (Respondent) is not a licensed journeyman electrician, licensed electrical contractor, licensed journeyman plumber or licensed plumbing contractor. (Ex. A10; test. of Simmons and Respondent.)
2. Beginning in approximately October 2013, Respondent performed work at a residence located at 739 Park Street, in Ashland, Oregon (the residence). He removed a hot water heater and installed a hot water Eco-Smart green energy system, a new 220 plug for the clothes dryer, a Gree ductless heater on the living room wall, approximately ten grounded plugs inside the residence and one GFI plug outside on the deck. No permits were issued for these installations. (Ex. A1; test. of Respondent, Weaver.) Respondent also installed 14 solar panels on the roof of the residence. (Ex. A1; test. of Hug, Weaver.)
3. The owner of the residence was Genevieve Hug. In late October 2013, she was hospitalized. At that time, her father, Richard Hug, began helping her with her finances and home repairs. Ms. Hug passed away on April 17, 2014. (Test. of Hug.)

4. On December 17, 2013, Mr. Hug paid Respondent \$1,750 for work he performed at Ms. Hug's residence. The payment was made to Respondent's girlfriend's bank account. (Ex. A20; test. of Hug.)

5. On February 9, 2014, Respondent sent Mr. Hug an email attaching pictures of the installed solar panels at Ms. Hug's residence. He also informed Mr. Hug that the remaining balance on the "solar panels project" was \$2,300. (Ex. A17.)

6. On February 10, 2014, Mr. Hug paid Respondent \$1,300. This payment was also made to Respondent's girlfriend's bank account. (Ex. A17.)

7. On May 26, 2014, Mike Weaver, a Division enforcement officer, received a report that Respondent had installed a solar electrical system at the residence. Ms. Hug's mother, Nancy Lauka, reported to Mr. Weaver that Respondent had installed a Gree Inverter, a Gree Ductless heat and disconnect, a Kaco Blueplanet Panel, and an electrical power supply line coming out of the main panel. Ms. Lauka also reported that Respondent had mounted 14 solar panels to the roof and he installed a disconnect on the roof and a hot water Eco-Smart green energy water heater. (Ex. A1; test. of Weaver.)

8. On May 28, 2014, Mr. Weaver contacted Respondent. Respondent informed Mr. Weaver that his last name was spelled "Latham." Respondent confirmed that he helped install a Gree Invertor, a Gree ductless heater on the living room wall, a hot water Eco-Smart green energy system, a new 220 plug for the clothes dryer, ten grounded plugs inside the house and one GFI plug outside on the deck at the residence. He also confirmed that he had relocated the 220 range plug and wire in the kitchen. (Ex. A1; test. of Weaver.) Mr. Weaver wrote a statement regarding the installations Respondent performed and the conversation that day. Respondent reviewed the statement, confirmed that the statement was accurate, but refused to sign it. (Ex. A3; test. of Weaver.)

9. After speaking with Respondent, Mr. Weaver contacted Matt Rodrigues, a Division investigator, to update him on his conversation with Respondent. Mr. Rodrigues questioned the spelling of Respondent's last name. Mr. Weaver contacted Respondent to question him further about his last name. Initially, Respondent confirmed that his last name was spelled "Latham." However, after Mr. Weaver explained that he had checked on the spelling, Respondent confirmed that his last name was spelled "Lapham." (Ex. A1; test. of Weaver.)

10. On June 5, 2014, Division enforcement officer Tom Nicolai mailed a letter to Respondent and requested further information about the installations performed at the residence. (Ex. A5.)

11. On September 12, 2014, Respondent mailed a statement to the Division wherein he denied performing any work at the residence and stated that he was only at the residence to "make sure deliveries made it on time, without damages, & were not stolen." (Ex. A13.)

12. Installing a Gree inverter, a Gree ductless heater, a 220-volt electrical clothes dryer receptacle, ten

13. Installing a Gree inverter, a ductless heater, a 220-volt electrical clothes dryer receptacle, ten new grounded electrical receptacles and a GFI electrical receptacle, and relocating a 220-volt electrical receptacle and wire are actions that constitute “making electrical an electrical installation” as defined in ORS 479.530(10). Electrical permits are required prior to making such electrical installations. (Test. of Haggin.)

14. Installing a hot water Eco-Smart green energy system is a plumbing installation, as defined in ORS 447.010(6). A plumbing permit is required prior to making this plumbing installation. (Test. of Skinner).

15. The Board based the proposed penalties in this case on the factors set forth in the Division’s penalty matrix. (Ex. A21; test. of Simmons.)

