

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

3 **BEFORE THE BOARD OF BOILER RULES OF THE STATE OF OREGON**

4 **IN THE MATTER OF:** )  
5 ) **CONSENT ORDER**  
6 **COMFORT MECHANICAL INC,** )  
7 **AN OREGON CORPORATION** ) **CASE NO. 2004-0340**  
8 **RESPONDENT** )  
9 )  
10 )  
11 )  
12 )

13 WHEREAS the BOARD OF BOILER RULES AND DIRECTOR OF THE DEPARTMENT OF  
14 CONSUMER AND BUSINESS SERVICES of the State of Oregon, acting pursuant to its  
15 authority as set forth in Oregon Revised Statutes Chapter 455, has conducted an investigation of  
16 the Respondent and has determined that the Respondent violated certain provisions of the  
17 Oregon Building Codes statutes, administrative rules and specialty codes:

18 WHEREAS the Board and Director and Respondent wish to settle this matter informally.  
19 Respondent agrees to conduct all future business in compliance with the applicable statutes,  
20 administrative rules, and specialty codes:

21 NOW THEREFORE, as evidenced by the authorized signature subscribed on this Order,  
22 Respondent hereby consents to the entry of this Order:

23 **FINDINGS OF FACT**

24 Between April and December of 2003, at 133 SW 2nd Avenue in Portland, Oregon,  
25 Respondent engaged in the business of installing a Raypak hot water boiler, NB# 206015, for the  
account of another. At the time, Respondent did not first obtain a permit, in violation of ORS  
480.630(6), a \$2,000 civil penalty. A permit was issued to another contractor on August 25,  
2004 and compliance achieved.

Between April and December of 2003, at 133 SW 2nd Avenue in Portland, Oregon,  
Respondent engaged in the business of installing a Raypak hot water boiler, NB# 206015, for the  
account of another. At the time, Respondent did not have a valid Oregon boiler/pressure vessel  
license violating ORS 480.630(1), a \$3,000 civil penalty.

The actions described above violated the express terms of Consent Order 2001-0876,  
which Respondent signed on September 26, 2002. In that Order, Respondent agreed not to  
"violate any provision of the Oregon Building Codes Statute[s]" for a three year period. These  
actions occurred within the three-year period, violating ORS 455.450(1). The \$4000 civil  
penalty previously stayed in Case 2001-0876 is now due and payable in full.

1 On February 4, 2005, the division received a request for a hearing. By signature of this  
2 document, the Respondent hereby requests to settle the matter without a contested case hearing  
and hereby withdraws the request for a hearing.

### 3 CONCLUSIONS OF LAW

4 Installing a Raypak hot water boiler, as outlined in the Findings of Fact, is a boiler  
5 installation under ORS 480.515(2).

6 By engaging in the business of installing a boiler without a valid Oregon boiler/pressure  
7 vessel business license, as outlined in the Findings of Fact, Respondent violated ORS  
480.630(1).

8 By engaging in the business of installing a boiler without first having obtained a valid  
9 installation permit, as outlined in the Findings of Fact, Respondent violated ORS 480.630(6).

10 By violating Oregon Boiler and Pressure Vessel law within three years of signing a  
Consent Order, as outlined in the Findings of Fact, Respondent violated ORS 455.450(1).

### 11 ORDER

12 The Board and Director, acting pursuant to ORS 455.775(2) hereby ORDERS that the  
13 Respondent shall CEASE AND DESIST from further violations of the Oregon Building Codes,  
statutes, administrative rules, specialty codes, or any Order issued by a State Building Codes  
14 Advisory Board.

15 Pursuant to ORS 455.895(2) and OAR 918-001-0036, the Director of the Department of  
Consumer and Business Services finds Respondent violated ORS 455.450(1) and shall be  
16 assessed a \$4000 civil penalty.

17 Pursuant to ORS 455.895(1)(c) and OAR 918-001-0036, the Boiler/Pressure Board finds  
18 Respondent violated ORS 480.630(1) and shall be assessed a \$3,000 civil penalty.

19 Pursuant to ORS 455.895(1)(c) and OAR 918-001-0036, the Boiler/Pressure Board finds  
Respondent violated ORS 480.630(6) and shall be assessed a \$2,000 civil penalty.

20 The Board and Director further ORDERS the imposition of \$1,000 of the \$9,000 total civil  
21 penalty be stayed for the period of three years from the date of this Order, under the following  
terms and conditions:

22 The Respondent shall not violate any provision of the Oregon Building Codes, statutes,  
23 administrative rules, specialty codes, or any Order issued by a State Building Codes Advisory  
24 Board.

25 The remaining \$8,000 civil penalty is due and payable on or before 5:00 P.M. May 1, 2005.  
Failure to submit payment by the due date indicated will result in your account being forwarded  
to the Department's Business Administration Division for collection. The Department will

1 pursue collection of unpaid civil penalties by filing a lien against your real estate holdings, by tax  
2 refund offsets through the Department of Revenue, or through an outside collection agent.

3 If Respondent fully complies with all conditions imposed herein, the \$1,000 stayed civil penalty  
4 shall be waived at the end of the three-year period and no longer be imposed. If the Board finds  
5 that the Respondent violated any of the terms and conditions stated herein during the three-year  
6 period from the date of this Order, the Board, by and through Director of the Department of  
Consumer and Business Services, may impose the \$1,000 stayed civil penalty. Further, this  
Order does not limit the Board from other actions to enforce other violations of the Oregon  
Building Codes statute, administrative rules, and specialty codes.

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10 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005

11  
12 BOARD OF BOILER RULES OF THE  
13 STATE OF OREGON

14 \_\_\_\_\_  
15 By Philip A. Johnson, II,  
16 Enforcement Officer for the Board

17  
18 DIRECTOR DEPARTMENT OF  
19 CONSUMER AND BUSINESS SERVICES

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21 \_\_\_\_\_  
22 By Philip A. Johnson, II,  
23 Enforcement Officer for the Director  
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1 **CONSENT TO ENTRY OF ORDER**

2 I, WILLIAM HARMON, state that I represent Respondent in this matter; that I have read the  
3 foregoing Order; that I know and fully understands its contents and consent to the entry of this  
4 Order; that Respondent admits the allegations contained in the Findings of Fact and by my  
5 signature on this document freely and voluntarily withdraws its request for hearing. I  
6 acknowledge that Respondent has been advised of its right to a contested case hearing, and to be  
7 represented by legal counsel in this matter, and that Respondent hereby expressly waives that  
8 right. I understand that the Board may take further actions to enforce this Order or upon  
9 discovery of other conduct in violation of the Oregon Building Codes statutes, administrative  
10 rules, and specialty codes. I further state that Respondent will fully comply with the terms and  
11 conditions stated herein. I assure the Board that Respondent will not perform work or conduct  
12 business in Oregon unless such activities are in full compliance with Oregon Building Codes  
13 statutes, administrative rules, and specialty codes. I understand this Consent Order is a public  
14 document.

15 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005

16 \_\_\_\_\_  
17 Signature for Respondent  
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