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1 **BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON**

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

3 **BEFORE THE BOARD OF BOILER RULES OF THE STATE OF OREGON**

4 **IN THE MATTER OF:**

5 BLUE WATER, INC., DBA COLUMBIA)
6 HOUSEWARMERS, AN OREGON) **CONSENT ORDER**
7 CORPORATION,)
8 **RESPONDENT**) **CASE NO. C2014-0048**

9
10 The Building Codes Division (BCD) conducted an investigation on behalf of the Electrical and
11 Elevator Board, the State Plumbing Board, and the Board of Boiler Rules (Boards) and determined that
Respondent violated certain provisions of the Oregon Building Codes statutes, administrative rules,
and specialty codes.

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

16 **FINDINGS OF FACT**

- 17 1. During or about the period of March 5, 2013, at 1365 Franklin Avenue, Astoria, Oregon,
18 Respondent allowed employee Ryan Hash, an unlicensed individual, to install a gas wall
furnace without appropriate electrical licenses and permits, for the account of another.
- 19 2. At no relevant time was Respondent licensed as an electrical contractor in the State of Oregon.
- 20 3. Respondent did not obtain an electrical permit prior to making electrical installations at 1365
Franklin Avenue, Astoria, Oregon.
- 21 4. During or about the period December 19, 2013, through January 2, 2014, at 91976 George hill
22 Road, Astoria, Oregon, Respondent allowed employee Steve Lilley, an unlicensed individual,
23 to install a gas water heater without appropriate plumbing licenses and permits, for the account
of another.
- 24 5. At no relevant time was Respondent licensed as a plumbing contractor in the State of Oregon.
- 25 6. Respondent did not obtain a plumbing permit prior to making a plumbing installation at 91976
George Hill Road, Astoria, Oregon.

- 1 7. On May 24, 2012, in BCD case number 2011-0248, a Consent Order was executed between
2 Respondent and the Board of Boiler Rules in which Respondent was assessed a \$4,000 civil
3 penalty for violation of ORS 480.630(1) and ORS 480.630(5). The Board of Boiler Rules
4 stayed collection of \$3,000 of the civil penalty for a period of five years from the date of the
5 execution of the Consent Order provided Respondent did not, during that time, violate any
6 provision of Oregon Building Codes statutes, administrative rules, specialty codes, or any order
7 issued by a BCD advisory board.

8 APPLICABLE LAW

- 9 1. ORS 479.530(10) defines an electrical installation as the construction or installation of
10 electrical wiring and the permanent attachment or installation of electrical products.
11 2. ORS 479.620(1) requires a person to have an electrical contractor's license to engage in the
12 business¹ of making electrical installations, including advertising or otherwise purporting to be
13 a business that makes electrical installations.
14 3. ORS 479.550(1) states no person shall work on any new electrical installation for which a
15 permit has not been issued.
16 4. Oregon Administrative Rules (OAR) 918-282-0120(1) states that no person or entity shall
17 allow any individual to perform electrical work for which the individual is not properly
18 registered or licensed.
19 5. Under ORS 447.010(6) plumbing is defined as the art of installing, altering or repairing in or
20 adjacent to or serving buildings including pipes, fixtures, and other apparatus for bringing in
21 the water supply and removing liquid and water-carried waste, including the water supply
22 distributing pipes; fixtures and fixture traps; soil, waste and vent pipes; and storm water
23 drainage, with their devices, appurtenances and connections.
24 6. ORS 447.040(1) prohibits a person from engaging in the business of working as a plumbing
25 contractor or advertising or purporting to be a plumbing contractor without a plumbing
contractor license.
7. OAR 918-780-0065² states no person shall conduct plumbing work without first obtaining a
plumbing permit or minor label.
8. ORS 693.030(2)(a) states that a licensed plumbing contractor or a person required to be
licensed as a plumbing contractor may not permit or suffer any person to work as a journeyman
plumber who does not hold a valid journeyman plumber license.

¹ OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to perform work for which a license or permit is required under Oregon law, including but not limited to a single instance.

² The original Notice of Proposed Assessment of Civil Penalties in this matter properly noticed OAR 918-785-0200(1)(a) as the violation for performing plumbing work prior to obtaining a plumbing permit. As of October 1, 2014, OAR 918-785-0200(1)(a) was renumbered as OAR 918-780-0065. No substantive change was made to the rule.

CONCLUSIONS OF LAW

1. Installing a gas wall furnace is an electrical installation as defined in ORS 479.530(10).
2. By making an electrical installation for the account of another without an Oregon electrical contractor's license, Respondent violated ORS 479.620(1).
3. By making electrical installations without first obtaining a valid electrical permit, Respondent violated ORS 479.550(1).
4. By allowing Ryan Hash to perform electrical work for which Mr. Hash is not properly registered or licensed, Respondent violated OAR 918-282-0120(1).
5. Installing a gas water heater is a plumbing installation, as defined in ORS 447.010(6).
6. By engaging in the business of plumbing contracting without an Oregon plumbing contractor's license, Respondent violated ORS 447.040(1).
7. By allowing an employee to make a plumbing installation without first obtaining a valid plumbing permit, Respondent violated OAR 918-780-0065.
8. By permitting or suffering Steve Lilley to work as a journeyman plumber when Mr. Lilley does not hold a valid journeyman plumber license, Respondent violated ORS 693.030(2)(a).
9. When Respondent violated ORS 479.620(1), 479.550(1), 447.040(1), and 693.030(2)(a), along with OAR 918-282-0120(1) and 918-780-0065 on or about March 5, 2013, and December 19, 2013 through January 2, 2014, Respondent failed to comply with the terms of the Stipulated Agreement section of the Consent Order in BCD case 2011-0248 within five years from the May 24, 2012, effective date of that Final Order.
10. By failing to comply with the Stipulated Agreement of the Consent Order in case 2011-0248, the entire penalty amount in that case, including the \$3,000 of previously-suspended penalties, may now be collected.