CONCLUSIONS OF LAW

1. Respondent made electrical installations without a supervising or journeyman electrician's license, in violation of ORS 479.620(3).
2. Respondent made electrical installations without first obtaining a valid electrical permit, in violation of ORS 479.550(1).
3. Respondent engaged in the business of making electrical installations, including advertising or otherwise purporting to be a business that makes electrical installations, without an electrical contractor's license, in violation of ORS 479.620(1).
4. Respondent engaged in the trade of making plumbing installations without a valid journeyman plumber license, in violation of ORS 693.030(1).
5. Respondent made a plumbing installation without first obtaining a valid plumbing permit, in violation of OAR 918-780-0065.
6. Respondent engaged in the business of working as a plumbing contractor or advertising or purporting to be a plumbing contractor without a plumbing contractor license, in violation of ORS 447.040(1).
7. The Division may impose a civil penalty of \$12,000 against Respondent.
8. The Division may order Respondent to cease and desist from engaging in any violation of the state building code.

OPINION

The Division contends that Respondent made electrical installations without a supervising or journeyman electrician's license, that he made electrical installations without first obtaining a valid electrical permit, that he engaged in the business of making electrical installations without an electrical contractor's license, that he engaged in the trade of making plumbing installations without a valid journeyman plumber license, that he made a plumbing installation without first obtaining a valid plumbing permit and that he engaged in the business of making plumbing installations without a plumbing contractor's license. The Division also contends that Respondent should be assessed a \$12,000 civil penalty for the violations and that he should be ordered to cease and desist from engaging in any further violation of the state building code. The Division has the burden to show, by a preponderance of the evidence, that Respondent committed the alleged violations and that the proposed civil penalty and the order to cease and desist are appropriate. ORS 183.450(2), *Harris v. SAIF*, 292 Or 683, 690 (1982). Proof by a preponderance of evidence means that the fact finder is persuaded that the facts asserted are more likely true than not true. *Riley Hill General Contractor, Inc. v. Tandy Corp.*, 303 Or. 390 (1987). Based on this record, the Division has met its burden.

Making an Electrical Installation without a Supervising or Journeyman Electrician's License

ORS 479.530(10) provides:

“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. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. “Electrical installation” does not include an oil module.

ORS 479.620(3) provides:

Subject to ORS ~~679.540~~ **479.540**, a person may not:

Except as provided in ORS 479.630(10)(c) and (11)(f), direct, supervise or control the making of an electrical installation without a supervising electrician's license.

Respondent admitted at hearing that he performed electrical work at the residence and that he is not a licensed journeyman electrician. While Respondent denied at hearing installing the solar panels, he admitted that he installed a hot water Eco-Smart green energy system, a new 220 plug for the clothes dryer, a Gree ductless heater on the living room wall, approximately ten grounded plugs inside the residence and one GFI plug outside on the deck. These installations are electrical installations as defined in ORS 479.530(10) and they are not exempt from the licensing requirements of 479.620(3). Respondent made electrical installations without the required license, in violation of ORS ~~476.620(3)~~ **479.620(3)**.

Making an Electrical Installation without Obtaining an Electrical Permit

ORS 479.550(1) provides:

Except as provided in ORS 479.540, no person shall work on any new electrical installation for which a permit has not been issued.

Respondent did not obtain any permits for the electrical installations he made at the residence, in violation of ORS 479.550(1). The electrical installations performed by Respondent are not exempt from the electrical permit requirements as set forth in ORS 479.550(1).

Engaging in the Business of Making Electrical Installations without an Electrical Contractor's License:

ORS 479.620(1) provides:

Subject to ORS 479.540, a person may not:

Without an electrical contractor's license, 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.

Respondent admitted at hearing that he made electrical installations and that he does not have an electrical contractor's license. The evidence is persuasive that Mr. Hug paid Respondent for those electrical installations. Because Respondent agreed to perform this work and received payment for the work, the preponderance of the evidence indicates that he purported to be acting as a business that makes electrical installations and his conduct does not fall within the exemptions as set forth in ORS 479.540. Thus, Respondent engaged in the business of making electrical installations without an electrical contractor's license, in violation of ORS 479.620(1).

