

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

2  
3 **IN THE MATTER OF:**

) **CONSENT ORDER**

4 **HOWARD COMPANY, A FOREIGN**  
5 **CORPORATION**

) **CASE NO. 2010-0298**

6 **RESPONDENT**  
7 )

8 The Plumbing Board of the State of Oregon (Board) acting according to authority set forth in  
9 Oregon Revised Statutes Chapter 455, has determined that Respondent violated provisions of the  
10 Oregon Building Code's statutes, administrative rules, and specialty codes.

11 **FINDINGS OF FACT and CONCLUSIONS OF LAW**

12 (1) On or about May 20, 2010, at 1230 SW 11<sup>th</sup> Street, Ontario, Oregon, Respondent  
13 engaged in the business of installing a potable water/backflow assembly, piping and shut-off-  
14 valve, for the account of another, without an Oregon plumbing contractor's license, in violation  
15 of ORS 447.040(1).

16 (2) During or about May 20, 2010, at 1230 SW 11<sup>th</sup> Street, Ontario, Oregon, Respondent  
17 installed a potable water/backflow assembly, piping and shut-off-valve, for the account of  
18 another, without first obtaining a valid plumbing permit, in violation of OAR 918-785-  
19 0200(1)(a).

20 (3) During or about May 20, 2010, at 1230 SW 11<sup>th</sup> Street, Ontario, Oregon, Respondent  
21 permitted or suffered Jerald Mitchell, an unlicensed individual, to install a potable water  
22 backflow assembly, piping and shut-off-valve, for the account of another, in violation of ORS  
23 693.030(2)(a).

24 (4) The installations of a potable water backflow device, piping and a shut-off-valve are  
25 plumbing installations as defined in ORS 447.010(6).

**WHAT THE LAW SAYS**

(1) Under ORS 447.040(1), except as allowed by ORS 447.060(2)<sup>1</sup>, a person may not  
engage in the trade of a plumbing business, without a plumbing contractor's license.

<sup>1</sup> ORS 447.060(2), A landscape contracting business licensed under ORS 671.560 is not required to be  
licensed under ORS 447.010 to 447.156 to install, repair or maintain backflow assemblies for irrigation  
systems and ornamental water features if the work is performed by an individual who is licensed as  
required by ORS 671.615 and is an owner or employee of the landscape contracting business. The repair  
and maintenance of the backflow assembly must be performed by a tester certified under ORS 448.279.  
The licensing exemption established under this subsection does not exempt the landscape contracting  
business from the inspection and permit requirements of ORS 447.010 to 447.156.

1  
2 (2) Under OAR 918-785-0200(1)(a), no person, firm or corporation shall do plumbing  
work in Oregon without first obtaining a plumbing permit or minor label.

3 (3) Under ORS 693.030(2)(a), no person or entity shall permit or suffer any individual to  
4 make a plumbing installation for which the individual is not licensed.

5 **ORDER**

6 Under ORS 455.895(1)(a) and OAR 918-001-0036, the Board assesses the following:

- 7 (1) A \$3,000 civil penalty for violation of ORS 447.040(1).  
8 (2) A \$1,000 civil penalty for violation of OAR 918-785-0200(1)(a).  
9 (3) A \$2,000 civil penalty for violation of ORS 693.030(2)(a).

10 The civil penalties assessed total \$6,000.

11 Respondent and the Board agrees to resolve this matter without hearing, according to the  
12 following terms:

13 1. Respondent admits to committing the violation as alleged in the Findings of Fact and  
14 Conclusions of Law and agrees the Board will issue an order imposing the proposed civil penalty  
for such violation in order to resolve this matter.

15 2. The Board agrees to suspend \$3,750 of the \$6,000 civil penalty for a period of five years  
under the following terms:

- 16 (a) Respondent agrees not to commit further violations of Building Codes Division's statutes  
17 and/or rules.  
18 (b) Respondent agrees to pay the remaining \$2,250 of the civil penalties *or \$1,750 if full*  
19 *payment is submitted within 30 days of the date this Settlement Agreement is signed.*  
20 (c) If Respondent fails to make a payment within the time period stated on a Final Demand,  
collection of the entire civil penalties, including any suspended amount, will be initiated.

21 **Payments are to be made to:** **DCBS Fiscal Services**  
22 P.O. Box 14610  
Salem, OR 97309-0445

23 (d) Respondent understands and agrees any violation of the terms of this Settlement  
24 Agreement and Consent Order will result in further enforcement action.

25 (e) Respondent understands and agree that any violations of Building Code Division's  
statutes and/or rules not alleged in the Findings of Fact above, whether committed before

1 or after the execution of this Settlement Agreement and Consent Order, shall be the basis  
2 for further enforcement action.

3 (f) Respondent understands the suspended civil penalty will be waived five years after the  
4 execution of this Settlement Agreement and Consent Order, provided Respondent  
5 complies with its terms and have not committed any further violations of Building Codes  
6 Division's statutes and/or rules.

7 (g) Respondent has carefully read this Settlement Agreement and Consent Order and  
8 understands the intent and content of the document, and signs below under free will.  
9 Respondent waives any and all right to appeal or challenge of this Settlement Agreement  
10 and Consent Order.

11 (h) Respondent understands that, upon signature of all parties, this Settlement Agreement  
12 and Consent Order will be a FINAL ORDER.

13 (i) Respondent understands once this Settlement Agreement and Consent Order become a  
14 FINAL ORDER it becomes a public document.

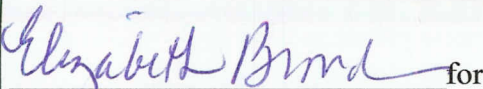
15 It is so stipulated.

16 **SIGNATURE FOR THE RESPONDENT**

17 

18 Date: 1-31-11

19 **FOR THE BOARD**

20  for

21 Date: 2-3-11

22 Chairman  
23 Plumbing Board  
24 State of Oregon  
25