

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

3 **IN THE MATTER OF:**

4 **TIMOTHY GESLER, AN INDIVIDUAL**

5 **RESPONDENT**

)
) **STIPULATED ORDER**
)
)
)
) **CASE NO. C2014-0091**
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8 1.

9 The Department of Consumer and Business Services, Building Codes Division (Agency) is
10 the state agency responsible for licensing, disciplining, and otherwise regulating building plan
11 reviewers and building specialty code inspectors in the State of Oregon. At all relevant times,
12 Timothy Gesler (Respondent) held the following certifications issued by the Agency: Oregon
13 Inspector Certification #OIC483; Residential Plans Examiner #2042CAX; Residential Structural
14 Inspector #2072CAS; and, Manufactured Structure Installation Inspector #3297MHI.

15 2.

16 On or about May 5, 2014, the Agency properly served upon Respondent a Notice of
17 Proposed Assessment of Civil Penalties, Revocation of Certifications and Final Order upon Default
18 (Notice), alleging violations of Agency's Oregon Revised Statutes and Oregon Administrative
19 Rules. Respondent timely requested a hearing on the matter.

20 3.

21 The parties wish to settle this matter informally. Respondent understands that Respondent
22 has the right to a hearing under the Administrative Procedures Act (chapter 183), Oregon Revised
23 Statutes (ORS), and fully and finally waives the right to a contested case hearing and any appeal
24 therefrom by the signing and entry of this order in the Department's records.

25 4.

Respondent and the Agency agree to resolve this matter by the entry of this Stipulated Order

4.

Respondent and the Agency agree to resolve this matter by the entry of this Stipulated Order subject to the following:

4.1 The Agency finds, and the Respondent stipulates to, the facts and conclusions of law as set forth in the Notice, which is hereby incorporated by reference, except that Respondent stipulates and Agency finds that Respondent was an independent contractor for On the Level Inspection Concepts, Inc. at all relevant times.

1/30/15


4.2 Respondent is hereby assessed a \$2,000 civil penalty for violations of ORS 455.705(2)(a) and 455.455(1)(b), \$1,750 of which will be suspended for a period of five (5) years from the date this Stipulated Order is executed, and considered satisfied after those (5) five years if the following terms and conditions are timely fulfilled in their entirety; additionally, Respondent's certifications: Oregon Inspector Certification #OIC483; Residential Plans Examiner #2042CAX; Residential Structural Inspector #2072CAS; and, Manufactured Structure Installation Inspector #3297MHI are revoked, but revocation is stayed and will be dismissed five (5) years from the date this Stipulated Order is executed if the following conditions and terms are timely fulfilled in their entirety:

4.2.1 Respondent shall pay \$250 of the total civil penalty due.¹

4.2.2 Respondent shall pay the \$250 in five (5) consecutive, monthly installments of \$50, postmarked by the 25th day of each month, beginning February of 2015. As long as the payments remain timely, there shall be no interest added to Respondent's balance. There are no penalties for paying off the remaining civil penalty balance ahead of schedule.

4.2.3 For one year, Respondent shall submit consecutive monthly written reports to the Agency describing all work Respondent performed in the preceding month that

¹ An invoice will be included with Respondent's copy of the final order after it is fully executed.

1 requiring a specialty license performed in February 2015; the last report for this
2 reporting year must be postmarked no later than February 10, 2016, (describing
3 Respondent's work performed in January 2016). If no work requiring a specialty
4 license is performed in the month being reported, Respondent agrees to file a report
5 with the Agency so indicating, no later than the 10th day of the month after the
6 month being reported.

7 4.2.4 If Respondent commits no additional violations in his first year of reporting
8 (work performed January 2015 through February 2016), and is not the subject of any
9 new investigations that year, during the subsequent year (work performed January
10 2016 through February 2017), Respondent shall submit consecutive quarterly written
11 reports to the Agency, describing all work requiring a specialty license that
12 Respondent performed in the preceding quarter, to be postmarked no later than:
13 April 22, 2016; July 22, 2016; October 24, 2016; and February 24, 2017. If,
14 however, Respondent commits any additional violation in his first year of reporting,
15 or if Respondent is the subject of any new investigation that year, during the
16 subsequent year, Respondent shall continue to submit consecutive monthly written
17 reports to the Agency, describing all work requiring a specialty license that
18 Respondent performed in the preceding month, each report to be postmarked no later
19 than 10th day of the month after the month being reported (e.g., the first report for
20 this subsequent year must be postmarked no later than March 10, 2016, describing
21 Respondent's work requiring a specialty license performed in February 2016; the last
22 report for this subsequent reporting year must be postmarked no later than March 10,
23 2017). If no work requiring a specialty license is performed the quarter or month
24 being reported, Respondent agrees to file a report with the division so indicating,
25 postmarked no later than April 22, 2016; July 22, 2016; October 24, 2016; and
February 24, 2017, for quarterly reporting, and no later than the 10th day of the
month after the month being reported for monthly reporting.