Engaging in the Trade of Making Plumbing Installations without a Valid Journeyman Plumber License

ORS 447.010(6) provides:

"Plumbing" is the art of installing, altering or repairing in or adjacent to serving buildings:

- (a) Pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes.
- (b) Fixtures and fixture traps.
- (c) Soil, waste and vent pipes.
- (d) House drain and house sewer to the sewer service lateral at the curb, or in the street, or alley, or other disposal terminal holding human or domestic sewage.
- (e) Storm water drainage, with their devices, appurtenances and connections.
- (f) Pipes, fixtures and other apparatus for medical gas, anesthetic waste gas and vacuum systems.

ORS 693.030(1) provides:

A person may not engage in the trade of journeyman plumber without a journeyman plumber license issued under this chapter.

Respondent has conceded that he installed a hot water Eco-Smart green energy system at the residence and that he does not have a journeyman plumber license. This installation is a

plumbing installation as defined in ORS 447.010(6). By installing the hot water Eco-Smart green energy system, Respondent engaged in the trade of a journeyman plumber without the requisite license, and therefore violated of ORS 693.030(1).

Making a Plumbing Installation without Obtaining a Plumbing Permit

OAR 918-780-0065 provides:

No person, firm, or corporation shall do plumbing or medical gas systems 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.

Respondent did not obtain a permit for the plumbing work he performed when installing the hot water Eco-Smart green energy system at the residence. Because the installation constitutes “plumbing work,” Respondent violated OAR 918-780-0065.

Engaging in the Business of Working as a Plumbing Contractor or Advertising or Purporting to be a Plumbing Contractor without a Plumbing Contractor License

ORS 447.040(1) provides:

A person may not work as a plumbing contractor, or advertise or purport to be a plumbing contractor, and a member or employee of a firm, partnership or corporation may not engage in the layout or superintending of plumbing installations, without having obtained the plumber contractor license under ORS 447.010 to 447.156 as provided by State Plumbing Board rules adopted under ORS 455.117.

Respondent has admitted that he made a plumbing installation and that he does not have a plumbing contractor license. The evidence is persuasive that Respondent received payment for making the plumbing installation. Because he agreed to perform this work and received payment for the work, the preponderance of the evidence indicates that he purported to be acting as a plumbing contractor. Thus, he engaged in the business of working as a plumbing contractor without a plumbing contractor license, in violation of ORS 447.040(1).

Civil Penalties

The Division has adopted administrative rules to administer and enforce ORS chapter 693. OAR 918-001-0036(6) provides that the Director may, subject to approval of the Boards, develop a penalty matrix to use as a guideline for assessing civil penalties.

The Division’s penalty matrix provides for a civil penalty of \$3,000 for violating ORS 479.620(1), \$3,000 for violating ORS 447.040(1), \$2,000 for violating ORS 479.620(3), \$2,000 for violating ORS 693.030(1), \$1,000 for violating ORS 479.550(1) and \$1,000 for violating OAR 918-780-0065. Therefore, the \$12,000 civil penalty proposed by the Division is appropriate.

Order to Cease and Desist:

ORS ~~455.755(2)~~ **455.775(2)** provides:

If the director has reason to believe that any person has been engaged, or is engaging, or is about to engage in any violation of the state building code, * * *, the director may issue an order, subject to ORS 183.413 to 183.497, directed to the person to cease and desist from the violation or threatened violation.

The Division contends that Respondent has been or is violating state building code law. Such belief is reasonable, based on Respondent's numerous violations in 2013-2014 and his inability to provide consistent and accurate information to the Division during the investigation process. The Division has established grounds to issue an Order to Cease and Desist.

ORDER

Randy A. Lapham shall pay a \$12,000 civil penalty and shall cease and desist from violations of ORS chapters 447, 479, 693 and 455 and the rules adopted thereunder.

_____ for
Director,
Department of Consumer and Business
State of Oregon

Dated this __ day of _____, 2015.

Chair,
Electrical and Elevator Board
State of Oregon

Dated this __ day of _____, 2015.

Chair,
State Plumbing Board
State of Oregon

Dated this __ day of _____, 2015.

**NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW
(OREGON COURT OF APPEALS)**

Respondent is entitled to judicial review of this Final Order pursuant to ORS 183.482. Judicial review may be initiated by filing a petition for review with the Oregon Court of Appeals within sixty (60) days from the date this Final Order was mailed to Respondent.

State of Oregon

Board memo

Building Codes Division

April 16, 2015

To: State Plumbing Board

From: John D. Adams, Contested Case Representative, Enforcement Section

Subject: Settlement Offer from Ken Van Hoesen (Respondent), Case No. 2013-0060

Action requested:

Board to consider a settlement offer from Respondent for Case No. 2013-0060.

