

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:**

CONSENT ORDER

6 **SELIG CONSTRUCTION, LLC, AN**
7 **OREGON LIMITED LIABILITY**
8 **COMPANY,**

9 **RESPONDENT.**

BCD CASE C2014-0185

10 The Building Codes Division (Division) conducted an investigation on behalf of
11 the Director of the Department of Consumer and Business Services of the State of Oregon
12 (Director), the Electrical and Elevator Board of the State of Oregon, and the State Plumbing Board
13 (Boards) and determined that Selig Construction, LLC (Respondent) violated certain provisions of
14 the Boards' statutes and administrative rules.

15 The parties agree to settle this matter without a hearing. Respondent understands that
16 Respondent has the right to a contested case hearing under the Administrative Procedures Act
17 (Oregon Revised Statutes (ORS) chapter 183), and Respondent fully and finally waives the right to
18 a hearing and any appeal therefrom by the signing of this Consent Order.

19 **FINDINGS OF FACT**

- 20 1. During or about the period of April 2 through April 5, 2014, at 2098 Dowell Road, Grants
21 Pass, Oregon (the subject property), Respondent allowed Eric Palo (Palo) and Mathew Scott
22 Selig (Selig) to make the following installations on behalf of Respondent:
- 23 1.1. installed and plumbed a walk-in jetted tub;
 - 24 1.2. moved a drain;
 - 25 1.3. ran electrical wiring for a new ground fault circuit interrupter (GFCI);

1 1.4. installed an adjustable shower head;

2 1.5. installed a UV (bacteria) light;

3 1.6. installed a hydrotherapy pump;

4 1.7. re-set a toilet.

5 2. All installations were for the account of Barbara Lawrence, who paid Respondent a total of
6 \$11,980 for the materials and the labor to make the installations.

7 3. At no relevant time was Respondent licensed as an electrical contractor in the State of
8 Oregon.

9 4. At no relevant time was Respondent licensed as a plumbing contractor in the State of
10 Oregon.

11 5. At no relevant time did Palo or Selig hold supervising or journeyman electrician or
12 journeyman plumber licenses in the State of Oregon when they made the installations
13 described in Findings of Fact paragraph 1 at the subject property.

14 6. Respondent did not obtain an electrical permit and a plumbing permit prior to allowing Palo
15 and Selig to make the installations described in Findings of Fact paragraph 1 at the subject
16 property.

17 **APPLICABLE LAW**

18 1. ORS 479.530(10) defines an electrical installation as the construction or installation of
19 electrical wiring and the permanent attachment or installation of electrical products.

20 2. ORS 479.620(1) requires a person to have an electrical contractor's license to engage in the
21 business of making electrical installations, including advertising or otherwise purporting to
22 be a business that makes electrical installations.

23 3. Under ORS 479.620(3), a person may not make any electrical installation without a
24 supervising or journeyman electrician's license.

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- 1 4. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform
2 electrical work for which the individual is not properly registered or licensed.
- 3 5. ORS 479.550(1) states no person shall work on any new electrical installation for which a
4 permit has not been issued.
- 5 6. Under ORS 447.010(6), plumbing is defined as the art of installing, altering or repairing in
6 or adjacent to or serving buildings including pipes, fixtures, and other apparatus for bringing
7 in the water supply and removing liquid and water-carried waste, including the water supply
8 distributing pipes; fixtures and fixture traps; soil, waste and vent pipes; and storm water
9 drainage, with their devices, appurtenances and connections.
- 10 7. ORS 447.040(1) prohibits a person from engaging in the business of working as a plumbing
11 contractor or advertising or purporting to be a plumbing contractor without a plumbing
12 contractor license.
- 13 8. ORS 693.030(1) states a person may not engage in the trade of journeyman plumber without
14 a journeyman plumber license issued under this chapter.
- 15 9. ORS 693.030(2)(a) states that a licensed plumbing contractor or a person required under
16 ORS 447.010 to 447.156 to be licensed as a plumbing contractor may not permit or suffer
17 any person to work as a journeyman plumber who does not hold a valid journeyman
18 plumber license.
- 19 10. OAR 918-780-0065¹ states no person shall do plumbing work without first obtaining a
20 plumbing permit or minor label.

