

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

3)
4 **IN THE MATTER OF:**) **CONSENT ORDER**
5)
6 **EUGENE HEATING, INC.**)
7 **AN OREGON CORPORATION**)
8 **RESPONDENT**) **CASE NO. 2010-0177**
9)

10 The DIRECTOR of the Department of Consumer and Business Services of the State of
11 Oregon, acting pursuant to its authority as set forth in Oregon Revised Statutes Chapter
12 455, has conducted an investigation of Respondent and determined that Respondent
violated certain provisions of the Oregon Building Codes statutes, administrative rules,
and specialty codes:

13 The Director and Respondent wish to settle this matter informally. Respondent agrees
14 to conduct all future business in compliance with the applicable statutes, administrative
rules, and specialty codes:

15 As evidenced by the authorized signatures subscribed on this Order, Respondent
16 hereby consents to the entry of this Order:

17 **FINDINGS OF FACT**

- 18 1. During all relevant times, Respondent was registered to conduct a boiler business in
19 the State of Oregon, holding license #BB113.
- 20 2. During the period January 15, 2010 through February 20, 2010, at Creswell High
21 School located at 33390 Nieblock Lane in Creswell, Oregon, Respondent permitted or
22 suffered its employee, R. Keith Giarrusso, CL1 Boiler Installer license #5205CL1, to
install new safety valves on two boilers without the direct supervision of a CL3, CL4, or
CL5 Boiler Installer.
- 23 3. During the period January 15, 2010 through February 20, 2010, at Creswell High
24 School located at 33390 Nieblock Lane in Creswell, Oregon, Respondent installed two
25 AO Smith boilers, National Board Numbers C26749 and C26751, for the account of
another, without first obtaining valid permits.

1 **CONCLUSIONS OF LAW**

- 2 1. AO Smith boilers, National Board numbers C26749 and C26751, are boilers
3 pursuant of ORS 480.515(2).
- 4 2. By permitting or suffering an employee to install new safety valves on boilers without
5 the proper license, as outlined in the Findings of Fact, Respondent violated ORS
6 480.632.
- 7 3. By installing new hot water boilers without first securing an installation permit from
8 the Department of Consumer and Business Services, as outlined in the Findings of
9 Fact, Respondent violated ORS 480.630(5).

10 **ORDER**

11 Pursuant to ORS 455.895(2) and OAR 918-001-0036, the Director of Consumer
12 and Business Services of the State of Oregon finds Respondent violated ORS 480.632
13 and is assessed a \$2,000 civil penalty.

14 Pursuant to ORS 455.895(2) and OAR 918-001-0036, the Director of Consumer
15 and Business Services of the State of Oregon finds Respondent violated ORS
16 480.630(5), and is assessed a \$1,000 civil penalty.

17 Total civil penalty is \$3,000.

18 The Director further ORDERS that \$1,250 of the \$3,000 total civil penalty for the
19 violation of ORS 480.632 and ORS 480.630(5) be stayed for the period of five years
20 from the date of this Order, under the following terms and conditions.

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

24 The remaining \$1,750 civil penalty is due and payable after this document is signed by
25 the Director. It shall be considered a failure to meet a term or condition of this order
should a Final Demand for Payment be issued to Respondent and Respondent fails to
pay the penalty within the time period stated on the Final Demand. Failure to submit
payment will result in collection of the entire \$3,000 civil penalty.

The Director further ORDERS an additional \$500 be stayed from the \$3,000 civil
penalty if the Respondent remits a full payment of \$1,250 within 30 days of the date the
ORDER is signed by the Director.

1 If Respondent fully complies with the conditions imposed herein, the stayed civil penalty
 2 shall be waived at the end of the five-year period. If the Director finds that the
 3 Respondent has violated any of the terms and conditions stated herein during the five-
 4 year period from the date of this stipulated agreement, the Director may collect the
 \$1,000 stayed civil penalty. Further, this stipulated agreement does not limit the Board
 from other actions to enforce other violations of the Oregon Building Codes statute,
 administrative rules, and specialty codes.

5 **CONSENT TO ENTRY OF ORDER**

6 I, MICHAEL H. SCHILLING, state that I am or that I represent Respondent in this
 7 matter. I have read the foregoing Order and by my signature attest that Respondent
 8 knows and fully understand its contents; that Respondent consents to the entry of this
 9 Order and admits the allegations contained in the Findings of Fact; that Respondent
 10 has been advised of its right to a contested case hearing, and to be represented by
 legal counsel in this matter; that Respondent freely and voluntarily consents to the entry
 of this Order without further hearing, without any force or duress, and expressly waives
 any right to a hearing in this matter.

11 I understand that the Director may take further actions to enforce this Order or upon
 12 discovery of other conduct in violation of the Oregon Building Codes statutes,
 administrative rules, and specialty codes. I further state that Respondent will fully
 13 comply with the terms and conditions stated in this Order. I further assure the Director
 14 that Respondent 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.

15 I understand that this Consent Order is a public document.

16
 17 DATED this 5th day of OCTOBER, 2010

18 Michael H. Schilling
 19 Signature for Respondent

20
 21 **FOR THE DIRECTOR**

22 DATED this 5th day of October, 2010

23 Elizabeth Brown for
 24 Director
 25 Department of Consumer and Business Services
 State of Oregon