

BEFORE THE STATE PLUMBING BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

CONSENT ORDER

DEHART FAMILY CONSTRUCTION, LLC, AN  
OREGON LIMITED LIABILITY COMPANY

CASE NO. C2014-0022

RESPONDENT

The State Plumbing Board (Board) conducted an investigation and determined that Respondent violated certain provisions of the Oregon Building Codes statutes, administrative rules, and specialty codes.

Respondent and the Board desire to settle this matter informally through the entry of this consent order. Respondent understands that it has the right to a hearing under the Administrative Procedures Act (chapter 183), Oregon Revised Statutes, and fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing and entry of this order in the Board's record. Respondent agrees to conduct all future business in compliance with the applicable statutes, administrative rules, and specialty codes. Respondent understands that, once final, this consent order is a public record.

FINDINGS OF FACT

- 1. On or about December 17, 2013, at 38 S 12th Street, Cottage Grove, Oregon, Respondent installed potable water piping, for the account of another, without having an Oregon plumbing contractor's license.
- 2. On or about December 17, 2013, at 38 S 12th Street, Cottage Grove, Oregon, Respondent installed potable water piping, without first obtaining a valid plumbing permit.
- 3. On August 14, 2014, residential plumbing permit record 199-P-14-085 for the piping installation was finalized.

WHAT THE LAW SAYS

- 1. Oregon Revised Statutes (ORS) 447.010(6) defines plumbing to include the art of installing, altering or repairing in or adjacent to or serving building 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.

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

### 4 CONCLUSIONS OF LAW

- 5 1. Installing potable water piping is plumbing as defined in ORS 447.010(6).  
6 2. By engaging in the business of making a plumbing installation for the account of another  
7 without a valid Oregon plumbing contractor license, Respondent violated ORS 447.040(1).  
8 3. By installing potable water piping at 38 S 12<sup>th</sup> Street, Cottage Grove, Oregon, prior to  
9 obtaining a plumbing permit, Respondent violated OAR 918-785-0200(1)(a).

### 10 SETTLEMENT AGREEMENT

11 Respondent and the Board agree to resolve this matter, without a hearing, with the entry of this  
12 Consent Order subject to the following terms and conditions:

- 13 1. The Board assesses a civil penalty of \$4,000 for violating ORS 693.030(1) and OAR 918-785-  
14 0200(1)(a), of which \$3,000 will be suspended for a period of five years under the following  
15 terms:  
16 1.1 Respondent agrees to pay the remaining \$1,000 of the civil penalty. (*The invoice will  
17 be included with Respondent's copy of the Final Order after it is signed by the  
18 Board.*)  
19 1.2 Respondent agrees to pay \$100 a month for ten (10) months, beginning once the  
20 consent order becomes final. The monthly payments must be postmarked by the 25<sup>th</sup>  
21 day of each month.  
22 1.3 If payments are not received within five (5) business days after the 25<sup>th</sup> of each month,  
23 or Respondent falls behind in any other material way with this agreement, then the case  
24 will be turned over to the Department of Consumer and Business Services collections  
25 unit for collection of the entire \$4,000 civil penalty, along with interest and applicable  
fees.
2. Respondent agrees if a final order is issued by a board or the Director finding Respondent  
violated any Building Codes Division's statutes or rules within five years from the date this  
order was signed by the Board, then Respondent will pay any subsequent penalty and the  
suspended penalty from this order.
3. Respondent understands that if he fails to comply with any of the terms of this settlement  
agreement, then the entire civil penalty, including the amount suspended, will be immediately  
due and payable. Failure to comply includes failure to pay the civil penalty amount on the  
Final Demand Notice by the due date, or failure to make payments according to the terms of  
any payment arrangement or Final Demand Notice.

- 1 4. Respondent understands and agrees that any violation of the terms of this Consent Order will result in further enforcement action.
- 2 5. 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.
- 3
- 4 6. Respondent understands that failure to comply with this settlement agreement may result in denial of future licensing applications and/or suspension of licensing or certification issued by the Building Codes Division and other state agencies.
- 5
- 6 7. Respondent understands the suspended civil penalty will be waived five (5) years after the execution of this Consent Order, provided there is compliance with the order's terms and has not committed any further violations of the Building Codes Division's statutes or rules.
- 7
- 8 ~~8. Respondent agrees to cooperate with the Building Codes Division in any other cases related to the Respondent's case.~~
- 9
- 10 9. 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.
- 11
- 12 10. Respondent understands that, upon signature of all parties, this Consent Order will be a FINAL ORDER.
- 13
- 14 11. Respondent understands that once this Settlement Agreement and Consent Order become a FINAL ORDER, the agreement and order becomes a public document.
- 15

16 **FOR THE RESPONDENT**

17  
18 Marie F. Brown *MB*

Date: 8-23-, 2014

19 Marie F. Brown  
20 DeHart Family Construction, LLC

21  
22 **FOR THE BOARD**

23 Roseanne Nelson *RN* for  
24 Chair

Date: 8-26-, 2014

25 State Plumbing Board  
State of Oregon