

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

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

3 **IN THE MATTER OF:**

**NOTICE OF PROPOSED ASSESSMENT
OF CIVIL PENALTIES**

4 **JOSEPH R. OTTLINGER,**
5 **AN INDIVIDUAL,**

NOTICE OF FINAL ORDER ON DEFAULT

6 **RESPONDENT.**

7 **BCD CASE C2016-0008** **FINAL ORDER**
8 **As of: May 31, 2016**

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

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

13 Pursuant to Oregon Revised Statutes (ORS) 455.895(1)(a) and (1)(b) and Oregon
14 Administrative Rules (OAR) 918-001-0036, the Electrical and Elevator Board of the State of
15 Oregon and the State Plumbing Board of the State of Oregon (Boards) propose to assess civil
16 penalties totaling \$16,000.00 against Joseph R. Ottlinger (Respondent) because Respondent violated
17 Building Codes Division (Division) statutes and rules as identified below.

18 **FINDINGS OF FACT**

- 19 1. During or about November through December 2015, Respondent performed work as part of
20 a remodel and addition at 60499 Brookwood Boulevard in Bend, Oregon (Brookwood
21 property).
- 22 2. Respondent performed the following plumbing work at the Brookwood property:
- 23 a. Installation of water supply lines and connection of those lines to a sink;
 - 24 b. Installation of a toilet;
 - 25 c. Installation of piping, including PEX piping, in the walls; and
 - d. Installation of an LED faucet, including connection of the faucet to water supply

1 lines.

- 2 3. Respondent performed the following electrical work at the Brookwood property:
- 3 a. Installation of electrical wiring between the electrical panel and the addition; and
- 4 b. Installation of 14-gauge, white-sheathed wiring and connection to electrical boxes.
- 5 4. Respondent hired Gregory Lee Delarre (Delarre) to assist him with work at the Brookwood
- 6 property.
- 7 5. Delarre, on behalf of Respondent, performed the following plumbing work at the
- 8 Brookwood property:
- 9 a. Installation of drain lines and connection of those lines to a sink;
- 10 b. Installation of vent piping above a sink; and
- 11 c. Installation of PEX piping in the walls.
- 12 6. Delarre, on behalf of Respondent, installed electrical wiring at the Brookwood property.
- 13 7. Respondent obtained an electrical permit prior to working at the Brookwood property,
- 14 naming Reinwald Electric LLC (electrical contractor license number C344), as the electrical
- 15 contractor for the project.
- 16 8. Reinwald Electric LLC never discussed the Brookwood property with Respondent, never
- 17 agreed to perform any work for Respondent at the Brookwood property, and never
- 18 performed any work for Respondent at the Brookwood property.
- 19 9. Respondent obtained a plumbing permit prior to working at the Brookwood property,
- 20 naming IBARN LLC (plumbing contractor license number PB1548) as the plumbing
- 21 contractor for the project.
- 22 10. IBARN LLC never discussed the Brookwood property with Respondent, never agreed to
- 23 perform any work for Respondent at the Brookwood property, and never performed any
- 24 work for Respondent at the Brookwood property.
- 25 11. At no relevant time did Respondent hold a supervising or journeyman electrician license.

- 1 12. At no relevant time did Respondent hold an electrical contractor license.
- 2 13. At no relevant time did Respondent hold a journeyman plumber license.
- 3 14. At no relevant time did Respondent hold a plumbing contractor license.
- 4 15. At no relevant time did Delarre hold a supervising or journeyman electrician license.
- 5 16. At no relevant time did Delarre hold a journeyman plumber license.

6 **APPLICABLE LAW**

- 7 1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 447.010(1)-(6),
8 ORS 455.010(1)-(10), ORS 693.010(1)-(5), ORS 479.530(1)-(23), ORS 479.905(1)-(5),
9 OAR 918-001-0005(1)-(4), OAR 918-030-0010(1)-(11), OAR 918-251-0090(1)-(43), and
10 OAR 918-690-0420(1)-(14).
- 11 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
12 electrical wiring and the permanent attachment or installation of electrical products in or on
13 any structure that is not itself an electrical product.
- 14 3. Under ORS 479.550(1), no person shall work on any new electrical installation for which a
15 permit has not been issued.
- 16 4. Under OAR 918-309-0000(5), an electrical permit, other than a restricted energy electrical
17 permit as provided in OAR 918-309-0400, issued to one person or firm is not transferable
18 and shall not permit any other person or firm to perform any electrical work thereunder.
- 19 5. Under OAR 918-309-0000(1), any person providing false or incorrect information or false
20 or an incorrect signature to obtain a permit may be subject to compliance action by the
21 board.
- 22 6. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not
23 engage in the business of making electrical installations, advertise as or otherwise purport to
24 be licensed to make electrical installations or purport to be acting as a business that makes
25 electrical installations.