Background:

The case before the State Plumbing Board (board) involves Ken Van Hoesen (Respondent), a licensed Oregon journeyman plumber (5374JP) of Lakeview, Oregon. On February 25, 2014, the division issued a Notice of Proposed Assessment of Civil Penalties and Revocation of License No. 5374JP (notice). That notice was amended to correct the penalty amount to reflect Respondent's repeat violator status (which thereby increased each penalty from \$3,000 to \$4,000, along with adding in four additional occasions of working with a license).¹ The currently proposed civil penalties total \$28,000 for seven occasions of working as a plumbing contractor without a plumbing business license in and around Lakeview, Oregon. The current version of the notice detailing the alleged violations is attached to this memo. A contested case hearing is scheduled for May 19, 2015. This hearing will include a review of the Order to Cease and Desist issued against Respondent to prevent him from continuing to perform plumbing work without a plumbing contractor license.

Respondent already has a disciplinary record with the board. In the most recent case, Case No. 2010-0071, Respondent's journeyman plumber license was suspended April 23, 2010, for failure to pay civil penalties owed as part of the settlement in Case No. 2005-0308. In that case, Respondent permitted an unlicensed individual to perform plumbing work that requires a license. Respondent's license was reinstated on May 10, 2010.

Respondent's disciplinary history with the division also includes the following five cases:

- Case No. 1997-0084, which involved a \$1,000 civil penalty for employing an unlicensed individual (paid in 2004).
- Case No. 1999-0532, which involved a \$2,000 civil penalty for working without a plumbing contractor's license and without a permit (paid in 2006).
- Case No. 2003-0249, which involved a \$3,000 civil penalty for working without a plumbing contractor's license (settled with the division in 2006).

¹ The Notice was recently amended for a second time to correct a citation change that had changed since the case first began. No substantive changes were made in the Second Amended Notice.

- Case No. 2005-0308, which involved a \$1,250 civil penalty for allowing an unlicensed individual to perform plumbing work and working without a permit (paid in 2010).
- Case No. 2006-0151, which involved a proposed suspension of Respondent's journeyman plumber license for failure to pay outstanding civil penalties on or about April 21, 2006, (Respondent's outstanding civil penalties were settled with the division on May 12, 2006, and the Notice of Suspension was withdrawn).

The advisory board penalty matrix considers violations of the division's laws and rules within a five-year period of time to determine whether a respondent is a repeat violator for the purposes of assessing a civil penalty. On April 3, 2015, Respondent's lawyer submitted a settlement offer (attached) to present before the board for consideration.

Options:

After considering the settlement offer, the board may:

- Give approval to the division to move forward with drafting a Consent Order to reflect the terms of Respondent's settlement offer (using the division's settlement language where it does not conflict with the terms of Respondent's settlement offer). The division will then bring the Consent Order to the next board meeting scheduled for June 18, 2015.
- Recommend different terms and conditions to the division for which the board would settle.
- Recommend the division proceed with the contested case hearing and present the Oregon Office of Administrative Hearings administrative law judge's proposed order to the board for determination of a final order.

- 1 7. On or about July 26, 2011, Respondent “[dug] up a sprinkler valve and adjust[ed] [it] at LKV
2 shop” for the account of Lake County, for which respondent was paid \$112.50.
- 3 8. On or about August 11, 2011, Respondent reconnected a “shower drain” for the account of
4 Lake County, for which Respondent was paid \$113.34.
- 5 9. On or about August 30, 2011, Respondent repaired a museum toilet for the account of Lake
6 County, which paid Respondent \$35.
- 7 10. On or about September 7, 2011, Respondent installed a “CH-Sloan valve” in a women’s
8 restroom for the account of Lake County, which paid Respondent \$65.
- 9 11. On or about June 2, 2012, Respondent accepted a \$10,880 advance payment for the
10 installation of 34 toilets for the account of the Freemont Inn, 524 N. G Street, Lakeview,
11 Oregon.
- 12 12. On or about August 6, 2012, on invoice letterhead for “Ken Van Hoesen/ Lakeview
13 Plumbing”, a handwritten note followed by Ken Van Hoesen’s signature read:
14 “To whom it may concern, [t]here has been an issue with American Standard & my
15 wholesaler Budge-McHugh in Medford about shipping. I have been in contact with
16 Budge McHuge this morning 8-6-12, was told toilets will be delivered in Medford
17 this week. I am going to be in Reno . . . this week. I will pick toilets up next week
18 and install them as soon as I get them here. Sorry if I have caused any
19 inconveniences. If you have any questions please fell free to call me.”
- 20 13. On or about September 6, 2012, check #333 to Budge McHugh was made out from Ken Van
21 Hoesen for \$2,622.36 for toilets, orders #112969, 110442.
- 22 14. On or about November 2, 2012, Respondent invoiced Lake County for work he performed at
23 the Lake County Jail, Oregon, where Respondent replaced a wax ring on a toilet and repaired
24 a broken pipe adaptor for a sink drain, for the account of Lake County, and for which he
25 invoiced the County \$317.15.

