

FINAL ORDER

As of: 05/22/2015

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

3 BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

4 BEFORE THE STATE PLUMBING BOARD OF THE STATE OF OREGON

5 IN THE MATTER OF:

6 RODOLFO G. SANCHEZ,
7 ABN MELAGUE'S CONSTRUCTION,

8
9 RESPONDENT.

NOTICE OF PROPOSED ASSESSMENT
OF CIVIL PENALTIES

ORDER TO CEASE AND DESIST

NOTICE OF FINAL ORDER ON DEFAULT

BCD CASE C2014-0244

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

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

14 Pursuant to Oregon Revised Statutes (ORS) 455.895(1)(a) and (1)(b) and Oregon
15 Administrative Rules (OAR) 918-001-0036, the Electrical and Elevator Board of the State of
16 Oregon and the State Plumbing Board for the State of Oregon (Boards) propose an order assessing
17 civil penalties against Rodolfo G. Sanchez, assumed business name Melague's Construction
18 (Respondent), totaling \$9,000 because Respondent violated Building Codes Division (Division)
19 statutes and rules as identified below.

20 Pursuant to ORS 455.775(2), the Director of the Department of Consumer and Business
21 Services (Director) proposes an order directed to Respondent to cease and desist from any and all
22 violations of ORS 479.510 to 479.945, ORS chapter 447, ORS chapter 693, and the rules adopted
23 thereunder because the Director has reason to believe that Respondent has been engaged, is
24 engaging, or is about to engage in violations of those statutes and rules as identified below.

25 Some of the terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS

1 447.010(1)-(6), ORS 455.010(1)-(10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), ORS 693.010(1)-
2 (5), OAR 918-001-0005(1)-(4), OAR 918-030-0010(1)-(11), OAR 918-251-0090(1)-(43), and OAR
3 918-690-0420(1)-(14).

4 **FINDINGS OF FACT**

- 5 1. On or about October 20, 2013, Respondent contracted to perform plumbing and electrical
6 work as part of the construction of a new residential dwelling at 2925 Eugene Street, Hood
7 River, Oregon (the premises).
- 8 2. During or about the period of January 2, 2014 through August 7, 2014, Respondent installed
9 water supply pipes and drain, waste, and vent pipes through the foundation of the property
10 on the premises.
- 11 3. Respondent did not first obtain a valid plumbing permit from the authorized permit issuing
12 agency, Mid-Columbia Council of Governments (MCCOG), prior to beginning the
13 installations described in Findings of Fact paragraph 2.
- 14 4. At all relevant times, Respondent was not licensed as a journeyman plumber or apprentice
15 plumber in the State of Oregon.
- 16 5. At all relevant times, Respondent was not licensed as a plumbing contractor in the State of
17 Oregon.
- 18 6. At all relevant times, Respondent was not licensed as an electrical contractor in the State of
19 Oregon.

20 **APPLICABLE LAW**

- 21 1. Under ORS 447.010(6), plumbing is defined as the art of installing, altering, or repairing
22 pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and
23 water-carried waste.
- 24 2. Under ORS 693.030(1), a person may not engage in the trade of journeyman plumber
25 without a journeyman plumber license.

- 1 3. Under OAR 918-780-0065, no person, firm, or corporation shall do plumbing work in the
2 State of Oregon without first obtaining a plumbing permit or minor label when required and
3 paying the appropriate fees to the authorized permit issuing agency.
- 4 4. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or
5 purport to be a plumbing contractor, without having obtained a plumbing contractor license.
- 6 5. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not
7 engage in the business of making electrical installations, advertise as or otherwise purport to
8 be licensed to make electrical installations or purport to be acting as a business that makes
9 electrical installations.
- 10 6. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any
11 other license regulated by ORS chapter 455, "engaging in the business" means to advertise
12 or solicit, contract or agree to perform, or to perform, work for which a license or permit is
13 required under Oregon law, including but not limited to a single instance.
- 14 7. Under ORS 455.775(2), if the Director has reason to believe that any person has been
15 engaged, or is engaging, or is about to engage in any violation of the state building code, or
16 ORS 479.510 to 479.945, ORS chapter 447, ORS chapter 693, ORS chapter 455, or any rule
17 adopted under those statutes, the Director may issue an order, subject to ORS 183.413 to
18 183.497, directed to the person to cease and desist from the violation or threatened violation.

19 CONCLUSIONS OF LAW

- 20 1. Installing water supply piping and drain, waste, and vent piping is plumbing under ORS
21 447.010(6).
- 22 2. Making the plumbing installations described in Conclusions of Law paragraph 1 requires a
23 journeyman plumber license.
- 24 3. By installing water supply piping and drain, waste, and vent piping without holding a
25 journeyman plumber license, Respondent violated ORS 693.030(1).

- 1 4. By performing plumbing work without first obtaining a plumbing permit from the
2 authorized permit issuing agency, MCCOG, Respondent violated OAR 918-780-0065.
- 3 5. Contracting to perform plumbing work requires a plumbing contractor license under ORS
4 447.040(1).
- 5 6. By contracting to perform plumbing work at the premises without holding a plumbing
6 contractor license, Respondent violated ORS 447.040(1).
- 7 7. Contracting to perform electrical work requires an electrical contractor license under ORS
8 479.620(1).
- 9 8. By contracting to perform electrical work at the premises without holding an electrical
10 contractor license, Respondent violated ORS 479.620(1).
- 11 9. Based on the foregoing Findings of Fact and Conclusions of Law, the Director has reason to
12 believe that Respondent has been engaged, is engaging, or is about to engage in the
13 following violations: performing plumbing installations without a journeyman plumber
14 license (ORS 693.030(1)); operating as a plumbing contractor without a plumbing contractor
15 license (ORS 447.040(1)); and operating as an electrical contractor without the appropriate
16 electrical contractor license (ORS 479.620(1)). Therefore, the Director may issue an order
17 against Respondent to cease and desist from these violations.

18 **ORDER**

19 The Boards hereby order the follow penalties:

- 20 1. \$2,000 for violating ORS 693.030(1);
- 21 2. \$3,000 for violating ORS 447.040(1);
- 22 3. \$3,000 for violating ORS 479.620(1); and
- 23 4. \$1,000 for violation OAR 918-780-0065.

24 Total civil penalties: \$9,000.

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

3 **NOTICE OF FINAL ORDER**

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

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1 **RIGHT TO JUDICIAL REVIEW**

2 Respondent is entitled to judicial review of this Notice. Judicial review may be obtained by
3 filing a petition for review with the Oregon Court of Appeals within 60 days after a final order is
4 served upon Respondent. See ORS 183.482. If a final order is served on Respondent in person, the
5 date of service is the date Respondent receives the order. If a final order is served through the mail,
6 the date of service is the day the order is mailed, not the day it is received by the Respondent. If
7 Respondent does not file a petition for judicial review within the 60-day time period, Respondent
8 will lose the right to appeal. The phone number for the Oregon Court of Appeals is 503-986-5555.
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10 **FOR THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

11 Andrea Simmons for Date: 5/1/15
12 Director,
13 Department of Consumer and Business Services
14 State of Oregon

15 **FOR THE ELECTRICAL AND ELEVATOR BOARD**

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17 Andrea Simmons for Date: 5/1/15
18 Chair,
19 Electrical and Elevator Board
20 State of Oregon

21 **FOR THE STATE PLUMBING BOARD**

22 Andrea Simmons for Date: 5/1/15
23 Chair,
24 State Plumbing Board
25 State of Oregon