- 1 7. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any
2 other license regulated by ORS chapter 455, "engaging in the business" means to advertise
3 or solicit, contract or agree to perform, or to perform work for which a license or permit is
4 required under Oregon law, including but not limited to a single instance.
- 5 8. Under ORS 479.620(3), a person may not make any electrical installation without a
6 supervising or journeyman electrician's license.
- 7 9. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform
8 electrical work for which the individual is not properly registered or licensed.
- 9 10. Under ORS 447.010(6), plumbing is defined as the art of installing, altering, or repairing
10 pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and
11 water-carried waste.
- 12 11. Under OAR 918-780-0065, no person, firm, or corporation shall do plumbing work in the
13 State of Oregon without first obtaining a plumbing permit or minor label when required and
14 paying the appropriate fees to the authorized permit issuing agency.
- 15 12. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or
16 purport to be a plumbing contractor, without having obtained a plumbing contractor license.
- 17 13. Under ORS 693.030(1), a person may not engage in the trade of journeyman plumber
18 without a journeyman plumber license.
- 19 14. Under ORS 693.030(2)(a), a licensed plumbing contractor or a person required under ORS
20 447.010 to 447.156 to be licensed as a plumbing contractor may not permit or suffer any
21 person to work as a journeyman plumber who does not hold a valid journeyman plumber
22 license.

23 CONCLUSIONS OF LAW

- 24 1. The following constitute electrical installations under ORS 479.550(10):
25 a. Installation of electrical wiring between the electrical panel and the addition; and

- 1 b. Installation of 14-gauge, white-sheathed wiring and connection to electrical boxes.
- 2 2. The foregoing electrical installations require a supervising or journeyman electrician license
- 3 under ORS 479.620(3).
- 4 3. By making the foregoing electrical installations without holding a supervising or
- 5 journeyman electrician license, Respondent violated ORS 479.620(3).
- 6 4. By contracting or agreeing to perform and by performing the foregoing work for which a
- 7 license or permit is required, Respondent engaged in the business of making electrical
- 8 installations under OAR 918-030-0010(8).
- 9 5. By engaging in the business of making electrical installations without an electrical
- 10 contractor license, Respondent violated ORS 479.620(1).
- 11 6. By performing the foregoing electrical installations for which a permit had not been issued,
- 12 Respondent violated ORS 479.550(1).¹
- 13 15. By providing the names of Reinwald Electric LLC as the electrical contractor for the work at
- 14 the Brookwood property when Reinwald Electric LLC did not agree to perform and did not
- 15 perform any electrical work at that property, Respondent provided false or incorrect
- 16 information or a false or an incorrect signature to obtain a permit and therefore is subject to
- 17 compliance action by the Board under OAR 918-309-0000(1).
- 18 7. The installation of electrical wiring constitutes an electrical installation under ORS
- 19 479.550(10).
- 20 8. The foregoing electrical installation requires a supervising or journeyman electrician license
- 21 under ORS 479.620(3).
- 22 9. By making the foregoing electrical installation without holding a supervising or journeyman
- 23 electrician license, Delarre violated ORS 479.620(3).

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25 ¹ Because a permit issued to one person is not transferable to another person and does not permit any other person to perform electrical work under OAR 918-309-0000(5), the fact that a permit had issued to Reinwald Electric LLC did not allow Respondent to perform electrical work at the Brookwood property.

1 10. By allowing Delarre to perform the foregoing electrical installation for which he is not
2 properly registered or licensed, Respondent violated OAR 918-282-0120(1).

3 11. The following work constitutes plumbing under ORS 447.010(6):

- 4 a. Installation of water supply lines and connection of those lines to a sink;
- 5 b. Installation of a toilet;
- 6 c. Installation of piping, including PEX piping, in the walls; and
- 7 d. Installation of an LED faucet, including connection of the faucet to water supply
8 lines.

9 12. A person may not perform the foregoing plumbing work without a journeyman plumber
10 license under ORS 693.030(1).

11 13. By engaging in the trade of journeyman plumber without a journeyman plumber license,
12 Respondent violated ORS 693.030(1).

13 14. By contracting or agreeing to perform and by performing the foregoing work for which a
14 license or permit is required, Respondent engaged in the business of making plumbing
15 installations under OAR 918-030-0010(8).