1 15. Respondent was previously disciplined by the division in BCD case number 2010-0071,
2 wherein Respondent's journeyman plumber's license number 5374JP was suspended for
3 failure to pay civil penalties owed as a result of the final order in case number 2005-0308.

4 **APPLICABLE LAW**

- 5 1. Under ORS 447.010(6) plumbing is defined as the art of installing, altering or repairing in or
6 adjacent to or serving buildings including pipes, fixtures, and other apparatus for bringing in
7 the water supply and removing liquid and water-carried waste, including the water supply
8 distributing pipes; fixtures and fixture traps; soil, waste and vent pipes; and storm water
9 drainage, with their devices, appurtenances and connections.
- 10 2. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or
11 purport to be a plumbing contractor, and a member or employee of a firm, partnership or
12 corporation may not engage in the layout or superintending of plumbing installations, without
13 having obtained the plumbing contractor license required under ORS 447.010 to 447.156 as
14 provided by State Plumbing Board rules adopted under ORS 455.117.¹
- 15 3. Under ORS 455.125(2)(a)², in addition to any other sanction, remedy or penalty provided by
16 law, an appropriate advisory board may deny, suspend, condition or revoke a registration,
17 certification, license or other authority of a person to perform work or conduct business issued
18 under laws administered by the Department of Consumer and Business Services or advisory
19 board if the person fails to comply with a provision of ORS 446.003 to 446.200, 446.225 to
20 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 or 480.510 to 480.670 or this
21 chapter or ORS chapter 447, 460 or 693, or with any rule adopted under those statutes or
22 under ORS 455.117.

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24 ¹ OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by
25 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.

² The language of ORS 455.125(2)(a) previously existed as ORS 455.125(1)(a) prior to January 1, 2014, when ORS
455.125(1)(a) was renumbered as part of a restructuring of the subsections of ORS 455.125. No substantive changes were
made to ORS 455.125(1)(a).

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CONCLUSIONS OF LAW

1. Replacing a 20-foot section of a basement sewer line, digging up and adjusting a sprinkler valve, reconnecting a shower drain, repairing a toilet, installing a “CH-Sloan valve”, replacing a wax ring on a toilet, and repairing a broken pipe adaptor for a sink drain is all plumbing as defined by ORS 447.010(6).
2. By working as a plumbing contractor and purporting to be a plumbing contractor, Respondent unlawfully engaged in the layout or superintending of plumbing installations, without having obtained a plumbing contractor license, in violation of ORS 447.040(1) on at least 7 occasions.
3. By violating ORS 447.040(1), Respondent failed to comply with ORS chapter 447, and the Board may revoke Respondent’s journeyman plumber license 5374JP pursuant to ORS 455.125(2)(a).
4. For violating the statewide building code within the last five years, Respondent is subject to increased penalties as a repeat violator.

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ORDER

1. Under ORS 455.895(1)(a) and OAR 918-001-0036, the Board assesses Respondent civil penalties totaling \$28,000 for violating ORS 447.040(1) on at least seven occasions as outlined in the Findings of Fact.
2. Under ORS 455.125(2)(a), the Board revokes Respondent’s journeyman plumber’s license number 5374JP for violating ORS 447.040(1) on at least seven occasions as outlined in the Findings of Fact.

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NOTICE OF RIGHT TO HEARING

Respondent is entitled to a hearing as provided by the Administrative Procedures Act, Oregon Revised Statutes, chapter 183. If Respondent requests a hearing, the request must be in writing and postmarked no later than 20 days from the service date. If this Notice was served to Respondent in person, the service date is the date Respondent received this Notice. If this Notice was served

1 through the mail, the service date is the day the Notice was mailed, not the day Respondent received
2 it. Mail hearing requests to Building Codes Division, Enforcement Section, P.O. Box 14470, Salem,
3 Oregon, 97309.

