

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

2 **IN THE MATTER OF:**)

3 **SWAGGART BROTHERS, INC., A DOMESTIC**)
4 **BUSINESS CORPORATION,**)

5 **RESPONDENT.**)

) **CONSENT ORDER**

) **CASE NO. C2014-0192**

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BUILDING CODES

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

13 **FINDINGS OF FACT**

- 14 1. At all relevant times Respondent did not possess an Oregon plumbing contractor's license.
- 15 2. During or about the period of July 2014, at 330 S Thielson Street, Echo, Oregon,
16 Respondent permitted and suffered employees Jon T. Oldman and Jason S. Maben to install
17 underground water service plumbing piping and extend the property's existing sewer
18 plumbing service piping approximately 25 feet, without Oregon journeyman plumber
19 licenses.
- 20 3. Respondent installed underground water and sewer plumbing service piping prior to
21 obtaining a plumbing permit.
- 22 4. A licensed plumbing contractor applied for plumbing permit PL14PE0130 with Umatilla
23 County on October 28, 2014, which passed a final inspection on October 29, 2014.

21 **APPLICABLE LAW**

- 22 1. ORS 447.010(6) defines plumbing to include the art of installing, altering or repairing in or
23 adjacent to or serving buildings pipes, fixtures and other apparatus for bringing in the water
24 supply and removing liquid and water-carried waste, including the water supply distributing
25 pipes.
2. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or
purport to be a plumbing contractor, and a member or employee of a firm, partnership or

corporation may not engage¹ in the layout or superintending of plumbing installations, without having obtained the plumbing contractor license required under ORS 447.010 to 447.156 as provided by State Plumbing Board rules adopted under ORS 455.117.

3. Under ORS 693.030(2)(a), a licensed plumbing contractor or a person required to be licensed as a plumbing contractor may not permit or suffer any person to work as a journeyman plumber who does not hold a valid journeyman plumber license.
4. Under OAR 918-785-0200(1)(a), no person, firm, or corporation shall perform plumbing without first obtaining a plumbing permit or minor label when required and paying the appropriate fees to the authorized permit issuing agency.

CONCLUSIONS OF LAW

1. Installing underground water service plumbing piping and extending the property's existing sewer plumbing service piping approximately 25 feet is plumbing as defined in ORS 447.010(6).
2. By engaging in the business of making plumbing installations without a valid Oregon plumbing contractor license, Respondent violated ORS 447.040(1).
3. By permitting or suffering Jon T. Oldman and Jason S. Maben, who do not hold Oregon journeyman plumber licenses, to install underground water service plumbing piping and extend the property's existing sewer plumbing service piping approximately 25 feet, Respondent violated ORS 693.030(2)(a) for two individuals.
4. By engaging in the business of making plumbing installations without first obtaining a plumbing permit, Respondent violated OAR 918-785-0200(1)(a).

SETTLEMENT AGREEMENT

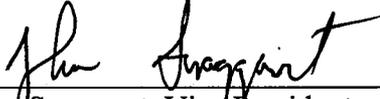
The Respondent and the Board agree to resolve this matter without a hearing according to the following terms:

1. The Board hereby assesses an \$8,000 total civil penalty for violating ORS 447.040(1), ORS 693.030(2)(a), and OAR 918-785-0200(1)(a), of which \$5,500 will be suspended for a period of five years under the following terms:
 - 1.1. Respondent agrees to pay the remaining \$2,500 of the civil penalty. (*An invoice will be included with Respondent's copy of the Final Order after the Board Chair signs it.*)
 2. Respondent understands that a single failure to comply with any of the terms of this Consent Order could result in the entire civil penalty, including the suspended amount, becoming immediately due and payable. Failure to comply includes, but is not limited to, failure to pay the civil penalty amount on the Final Demand Notice by the due date.

¹ OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law, including but not limited to a single instance.

3. Respondent agrees to fully cooperate with the Building Codes Division's enforcement efforts in cases against other entities or individuals that rely on the underlying facts in this case. Cooperation may include, but not be limited to, making sworn statements or testifying in administrative hearings.
4. Respondent agrees not to commit violations of the Building Codes Division's statutes and rules.
5. Respondent understands and agrees that any violation of the terms of this Consent Order will result in further enforcement action.
6. 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.
7. 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.
8. 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.
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.
10. Respondent understands that, upon signature of all parties, this Consent Order will be a FINAL ORDER.
11. The signatory for Respondent certifies that by signing the Consent Order, he is the Respondent or the authorized representative for the Respondent in this matter.

FOR THE RESPONDENT, SWAGGART BROTHERS, INC.



John Swaggart, Vice President

Date: 1-20, 2015

FOR THE STATE PLUMBING BOARD



Chair
State Plumbing Board
State of Oregon

Date: 1-27, 2015