16 16. By working as a plumbing contractor, or advertising or purporting to be a plumbing
17 contractor, without having obtained a plumbing contractor license, Respondent violated
18 ORS 447.040(1).

19 17. By performing the foregoing plumbing work without first obtaining a plumbing permit,
20 Respondent violated OAR 918-780-0065.²

21 18. The following work constitutes plumbing under ORS 447.010(6):

- 22 a. Installation of drain lines and connection of those lines to a sink;
- 23 b. Installation of vent piping above a sink; and

24
25 ² Respondent did not obtain a permit to do the foregoing plumbing work. A permit was issued to allow IBARN LLC, not Respondent, to perform plumbing work. Accordingly, Respondent did not have a valid permit that authorized this work.

1 c. Installation of PEX piping in the walls.

2 19. A person may not perform the foregoing plumbing work without a journeyman plumber
3 license under ORS 693.030(1).

4 20. By engaging in the trade of journeyman plumber without a journeyman plumber license,
5 Delarre violated ORS 693.030(1).

6 21. By permitting or suffering Delarre to work as a journeyman plumber without holding a valid
7 journeyman plumber license, Respondent violated ORS 693.030(2)(a).

8 **ORDER**

9 Pursuant to ORS 455.895(1)(a) and (1)(b) and OAR 918-001-0036, the Boards assess a total
10 of \$16,000.00 in civil penalties as follows:

- 11 1. \$2,000.00 for violating ORS 479.620(3);
- 12 2. \$3,000.00 for violating ORS 479.620(1);
- 13 3. \$1,000.00 for violating OAR 918-309-0000(1);
- 14 4. \$2,000.00 for violating OAR 918-282-0120(1);
- 15 5. \$2,000.00 for violating ORS 693.030(1);
- 16 6. \$3,000.00 for violating ORS 447.040(1);
- 17 7. \$1,000.00 for violating OAR 918-780-0065; and
- 18 8. \$2,000.00 for violating ORS 693.030(2)(a).

19 **NOTICE OF RIGHT TO HEARING**

20 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, ORS
21 chapter 183. If Respondent requests a hearing, the request must be in writing and postmarked no
22 later than 20 days from the date of service of this Notice. If the Notice was served on Respondent in
23 person, the date of service is the date Respondent received the Notice. If the Notice was served
24 through the mail, the date of service is the day the Notice was mailed, not the day it was received by
25 the Respondent. If a request for hearing is not received within the 20-day period, Respondent's right

1 to a hearing shall be considered waived. Mail hearing requests to Building Codes Division,
2 Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

3 Respondent may be represented by legal counsel. Pursuant to ORS 183.457 and OAR 918-
4 001-0030, a corporate Respondent may be represented by an authorized representative at the
5 hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the
6 hearing. The Division will give Respondent information on the procedures, right of representation,
7 and other rights of parties relating to the conduct of the hearing before the commencement of the
8 hearing.

9 **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

10 Active duty servicemembers 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 Respondent needs 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**

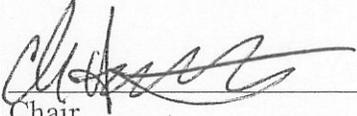
16 This Notice will become a final order by default if Respondent does any of the following:
17 fails to request a hearing in writing within 20 days from the date of service of this Notice;
18 withdraws a hearing request; notifies the Building Codes Division or the administrative law judge
19 that Respondent will not appear at a scheduled hearing; or fails to appear at a scheduled hearing. If
20 this Notice becomes a final order by default, the Division's file on the matter, including all
21 materials submitted by Respondent, becomes the record for the purpose of establishing a prima
22 facie case.

23 **RIGHT TO JUDICIAL REVIEW**

24 Respondent is entitled to judicial review of a final order in this matter. Judicial review may
25 be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after a

1 final order is served upon Respondent. See ORS 183.482. If a final order is served on Respondent in
2 person, the date of service is the date Respondent receives the order. If a final order is served
3 through the mail, the date of service is the day the order is mailed, not the day it is received by the
4 Respondent. If Respondent does not file a petition for judicial review within the 60-day time
5 period, Respondent will lose the right to appeal. The phone number for the Oregon Court of
6 Appeals is 503-986-5555.

7 **FOR THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON**

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9  for Date: 5/9/16
10 Chair
11 Electrical and Elevator Board
12 State of Oregon

12 **FOR THE STATE PLUMBING BOARD OF THE STATE OF OREGON**

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14  for Date: 5/9/16
15 Chair
16 State Plumbing Board
17 State of Oregon

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