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

9 **NOTICE TO ACTIVE DUTY SERVICE MEMBERS**

10 Active duty service members have a right to stay proceedings under the federal
11 Servicemembers Civil Relief Act. Contact the Oregon State Bar at 800-452-8260 or the Oregon
12 Military Department at 800-452-7500 for more information. If you need help finding legal
13 assistance, visit the United States Armed Forces Legal Assistance Legal Services Locator website at
14 <http://legalassistance.law.af.mil/content/locator.php>.

15 **NOTICE OF FINAL ORDER**

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

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1 Respondent is entitled to judicial review of any final order issued in the matter of this Notice
2 of a Proposed Civil Penalty and Proposed Revocation of Journeyman Plumber's License. Judicial
3 review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60
4 days after the Final Order is served. See ORS 183.482. If the Order was served in person, the service
5 date is the date Respondent received the Order. If the Order was served through the mail, the service
6 date is the day the Order was mailed, not the day it was received by Respondent. If Respondent does
7 not file a petition for judicial review within 60 days, Respondent will lose the right to appeal. The
8 phone number for the Oregon Court of Appeals is 503-986-5555.

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10 Dated this 24 day of March, 2015.

11  for
12 Chair,
13 State Plumbing Board
14 State of Oregon
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DOUGLAS GALLAGHER LAW OFFICE

Construction ♦ Creditor's Rights ♦ Real Property

245 W. 5th Avenue, Eugene OR 97401

Ph. 541-357-4021/Fax 541-357-4029

doug@dglawoffice.com

www.dglawoffice.com

April 3, 2015

Via email and regular mail only

tyler.e.anderson@doj.state.or.us

Tyler E Anderson

Oregon Department of Justice

1162 Court Street NE

Salem, OR 97301

Re: Proposed Penalty and Revocation of Journeyman Plumber License 5374JP
In the Matter of Ken M. Van Hoesen
BCD Case 2013-0060 / OAH Case Nos.: 1403769 and 1403772

File No.: VANHOESEN001

Dear Mr. Anderson:

Following up on our conversation earlier in March, this correspondence is intended to be a settlement communication that is not admissible for any purposes. This letter is written to the Plumbing Board with the hope that a resolution can be obtained without the necessity of a hearing. The following is our analysis and offer:

In short, we do not expect there to be a significant dispute about the Findings of Fact in the Board's Second Amended Notice.

As we previously discussed during earlier settlement discussions, Mr. Van Hoesen's lack of compliance was poor judgment and lack of resources. Mr. Van Hoesen's prior violations that qualify him as a repeat violator are financial in nature. For various reasons, Mr. Van Hoesen has been playing catch-up on financial obligations for the past approximately 10 years. The nature of the projects – working for the Lake County Courthouse of all institutions – demonstrates Mr. Van Hoesen is not, with bad intent, attempting to defraud the general public by using McCleese and Sons' CCB license number.

Mr. McCleese and Mr. Van Hoesen are friends. Mr. McCleese is helping Mr. Van Hoesen out by employing him. Mr. Van Hoesen will testify that his use of "Van Hoesen" letterhead on invoices was poor judgment born from wishing to keep things simple and not burden Mr. McCleese. Without waiver of attorney client-privilege, it has been explained to Mr. Van Hoesen why the Board would view this "paperwork" issue as later becoming a serious life-safety issue.

I would not fault the Board for viewing this position as one that is produced solely because the Board has invested resources to pursue vigorous enforcement; the Board is probably right. I will note, however, that McCleese and Sons has been and continues to be a licensed Plumbing Contractor. McCleese and Sons has been issuing W-2s and is paying employment taxes. Much of the evidence we anticipate discussing in the upcoming hearing would be to show Mr. McCleese and Mr. Van Hoesen's relationship is an employer-employee relationship, and given their compliance with the law, the penalty is too harsh (although a penalty is deserved).

Based on the foregoing, Mr. Van Hoesen proposes that he:

1. Serve a three month suspension of his license;
2. After the conclusion of his suspension, pay a fine of \$6,000, with \$500 payable each month on terms satisfactory to the Board; and
3. Agree that if he is found to violate his Journeyman's License or any other provision of Chapter 447 (subject to correction if described in OAR 918-001-0036(8)¹ to the extent applicable to Mr. Van Hoesen) in the next three years, he will forfeit his journeyman's card.

This proposal is to resolve any and all civil matters between Mr. Van Hoesen and the Building Codes Division that arise from or relate to the allegations set forth in the above-referenced BCD and OAH cases and not all terms are necessarily set forth in this letter. This proposal can only be accepted by execution of a basic agreement or entry of an appropriate order that meets the approval of you and me. We would ask the Board to respond as soon as it reasonably can; in any case, the offer should be considered withdrawn if not consummated by the close of business on Friday, May 1, 2015, unless we can extend the upcoming deadlines.