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25 ¹ At the time the violations in this notice occurred, the requirement that a plumbing permit be obtained prior to performing plumbing work was codified as OAR 918-785-0200(1)(a). In a housekeeping change that took effect October 1, 2014, OAR 918-785-0200(1)(a) was renumbered to be OAR 918-780-0065. No substantive changes were made to the rule during the renumbering process.

1 11. Under ORS 455.775(2), if the Director has reason to believe that any person has been
2 engaged, or is engaging, or is about to engage in any violation of the state building code, or
3 ORS chapter 447, 455, 479, and 693 or any rule adopted under those statutes, the Director
4 may issue an order, subject to ORS 183.413 to 183.497, directed to the person to cease and
5 desist from the violation or threatened violation.

6 CONCLUSIONS OF LAW

- 7 1. Installing electrical wiring for a new GFI and installing a hydrotherapy pump are electrical
8 installations as defined in ORS 479.530(10).
- 9 2. Making the electrical installations described in Conclusions of Law paragraph 1 requires a
10 valid supervising or journeyman electrician license under ORS 479.620(3).
- 11 3. By allowing Palo and Selig to make electrical installations described in Conclusions of Law
12 paragraph 1 without the proper licenses, Respondent violated OAR 918-282-0120(1).
- 13 4. By having Palo and Selig make electrical installations for the account of another without
14 Respondent having an Oregon electrical contractor license, Respondent violated ORS
15 479.620(1).
- 16 5. By making electrical installations without first obtaining a valid electrical permit,
17 Respondent violated ORS 479.550(1).
- 18 6. Installing a walk-in jetted tub, moving a drain, installing an adjustable showerhead,
19 installing a hydrotherapy pump, and re-setting a toilet are all plumbing installations, as
20 defined in ORS 447.010(6).
- 21 7. Making the plumbing installations described in Conclusions of Law paragraph 6 requires a
22 journeyman plumber license under ORS 693.030(1).
- 23 8. By permitting or suffering Palo and Selig to work as journeyman plumbers making the
24 plumbing installations described in Conclusions of Law paragraph 6 while Palo and Selig
25 did not hold valid journeyman plumber licenses, Respondent violated ORS 693.030(2)(a).

1 9. By making a plumbing installation for the account of another without an Oregon plumbing
2 contractor license, Respondent violated ORS 447.040(1).

3 10. By making a plumbing installation without first obtaining a valid plumbing permit,
4 Respondent violated OAR 918-780-0065.

5 11. From Findings of Fact paragraphs 1 through 6 and Conclusions of Law 1 through 10, the
6 Director has reason to believe that Respondent has and may continue to:

7 11.1. Perform electrical installations without first obtaining an electrical permit;

8 11.2. Perform electrical installations without the appropriate electrical license;

9 11.3. Operate as an electrical contractor without an electrical contractor license;

10 11.4. Perform plumbing installations without first obtaining a plumbing permit;

11 11.5. Perform plumbing installations without a journeyman plumbing license;

12 11.6. Operate as a plumbing contractor without a plumbing contractor license;

13 11.7. Allow unlicensed individuals to perform electrical and plumbing installations, and
14 Respondent has been engaged in, is engaging in, or is about to engage in violations of ORS
15 chapters 447, 455, 479, and 693 and the rules adopted thereunder. Therefore, the Director
16 may issue an order against Respondent to cease and desist from the violations.

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1 **ORDER**

2 Respondent agrees to resolve this matter with the Boards and Director without a hearing
3 according to the following terms:

4 1. The Boards hereby assess a \$12,000 total civil penalty for violating ORS 479.620(1),
5 447.040(1), 693.030(2)(a), 479.550(1), OAR 918-282-0120(1), and OAR 918-780-0065 as
6 follows:

7 1.1. \$8,500 of the total civil penalty will be suspended for a period of five years if there is
8 compliance with the remaining terms of this Consent Order.

