

1 **BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

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

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

4
5 **IN THE MATTER OF:**

CONSENT ORDER

6
7 **ROBBEN, INC.,
A DOMESTIC BUSINESS CORPORATION,**

8
9 **RESPONDENT.**

**BCD CASE C2015-0242
BCD CASE C2016-0087**

10
11 **INTRODUCTION**

12 The Building Codes Division (Division) conducted an investigation on behalf of the
13 Electrical and Elevator Board of the State of Oregon and the State Plumbing Board of the State of
14 Oregon (Boards) and the Director of the Department of Consumer and Business Services (Director)
15 and determined that Robben, Inc. (Respondent) violated certain provisions of the Division's statutes
16 and administrative rules as identified below.¹

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

21 **FINDINGS OF FACT**

- 22 1. At all relevant times, Respondent held Oregon limited maintenance specialty contractor
23 HVAC/R license number LHR99, plumbing contractor license number 21-67PB and boiler
24 contractor license number B99-2296.

25 ¹ In C2015-0242, the Director issued a Notice of Proposed Order to Cease and Desist to Respondent. In C2016-0087, The Boards issued a Notice of Proposed Assessment of Civil Penalties to Respondent. The foregoing cases have been combined for the purposes of this Consent Order.

2. Greg Robben (Robben) is a corporate officer of Respondent.²
3. In or around November 2015, Josh Bushnell (Bushnell) and Matt Shinn (Shinn) were employed by Respondent.
4. In or around November 2015, Robben, acting on behalf of Respondent, directed Bushnell and Shinn to install a tankless water heater at a residential property located at 838 SW 9th Street in Lincoln City, Oregon (9th Street property). Robben also directed them to install approximately two feet of water-line pipe relating to the water heater installation.
5. Relating to the foregoing 9th Street water heater installation, Robben directed Bushnell and Shinn to disconnect electrical wiring from the old water heater, install approximately two feet of new electrical wiring, and install an electrical receptacle. Bushnell and Shinn performed the work as directed.
6. At no relevant time did Bushnell hold a supervising or journeyman electrician's license.
7. At no relevant time did Shinn hold a supervising or journeyman electrician's license.
8. At no relevant time did Bushnell hold a journeyman plumber license.
9. At no relevant time did Shinn hold a journeyman plumber license.
10. In or around 2016, Respondent installed electrical wiring with a capacity of 110 VAC pursuant to the installation of a new tankless water heater at a property located at 448 Summit View, in Lincoln City, Oregon (Summit property).
11. Electrical permits were not issued to Respondent to perform the foregoing work at the 9th Street and Summit properties.

APPLICABLE LAW

1. The terms used in this Consent Order may be defined in ORS 183.310(1)-(10), ORS 447.010(1)-(6), ORS 455.010(1)-(10), ORS 693.010(1)-(5), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-0010(1)-(11), OAR 918-090-

² See related Division case number C2016-0088.

1 0010(1)-(12), OAR 918-098-1005(1)-(20), OAR 918-251-0090(1)-(43), and OAR 918-690-
2 0420(1)-(14).

3 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
4 electrical wiring and the permanent attachment or installation of electrical products in or on
5 any structure that is not itself an electrical product.

6 3. Under ORS 479.550(1), no person shall work on any new electrical installation for which a
7 permit has not been issued.

8 ~~4. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not~~
9 engage in the business of making electrical installations, advertise as or otherwise purport to
10 be licensed to make electrical installations or purport to be acting as a business that makes
11 electrical installations.

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

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

18 7. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform
19 electrical work for which the individual is not properly registered or licensed.

20 8. Under ORS 447.010(6), plumbing is defined as the art of installing, altering, or repairing
21 pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and
22 water-carried waste.

23 9. Under ORS 693.030(1), a person may not engage in the trade of journeyman plumber
24 without a journeyman plumber license.

25 10. Under ORS 693.030(2)(a), a licensed plumbing contractor may not permit or suffer any

1 person to work as a journeyman plumber who does not hold a valid journeyman plumber
2 license.