Thank you for your attention to this matter.

Very truly yours,



Douglas L. Gallagher

DLG/aam
cc: Client, via email

¹ 918-001-0036(8) Violations of ORS Chapters 446, 447, and 479 and 455.020(2) and 455.610, wherein defects are noted by an inspector in an element of assembly or construction, shall not be considered a violation for the purposes of this section if the violation is corrected and an inspection request made in 20 calendar days unless extended in writing by the building official.

State Plumbing Board Enforcement Report for April 16, 2015

Agenda Item III.D.

Summary Report - Cases Previously Resolved by Division							
Case #	Name	Violation	Location of Violation	Date of Violation	Penalty Assessed	Penalty to Pay	Other Comments
C2014-0048 Tania	Blue Water, Inc., dba Columbia Housewarmers	Installation of a gas water heater <ul style="list-style-type: none"> • No plumbing contractor license • Allowed an unlicensed individual to make a plumbing installation • No valid plumbing permit 	Astoria	December 2013 through January 2014	\$20,000	\$15,750	Consent Order. Complaint submitted by City of Astoria. Related to case C2014-0216.
C2014-0216 Judith	Steve Lilley	Installed a gas water heater <ul style="list-style-type: none"> • No journeyman plumber license 	Astoria	December 2013 through January 2014	\$2,000	\$500	Consent Order. Complaint submitted by City of Astoria. Related to case C2014-0048.
C2014-0245 Tania	David Louis King, dba Castle Plumbing	Engaged in the layout or superintending of plumbing installations at five locations <ul style="list-style-type: none"> • No plumbing contractor license 	Cave Junction Williams Grants Pass	May 2014 through October 2014	\$3,000	\$1,500	Consent Order. Complaint submitted by BCD Enforcement. See also Conditioned Licenses report.
C2014-0250 Judith	Jason S. Maben	Installed underground water service plumbing piping and extended an existing sewer plumbing service piping <ul style="list-style-type: none"> • No journeyman plumber license 	Echo	July 2014	\$2,000	\$750	Consent Order. Complaint submitted by BCD Enforcement. Related to cases C2014-0192 and C2014-0249.
C2014-0249 Skip	Jon T. Oldman	Installed underground water service plumbing piping and extended an existing sewer plumbing service piping <ul style="list-style-type: none"> • No journeyman plumber license 	Echo	July 2014	\$2,000	\$750	Consent Order. Complaint submitted by BCD Enforcement. Related to cases C2014-0192 and C2014-0250.
C2014-0192 Skip	Swaggart Brothers Inc.	Installation of underground water service plumbing piping and extension of an existing sewer plumbing service piping <ul style="list-style-type: none"> • No plumbing contractor license • Allowed unlicensed individuals to make plumbing installations • No valid plumbing permit 	Echo	July 2014	\$8,000	\$2,500	Consent Order. Complaint submitted by BCD. Related to cases C2014-0249 and C2014-0250.

*Total penalties assessed for violations in more than one program

State Plumbing Board Enforcement Report for April 16, 2015

Summary Report - Cases Previously Resolved by Division							
Case #	Name	Violation	Location of Violation	Date of Violation	Penalty Assessed	Penalty to Pay	Other Comments
C2014-0180 Skip	Cortney C. Magers	Installed floor drains, overflow valves, and faucets <ul style="list-style-type: none"> • No journeyman plumber license 	Pendleton	April 2014 through May 2014	\$2,000	\$250	Consent Order. Complaint submitted by BCD Enforcement. Related to cases C2014-0181, pending, and C2014-0182, Director's authority.
C2014-0223 Judith	Bryan A. Nelson, dba Nelson Plumbing	Attached pipes and connected drains and plumbing fixtures <ul style="list-style-type: none"> • No plumbing contractor license (expired license) • No journeyman plumber license (expired license) • No valid plumbing permit 	Portland	August 2014	\$6,000	\$6,000	Default Order. Complaint submitted by homeowner.

*Total penalties assessed for violations in more than one program

State Plumbing Board Enforcement Report for April 16, 2015

Agenda Item III.E.

