

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

2 **IN THE MATTER OF:**

)
) **CONSENT ORDER**

3 **CORTNEY C. MAGERS, AN INDIVIDUAL,**

)

4 **RESPONDENT.**

) **CASE NO. C2014-0180**
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6 The Building Codes Division (BCD) conducted an investigation on behalf of the State
7 Plumbing Board (Board) and determined that Respondent violated certain provisions of the Oregon
8 Building Codes statutes, administrative rules, and specialty codes.

9 Respondent and the Board prefer to settle this matter informally by the entry of this
10 Consent Order. Respondent understands that he has the right to a hearing under the Administrative
11 Procedures Act, chapter 183, Oregon Revised Statutes (ORS), and fully and finally waives the right
12 to a contested case hearing and any appeal therefrom by the signing and entry of this order in the
13 Board's record. Respondent agrees to conduct all future business in compliance with the applicable
14 statutes, Oregon Administrative Rules (OAR), and specialty codes. Respondent understands that
15 this order is a public record.

12 **FINDINGS OF FACT**

13 During or about April through May 2014, at 600 SE Nye Avenue, Pendleton, Oregon,
14 Respondent, employed by A-1 Hospitality, LLC, installed floor drains, overflow valves, and
15 faucets for the account of another without an Oregon journeyman plumber's license.

16 **APPLICABLE LAW**

- 17 1. ORS 447.010(6) defines plumbing to include the art of installing, altering or repairing in or
18 adjacent to or serving buildings pipes, fixtures and other apparatus for bringing in the water
19 supply and removing liquid and water-carried waste, including the water supply distributing
20 pipes:
- 21 2. Under ORS 693.030(1), a person may not engage in the trade of journeyman plumber
22 without a journeyman plumber license.

23 **CONCLUSIONS OF LAW**

- 24 1. Installing floor drains, overflow valves and faucets is plumbing as defined in ORS
25 447.010(6).
2. Respondent engaged in the trade of journeyman plumber by installing floor drains, overflow
valves and faucets without a journeyman plumber license, in violation of ORS 693.030(1).

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SETTLEMENT AGREEMENT

The Respondent and the Board agree to resolve this matter without a hearing according to the following terms:

1. The Board hereby assesses a \$2,000 total civil penalty for violating ORS 693.030(1), of which \$1,750 will be suspended for a period of five years under the following terms:
 - 1.1. Respondent agrees to pay the remaining \$250 of the civil penalty. *(An invoice will be included with Respondent's copy of the Final Order after the Board Chair signs the order.)*
 - 1.2. If Respondent fails to comply with the terms of this settlement agreement, then the ~~case may be turned over to the Department of Consumer and Business Services~~ collections unit for collection of the entire \$2,000 civil penalty, along with interest and applicable fees.
2. Respondent agrees that if a final order is issued by a board or the Director of the Department of Consumer and Business Services finding Respondent violated any of Building Codes Division's statutes or rules within five (5) years from the date of this order was signed by the Board, then Respondent will be responsible for any subsequent penalties in addition to the \$1,750 of suspended penalty from this order that will become due and payable.
3. Respondent agrees not to commit violations of the Building Codes Division's statutes or rules.
4. Respondent understands and agrees that any violation of the terms of this Consent Order will result in further enforcement action.
5. Respondent understands and agrees that any violation of the Building Codes Division's statutes or rules not alleged in this order, whether committed before or after the execution of this Consent Order, may be the basis for further enforcement action.
6. Respondent understands that failure to comply with this Consent Order may result in the denial of future licensing applications and/or suspension of licensing or certification issued by the division and/or other state agencies.
7. Respondent understands the suspended civil penalty will be waived five years after the execution of this Consent Order, provided Respondent complies with its terms and has not committed any further violations of Building Codes Division's statutes and rules.

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- 1 8. Respondent has read and fully understands the terms of this Consent Order, freely and
2 voluntarily consents to the entry of this order without further hearing, without any force or
3 duress, and expressly waives all rights to hearing or appeal in this matter.
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5 9. Respondent understands that, upon signature of all parties, this Consent Order will be a
6 FINAL ORDER.

7 **FOR THE RESPONDENT**

8 
9 Cortney C. Magers

Date: 2-2, 2015

10 **FOR THE BOARD**

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12 
13 Chair
14 State Plumbing Board
15 State of Oregon

Date: 2/4, 2015