- 3 11. Under ORS 455.775(2), if the Director has reason to believe that any person has been
4 engaged, or is engaging, or is about to engage in any violation of the state building code or
5 ORS 479.510 to 479.945, chapter 447, chapter 693, or any rule adopted under those statutes,
6 the Director may issue an order, subject to ORS 183.413 to 183.497, directed to the person
7 to cease and desist from the violation or threatened violation.

8 **CONCLUSIONS OF LAW**

- 9 1. The following constitute electrical installations under ORS 479.530(10):
10 a. Installing new electrical wiring; and
11 b. Installing electrical receptacles.
- 12 2. By performing the foregoing electrical installations at the 9th Street and Summit properties,
13 Respondent engaged in the business of making electrical installations under 918-030-
14 0010(8).
- 15 3. By engaging in the business of making electrical installations without holding an electrical
16 contractor license, Respondent violated ORS 479.620(1).
- 17 4. By performing the foregoing electrical installations at the 9th Street and Summit properties,
18 for which no electrical permits were issued, Respondent violated ORS 479.550(1).
- 19 5. Under ORS 479.620(3), a person may not make the foregoing electrical installations without
20 a supervising or journeyman electrician license.
- 21 6. By allowing Bushnell and Shinn to perform the foregoing electrical installations at the 9th
22 Street property without Oregon supervising or journeyman electrician's licenses,
23 Respondent violated OAR 918-282-0120(1).
- 24 7. The following constitute plumbing under ORS 447.010(6):
25 a. Installing water-line pipe; and

1 satisfied five years after this Consent Order becomes a final order, provided
2 Respondent complies with its terms and has not committed any further violations of
3 the Division's statutes and rules within that five-year period. Respondent
4 understands and agrees that if Respondent does not comply with the terms of this
5 Consent Order or if Respondent commits any further violations of the Division's
6 statutes or rules within the five-year period, then the entire civil penalty, including
7 any suspended amount, will become immediately due and payable. Failure to comply
8 ~~with this Consent Order includes, but is not limited to, failure to pay the civil penalty~~
9 amount due by the due date.

- 10 2. Pursuant to ORS 455.775(2), the Director orders Respondent to cease and desist from the
11 following violations of the State Building Code: engaging in the business of making
12 electrical installations without holding an electrical contractor license (ORS 479.620(1)),
13 making electrical installations for which no electrical permit has issued (ORS 479.550(1)),
14 allowing any individual to perform electrical work for which the individual is not properly
15 registered or licensed (OAR 918-282-0120(1)), and permitting or suffering any individual to
16 perform plumbing work for which the individual is not properly registered or licensed
17 (693.030(2)(a)), because the Director has reason to believe that Respondent has been
18 engaged in violations of those statutes and rules.
- 19 3. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases
20 that rely on the facts underlying this case. Cooperation may include, but may not be limited
21 to, making sworn statements or testifying in administrative hearings.
- 22 4. Respondent understands that further enforcement action may be taken for any violation of
23 the Division's statutes or rules not alleged in this Consent Order, whether committed before
24 or after the execution of this Consent Order, and/or for any violation of the terms of this
25 Consent Order.

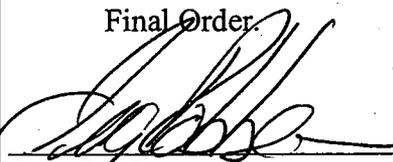
1 5. Respondent understands that failure to comply with this Consent Order may be used as a
2 basis for the denial of future license, certificate, registration, or other applications, or for the
3 refusal to renew the same; for the suspension, revocation, or conditioning of a license,
4 certificate, or registration issued by the Division or other state agencies; and/or for any other
5 reason provided for in law.

6 6. Respondent understands that this Consent Order is a public record.

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

10 8. Respondent understands that, upon signature of all parties, this Consent Order will be a

11 Final Order.

12 

13 It is so agreed this 2 day of JUNE, 2016.

14 Greg Robben
15 Authorized Representative
16 Robben, Inc.

17 

18 It is so agreed this 26 day of June, 2016.

19 Director
20 Department of Consumer and Business Services
21 State of Oregon

22 

23 It is so agreed this 26 day of June, 2016.

24 Chair
25 Electrical and Elevator Board
State of Oregon

26 

27 It is so agreed this 26 day of June, 2016.

28 Chair
29 State Plumbing Board
30 State of Oregon