ORDER

Respondent, the Electrical and Elevator Board, the State Plumbing Board, and the Board of Boiler Rules (Boards) agree to resolve this matter without a hearing with the entry of this Consent Order according to the following terms and conditions:

1. Respondent admits to committing the violations as alleged in the Findings of Fact and Conclusions of Law, and agrees the Boards will issue an order imposing the proposed civil penalties of such violations in order to resolve this matter.
2. The Boards hereby assess a \$8,000 civil penalty for violating ORS 479.620(1) and ORS 447.040(1), a \$4,000 civil penalty for violating ORS 479.550(1) and OAR 918-780-0065, and a \$5,000 civil penalty for violating OAR 918-282-0120(1) and ORS 693.030(2)(a); and by failing to comply with the Consent Order in case number 2011-0248, the \$3,000 previously-stayed

1 penalty is due and payable for a total of \$20,000.

2 The State Plumbing Board suspended: \$1,000 from the \$4,000 penalty for violating ORS
3 447.040(1), \$1,250 from the \$2,000 penalty for violating OAR 918-780-0065, and \$1,500 from
4 the \$2,500 penalty for violating ORS 693.030(2)(a); thereby suspending \$3,250 for a period of
5 five (5) years under the following terms:

6 2.1 Respondent agrees to pay the remaining \$15,750 of the civil penalty. *(The invoice will be
7 included with Respondent's copy of the Final Order after it is signed by the Boards.)*

8 2.2 Respondent agrees to pay an initial \$800 postmarked by the 25th day of the first month after
9 this Consent Order becomes final. Thereafter, Respondent agrees to pay \$650 a month for
10 23 months. The monthly payments must be postmarked by the 25th day of each month.

11 2.3 Respondent agrees to provide monthly reporting to the Building Codes Division, due on the
12 15th day following each reporting month (example: the first report, due March 15, 2015,
13 will report on the Respondent's February 2015 activities). The reporting shall include a list
14 of all jobs worked in the month (even if reported in a previous month's report, in the event
15 that a job runs longer than one calendar month), any and all invoices from the job, the
16 names and license numbers of each employee or subcontractor who worked on the job, and
17 a copy of each permit received for the job. The first reporting installment is due to the
18 Building Codes Division postmarked (or scanned documents emailed to Juliet Wiersma
19 juliet.m.wiersma@oregon.gov) by March 15, 2015. Reporting shall continue for twelve (12)
20 consecutive months. Reporting will be considered complete with the final reporting due on
21 March 15, 2016.

22 3. Respondent understands that a single failure to comply with any of the terms of this Consent
23 Order results in the entire civil penalty being immediately due and payable. Failure to comply
24 includes, but is not limited to, failure to pay the civil penalty amount on the Final Demand
25 Notice by the due date, and failure to timely remit complete reporting materials.

4. Respondent agrees not to commit further violations of the Building Code Division's statutes
and rules.

5. Respondent understands and agrees that any violation of the terms of this Consent Order
will result in further enforcement action.

6. Respondent understands and agrees that any violation of the Building Code Division's statutes
or rules not alleged in this Consent Order, whether committed before or after the execution of
this order, may be the basis for further enforcement action.

7. Respondent understands the suspended civil penalty will be waived five (5) years after the
execution of this Consent Order, provided Respondent complies with its terms and has not
committed any further violations of Building Code Division's statutes or rules.

8. Respondent has read and fully understands the terms of this Consent Order, freely and
voluntarily consents to the entry of this order without further hearing, without any force or
duress, and expressly waives all rights to hearing or appeal in this matter.

1 9. Respondent understands that, upon signature of all parties, this consent order will be a FINAL
2 ORDER.

3 10. Respondent further agrees by signing the Consent Order, he is the Respondent or the authorized
4 representative for the Respondent in this matter.

5 **FOR THE RESPONDENT, BLUE WATER, INC. dba COLUMBIA HOUSEWARMERS**

6 

Date: 2-17, 2015

7 Peter Schauermann, President

8 **FOR THE ELECTRICAL AND ELEVATOR BOARD**

9 

10 Date: 2/24, 2015

11 Chair

12 Electrical and Elevator Board

13 State of Oregon

14 **FOR THE STATE PLUMBING BOARD**

15 

16 Date: 2/24, 2015

17 Chair

18 State Plumbing Board

19 State of Oregon

20 **FOR THE BOARD OF BOILER RULES**

21 

22 Date: 2/24, 2015

23 Chair

24 Board of Boiler Rules

25 State of Oregon