1 4.2.5 Each monthly report and each quarterly report must include:

2 4.2.5(a) a division-approved spreadsheet detailing all inspections and all work
3 requiring a specialty license that Respondent performed in the applicable reporting
4 period;

5 4.2.5(b) copies of all invoices for each inspection performed, but dollar amounts may
6 be redacted from the invoices;

7 4.2.5(c) the name and address of each customer receiving the inspection;

8 4.2.5(d) the employer for whom Respondent was working when the inspection was
9 performed; and,

10 4.2.5(e) the current status of all certificates, licenses, registrations, and authorizations
11 Respondent holds including any continuing education received.

12 4.2.3 The reporting documents referenced above shall be submitted to
13 Juliet.m.wiersma@state.or.us or the Oregon Building Codes Division, P.O Box
14 14470, Salem, OR 97309-0404.

15 4.2.4 Respondent shall fully cooperate with the Building Codes Division's
16 enforcement efforts in cases against other entities or individuals that involve the
17 underlying facts in the case subject to this Stipulated Order. Cooperation may
18 include, but is not limited to, making sworn statements or testifying in administrative
19 hearings.

20 4.2.5 Respondent shall not commit further violations of the Building Code
21 Division's statutes and rules for five (5) years from the execution of this Stipulated
22 Order.

23 5.

24 Respondent understands and agrees that Respondent's failure to comply with any term or
25 condition of this Stipulated Order, or failure to comply by any deadline provided, shall result in any
unpaid portion of the entire civil penalty, including the stayed amount, being immediately due and
payable, and in the enforcement of the revocations of Respondent certifications: Oregon Inspector

1 Certification #OIC483; Residential Plans Examiner #2042CAX; Residential Structural Inspector
2 #2072CAS; and, Manufactured Structure Installation Inspector #3297MHI.

3 6.

4 Respondent understands that any violation of the terms of this Stipulated Order will also
5 result in further enforcement action.

6 7.

7 Respondent understands that any future violation reported on Respondent's monthly or
8 quarterly reports, or any discrepancies or omissions in those reports, will result in further
9 enforcement action.

10 8.

11 Respondent understands that any violation of the Building Code Division's statutes or rules
12 not committed as a subcontractor for On the Level Inspections, Inc., whether committed before or
13 after the execution of this Stipulated Order, may be the basis for further enforcement action.

14 9.

15 Respondent understands that failure to comply with this Stipulated Order also provides a
16 statutory basis to deny future license and certification applications, and to suspend licenses and
17 certifications not subject to this Stipulated Order, if issued by the Division, other divisions of the
18 Department of Consumer and Business Services, and certain other state agencies.

19 10.

20 Respondent stipulates and agrees that this Stipulated Order is fully executed and becomes
21 effective the date it is signed by the Agency Director or his designee.

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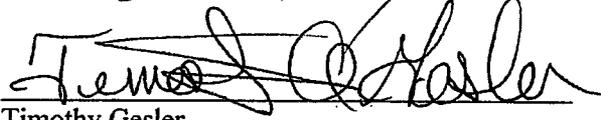
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11.

Respondent understands this Stipulated Order is a Final Order and a public record. By his signature below, Respondent attests that he has read and understands this Stipulated Order and agrees to abide by each and every one of its terms and conditions, and further attests that that no duress or coercion has been used to induce him to sign this Stipulated Order.

IT IS SO STIPULATED THIS 2 day of February, 2015.

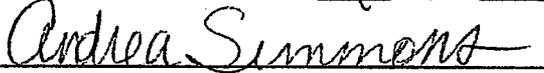

Timothy Gesler

APPROVED AS TO FORM:


David M. Briggs, Attorney for Respondent

DATE:

IT IS SO ORDERED THIS 2 day of February, 2015.


for
Patrick Allen, Director
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
BUILDING CODES DIVISION