Conditioned Licenses			
Case #	Name	License Type and Conditioning Date	Other Comments
C2014-0245 Tania	David Louis King, dba Castle Plumbing	Plumbing contractor license was issued on February 5, 2015, with conditions.	Consent Order. Respondent is required to provide a quarterly report to the division's Enforcement section. Reports will include invoices for work performed, copies of plumbing permits issued, installation addresses, and the customers' contact information. Violation of the Consent Order could result in immediate suspension of Respondent's plumbing contractor license. See Summary report.

State of Oregon

Board memo

Building Codes Division

April 16, 2015

To: The State Plumbing Board

From: Richard Baumann, Policy Analyst, Policy and Technical Services

Subject: Continuing Education Course Approval Process

Action requested:

State Plumbing Board review and approve the Continuing Education Committee's recommendations for continuing education courses and instructors.

Background:

The State Plumbing Board establishes continuing education (CE) requirements for all plumbing licensees in order to ensure licensees possess up-to-date knowledge of the code and administrative requirements. They set standards for approval of courses and providers in order to have a sufficient number and variety of CE courses available to licensees. The board's continuing education committee has been meeting to evaluate courses and instructors on the board's behalf. The committee met on March 5, 2015, to review CE course and instructor applications. The committee reviewed 16 applications from 6 organizations:

- 4 courses were recommended for approval.
- No courses were recommended for denial.
- 2 courses are pending waiting for additional information from the providers.
- 9 instructors were recommended for approval.
- 1 instructor was recommended for denial.

See attached summary for more information.

In addition to the Oregon Rule and Law criteria, the committee is using the following when reviewing applications:

- For correspondence courses – Provider must submit complete course.
- For online courses – Provider must submit a log-on or screen shots of course content.
- OSHA courses are eligible for a maximum of 10 hours code-related credit.
- First Aid/CPR courses are eligible for a maximum of eight hours code-related credit.

Options:

- Approve the committee's recommendations for approval or denial of courses or instructors.
- Amend and approve the committee's recommendations for approval or denial of courses or instructors.
- Disapprove the committee's recommendations for approval or denial of courses or instructors.

**State Plumbing Board
Committee on Continuing Education Course and Instructor Review
April 16, 2015**

Courses

	Applicant	Course Name	Committee Recommendation	Board Action
1	SDAJ of Oregon	Grease Interception; Sizing, FOG Loading & Plumbing Code (2 Hours CR)	Approve – Reduce hours to 2 from 3	
2	HeatSpring	Solar Approaches to Radiant Heating (8 hours CR)	Approve – Reduce hours to 8 from 25. Committee determined that course does not contain sufficient code related (OPSC) content for 25 hours of credit.	
3	Area II Plumbers JATC	Residential Electric Water Heater Code and Law Review (8 hours CR)	Approve	
4	Area II Plumbers JATC	Electrical Residential Water Heaters Repairs, Maintenance, Installation – Including Rules and Specialty Code (16 hours CR)	Approve	

Instructors

	Applicant	Committee Recommendation	Board Action
1	Matt Redhead SDAJ of Oregon	Approve	
2	Daniel J. Tefft UA Local 290, Plumbers & Steamfitters	Approve	
3	Jennifer M. Massey UA Local 290, Plumbers & Steamfitters	Approve	
4	John Samilian American Trainco	Approve	
5	Richard Lucero American Trainco	Approve	
6	Rick Smith American Trainco	Approve	
7	Walter Wood American Trainco	Approve	
8	Vaughan Woodruff HeatSpring	Approve	
9	Bruce Robbins Area II Plumbers JATC	Approve	
10	Gregory A. Shaw Village Electric Co., Inc.	Deny – Applicant qualifications do not contain sufficient training or education related to plumbing.	

Applications Pending

	Applicant	Course Name	Information Requested by Committee
1	Village Electric Co., Inc.	2014 Oregon Rule and Law – Plumbing (4 hours ORL)	The committee was unable to make a recommendation for this course because the provider did not submit sufficient information. Committee requested detailed course content and the amount of time spent on each area. Additionally, provider must follow the board-approved Oregon Rule and Law syllabus.
2	Village Electric Co., Inc.	2014 Oregon Plumbing Specialty Code (8 hours CC)	The committee was unable to make a recommendation for this course because the provider did not submit sufficient information. Committee requested detailed course content and the amount of time spent on each area.
3	Bryan Briethbarth SDAJ of Oregon	Instructor	The application for Matt Redhead contains information requesting that Mr. Briethbarth be recognized as an instructor for the Grease Interceptor course. No instructor application or qualifications were submitted. Mr. Briethbarth must submit an instructor application with qualifications for the committee to review.