

BEFORE THE BOARD OF BOILER RULES OF THE STATE OF OREGON

CONSENT ORDER

IN THE MATTER OF:

**OREGON CASCADE PLUMBING & HEATING
INC, AN OREGON CORPORATION, AND JOHN
E WELBORN II, PRESIDENT**

**CASE NO. 2006-
0101**

RESPONDENT

8 WHEREAS the BOARD OF BOILER RULES of the State of Oregon, acting pursuant to its authority as set
forth in Oregon Revised Statutes Chapter 455, has conducted an investigation of the Respondent and has
determined that the Respondent violated certain provisions of the Oregon Building Codes statutes,
administrative rules, and specialty codes:

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

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

14 **FINDINGS OF FACT**

1. Respondent is a licensed boiler/pressure vessel business in Oregon.
- 16 2. On or around June, 2005, Respondent engaged in the business of installing a non-welded
boiler (NB# 104125) at 636 Lancaster Drive NE in Salem, Oregon, (Hometown Buffet) for the
account of another. Respondent did not first obtain an installation permit prior to installing the
boiler. Respondent later obtained the permit and compliance was achieved.
- 18 3. On or around November, 2005, Respondent engaged in the business of installing a non-
19 welded boiler (NB# 99208) at 636 Lancaster Drive NE in Salem, Oregon, (Hometown Buffet)
20 for the account of another. Respondent did not first obtain an installation permit prior to
installing the boiler. Respondent later obtained the permit and compliance was achieved.

CONCLUSIONS OF LAW

1. A non-welded boiler is a "boiler" under ORS 480.515(2). These boilers were not exempt
under ORS 480.525(b) because their heat output exceeded 200,000 BTUs
- 24 2. By engaging in the business of installing a boiler without having first obtained a
valid installation permit, Respondent violated ORS 480.630(6) on the first occasion.

3. By engaging in the business of installing a boiler without having first obtained a valid installation permit, Respondent violated ORS 480.630(6) on the second occasion.

ORDER

The Board, acting pursuant to ORS 455.775(2) hereby ORDERS that the 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 Advisory Board.

Pursuant to ORS 455.895(1)(c) and OAR 918-001-0036, Respondent is assessed a \$1000 civil penalty for violation of ORS 480.630(6).

Pursuant to ORS 455.895(1)(c) and OAR 918-001-0036, Respondent is assessed a \$1000 civil penalty for violation of ORS 480.630(6).

The Board further ORDERS the imposition of \$1,500.00 of the \$2,000.00 total civil penalty be stayed for the period of three years from the date of this Order, under the following terms and conditions:

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

The remaining \$500 civil penalty is due and payable on or before 5:00 P.M. July 1, 2006. 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 pursue collection of unpaid civil penalties by filing a lien against your real estate holdings, by tax refund offsets through the Department of Revenue, or through an outside collection agent.

FAILURE TO PAY THE ASSESSED CIVIL PENALTY, OR, SHOULD ANOTHER VIOLATION OCCUR, THE DEPARTMENT MAY SEEK SUSPENSION OF YOUR LICENSE PURSUANT TO ORS 455.129. THE DEPARTMENT WILL AGGRESSIVELY PURSUE ANY FUTURE COMPLAINTS WITHOUT EXCEPTION.

If Respondent fully complies with all conditions imposed herein, the \$1,500.00 stayed civil penalty shall be waived at the end of the three-year period and shall no longer be imposed. If the Board finds that the Respondent has violated any of the terms and conditions stated herein during the three-year period from the date of this Order, the Board by and through Director of the Department of Consumer and Business Services may impose the \$1,500.00 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.

Dated this _____ day of _____.

BOARD OF BOILER RULES OF THE STATE OF OREGON

by Philip A. Johnson, II, Enforcement Officer for the Board

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CONSENT TO ENTRY OF ORDER

I, JOHN E WELBORN II on behalf of OREGON CASCADE PLUMBING & HEATING INC, state that I am, or represent the Respondent herein; that I have read the foregoing Order, and that I know and fully understand its contents; that I consent to the entry of this Order, and admit the allegations contained in the Findings of Fact therein; that I have been advised of my right to a contested case hearing, and to be represented by legal counsel in this matter; that I freely and voluntarily consent to the entry of this Order without further hearing and without any force or duress, expressly waiving all rights to a contested case hearing, judicial review or any further appeal in this matter. I understand that the Board may take further actions to enforce this Order or upon discovery of other conduct in violation of the Oregon Building Codes statutes, administrative rules, and specialty codes. I further state that I will fully comply with the terms and conditions stated therein. I further assure the Board that I will not perform work or conduct business in Oregon unless such activities are in full compliance with Oregon Building Codes statutes, administrative rules, and specialty codes. I understand that this Consent Order is a public document.

DATED this _____ day of _____,

Signature of Respondent

