BEFORE THE PLUMBING BOARD OF THE STATE OF OREGON

IN THE MATTER OF: **JUAN P. GARCIA,** **DBA DOUBLE A PLUMBING ENTERPRISES, LLC** **RESPONDENT**	))))))))	**NOTICE OF PROPOSED ASSESSMENT OF A CIVIL PENALTY AND FINAL ORDER ON DEFAULT** FINAL ORDER **CASE NO. C2014-0072** As of: July 16, 2014

Under Oregon Revised Statutes (ORS) 455.895(1)(a) and Oregon Administrative Rules (OAR) 918-001-0036, the State Plumbing Board (Board) proposes disciplinary action against Respondent in the form of civil penalties totaling $6,000 for violations of Building Codes Division statutes or rules as follows:

FINDINGS OF FACT

1) On or about March 7, 2014, at 106 SE 2nd Street, Ontario, Oregon, Respondent installed a floor drain, waste sewer plumbing piping, vent plumbing piping and grease interceptor, for the account of another, without having an Oregon plumbing contractor's license.

2) On or about March 7, 2014, at 106 SE 2nd Street, Ontario, Oregon, Respondent installed a floor drain, waste sewer plumbing piping, vent plumbing piping and grease interceptor, for the account of another, without having first obtaining a valid plumbing permit.

3) On or about March 7, 2014, at 106 SE 2nd Street, Ontario, Oregon, Respondent installed a floor drain, waste sewer plumbing piping, vent plumbing piping and grease interceptor, for the account of another, without having an Oregon journeyman plumber's license.

APPLICABLE LAW

1. ORS 447.010(6) defines plumbing to include the art of installing, altering or repairing in or adjacent to or serving buildings pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes.

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

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

4. Under OAR 918-785-0200(1)(a), no person, firm, or corporation shall do plumbing without first obtaining a plumbing permit or minor label when required and paying the appropriate fees to the authorized permit issuing agency.

CONCLUSIONS OF LAW

1. Installing a floor drain, waste sewer plumbing piping, vent plumbing piping and grease interceptor is plumbing as defined in ORS 447.010(6).

2. By engaging in the business of making a plumbing installation for the account of another without a valid Oregon plumbing contractor license, Respondent violated ORS 447.040(1).

3. By engaging in the business of making a plumbing installation for the account of another without a valid Oregon journeyman plumber license, Respondent violated ORS 693.030(1).

4. By installing a floor drain, waste sewer plumbing piping, vent plumbing piping and grease interceptor, at 106 SE 2nd Street, Ontario, Oregon, prior to obtaining a plumbing permit, Respondent violated OAR 918-785-0200(1)(a).

ORDER

Under ORS 455.895(1)(a) and OAR 918-001-0036, the State Plumbing Board assesses the following:

(1) a $3,000 civil penalty for violating ORS 447.040(1)
(2) a $2,000 civil penalty for violating ORS 693.030(1)
(3) a $1,000 civil penalty for violating OAR 918-785-0200(1)(a)

The civil penalties assessed total $6,000.

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 through the mail, the service date is the day the notice was mailed, not the day Respondent received it.

If a request for hearing is not received within 20 days, Respondent's right to a hearing is considered waived. Mail hearing requests to Building Codes Division, Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

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

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NOTICE TO ACTIVE DUTY SERVICE MEMBERS

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

NOTICE OF FINAL ORDER

If Respondent does not request a hearing within 20 days, withdraws a hearing request, notifies the Director of the Department of Consumer and Business Services (Director) or the administrative law judge that they will not appear, or fails to appear at a scheduled hearing, the Director will issue a Final Order by Default. If the Director issues a Final Order by Default, it designates the file, including any materials submitted by Respondent that relate to this matter, as the record for purpose of proving a prima facie case.

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

Dated this 25th day of June, 2014

Roseanne Nelson for
Chair
State Plumbing Board
State of Oregon