9 1.2. Respondent agrees to pay the remaining \$3,500 of the civil penalty according to the
10 following plan: payments of \$350 per month for 10 months, beginning with the first
11 payment due on June 25, 2015, and each subsequent monthly payment due
12 (postmarked) by the 25th day of each month thereafter. As long as the payments
13 remain timely, there shall be no interest added to Respondent's balance. There are no
14 early-payoff penalties. *(An invoice will be included with Respondent's copy of the*
15 *final order after the Director signs it.)*

16 2. Respondent agrees to cease and desist from violating the Electrical Safety Law (ORS
17 479.510 - 479.945 and related administrative rules), and the plumbing laws (ORS 447.010 -
18 447.992, 693.010 - 693.994 and the related administrative rules), including but not limited
19 to: engaging in the business of making electrical installations without holding the proper
20 electrical contractor license (ORS 479.620(1)); allowing any individual to perform electrical
21 work for which the individual is not properly registered or licensed (OAR 918-282-
22 0120(1)); making electrical installations without first obtaining a valid permit (ORS
23 479.550(1)); operating as a plumbing contractor without the appropriate plumbing contractor
24 license (ORS 447.040(1)); allowing individuals to perform plumbing installations without
25 those individuals holding journeyman plumbing licenses (ORS 693.030(2)(a)); and

1 performing plumbing installations without first obtaining a plumbing permit (OAR 918-780-
2 0065).

3 3. Respondent understands the suspended civil penalty (\$8,500) will be waived five years after
4 this Consent Order becomes a final order, provided Respondent complies with its terms and
5 has not committed any further violations of the Division's statutes and rules. Respondent
6 understands and agrees that if Respondent does not comply with the terms of this Consent
7 Order or if Respondent commits any further violations of the Division's statutes or rules,
8 then the entire civil penalty, including the suspended amount, will become immediately due
9 and payable. Failure to comply with this Consent Order includes, but is not limited to,
10 failure to pay the civil penalty (\$3,500) on or before the date it is due.

11 4. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases
12 that rely on the underlying facts in this case. Cooperation may include, but not be limited to,
13 making sworn statements or testifying in administrative hearings.

14 5. Respondent understands and agrees that further enforcement action may be taken for any
15 violation of the Division's statutes or rules not alleged in this Consent Order, whether
16 committed before or after the execution of this Consent Order, and/or for any violation of
17 the terms of this Consent Order.

18 6. Respondent understands that failure to comply with this Consent Order may be used, in
19 addition to any other reason provided for in law, as a basis for the denial of future licensing
20 applications and/or suspension or revocation of licensing or certification issued by the
21 Division and/or other state agencies.

22 7. Respondent understands that this Consent Order is a public record.

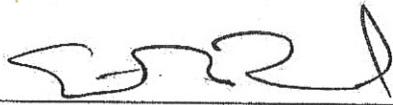
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1 8. Respondent has read and fully understands the terms of this Consent Order, freely and
2 voluntarily consents to the entry of this Consent Order without any force or duress, and
3 expressly waives all rights to hearing or appeal in this matter.

4 9. Respondent understands that, upon signature of all parties, this Consent Order will be a
5 FINAL ORDER.

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7 IT IS SO AGREED THIS 14 DAY OF May, 2015.

8 Member,
9 Selig Construction, LLC

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11 IT IS SO AGREED THIS 22 DAY OF May, 2015.

12 Director,
13 Department of Consumer and Business Services
14 State of Oregon

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16 IT IS SO AGREED THIS 22 DAY OF May, 2015.

17 Chair,
18 Electrical and Elevator Board
19 State of Oregon

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21 IT IS SO AGREED THIS 22 DAY OF May, 2015.

22 Chair,
23 State Plumbing Board
24 State of Oregon