

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

2  
3 **IN THE MATTER OF:**

)  
) **CONSENT ORDER**

4 **PORTLAND SERVICE STATION SUPPLY, INC. )**  
5 **dba POSSY TBA, AN OREGON CORPORATION )**

)  
) **CASE NO. 2011-0146**

6  
7                   **RESPONDENT**  
)  
)  
8

9 The Board of Boiler Rules (Board) of the State of Oregon has conducted an investigation and  
10 determined that Respondent violated certain provisions of the Oregon Building Codes statutes,  
11 administrative rules, and specialty codes.

12 Respondent and the Board wish to settle this matter informally. Respondent agrees to conduct all  
13 future business in compliance with the applicable statutes, administrative rules, and specialty  
14 codes. As evidenced by the authorized signatures on this Order, Respondent hereby consents to  
15 the entry of this Order and its following terms:

16                   **FINDINGS OF FACT and CONCLUSIONS OF LAW**

17                   (1) On or about April 26, 2011, at 2405 Commercial Street SE, Salem, Oregon,  
18 Respondent engaged in the business of installing (by relocating) two Manchester pressure vessels  
19 (National Board (NB) #s 940519 and 940520; hereinafter the "vessels"), for the account of  
20 another, without an Oregon boiler contractor's license, in violation of ORS 480.630(1).

21                   (2) On or about April 26, 2011, at 2405 Commercial Street SE, Salem, Oregon,  
22 Respondent employed an uncertified person to install (by relocating) the vessels (NB #s 940519  
23 and 940520), in violation of ORS 480.632.

24                   (3) On or about April 26, 2011, at 2405 Commercial Street SE, Salem, Oregon, Oregon,  
25 Respondent installed (by relocating) two Manchester pressure vessels (NB #s 940519 and  
26 940520), for the account of another, without first obtaining valid installation permits, in violation  
27 of ORS 480.630(5).

28                   (4) The Manchester pressure vessels (NB #s 940519 and 940520) are pressure vessels as  
29 defined in ORS 480.515(12).

30 //

31 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**WHAT THE LAW SAYS**

(1) Under ORS 480.630(1), a person engaging in the business of installing, repairing or altering boiler or pressure vessels must possess a boiler contractor license issued by the Department of Consumer and Business Services (DCBS).<sup>1</sup>

(2) Under ORS 480.632, a person licensed, or required to be licensed, under ORS 480.630 to engage in the business of installing, repairing or altering boilers or pressure vessels may not employ any person to work on a boiler or pressure vessel unless the employed person has a valid license disused under ORS 480.630.

(3) Under ORS 480.630(5), a person required to be licensed under ORS 480.630 may not install, alter or repair a boiler or pressure vessel unless an installation permit is first secured from DCBS).

**ORDER**

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

- (1) a \$3,000 civil penalty for violating ORS 480.630(1)
- (2) a \$2,000 civil penalty for violating ORS 480.632
- (3) a \$1,000 civil penalty for violating ORS 480.630(5)

The civil penalties assessed total \$6,000.

**STIPULATED AGREEMENT**

Respondent and the Board agree to resolve this matter without hearing according to the following terms:

(1) Respondent admits to committing the violations as alleged in the Findings of Fact and Conclusions of Law and agrees the Boards will issue an order imposing the proposed civil penalties for such violations in order to resolve this matter.

(2) The Boards agree to suspend \$3,750 of the \$6,000 in civil penalties for a period of five years under the following terms:

- (a) Respondent agrees not to commit further violations of Building Codes Division's statutes and/or rules.

---

<sup>1</sup> OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law, including but not limited to a single instance.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

- (b) Respondent agrees to pay the remaining \$2,250 of the civil penalties.
- (c) *If Respondent is able to submit a full payment of \$1,750, an additional \$500 will be suspended. The \$750 must be paid by the due date found on the invoice. (The invoice will be included with your copy of the Final Order after it is signed by the Board).*
- (d) 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.
- (e) Respondent understands and agree any violation of the terms of this Settlement Agreement and Consent Order will result in further enforcement action.
- (f) Respondent understands and agrees that any violations of Building Code Division's statutes and/or rules not alleged in the Findings of Fact above, whether committed before or after the execution of this Settlement Agreement and Consent Order, shall be the basis for further enforcement action.
- (g) Respondent understands the suspended civil penalty will be waived five years after the execution of this Settlement Agreement and Consent Order, provided Respondent complies with its terms and have not committed any further violations of Building Codes Division's statutes and/or rules.
- (h) Respondent has read and fully understands the terms of this Settlement Agreement and Consent Order, freely and voluntarily consents to the entry of this Order without further hearing, without any force or duress, and expressly waives all rights to hearing or appeal in this matter.
- (i) Respondent understands that, upon signature of all parties, this Settlement Agreement and Consent Order will be a FINAL ORDER.

//  
//  
//  
//  
//  
//

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25


- (j) Respondent understands once this Settlement Agreement and Consent Order become a FINAL ORDER it becomes a public document.
  
- (k) Respondent further agrees by signing this Settlement Agreement and Consent Order that they are the respondent and/or authorized representative for the respondent in this matter.

**FOR THE RESPONDENT**

  
\_\_\_\_\_  
Jerry Titus, President

Date: 9-6-2011

**FOR THE BOARD**

  
\_\_\_\_\_  
Chairman  
Board of Boiler Rules  
State of Oregon

Date: 9/14/11