

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

2 **IN THE MATTER OF:**

3 **DAVID J. CALAWAY, AN INDIVIDUAL,**

4
5 **RESPONDENT**

)
) **NOTICE OF PROPOSED ASSESSMENT**
) **OF A CIVIL PENALTY AND FINAL**
) **ORDER ON DEFAULT**
)
) **CASE NO. 2009-0070**
) **Final Order as of May 27, 2009**
)
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8 Pursuant to ORS 455.895(1)(a) and OAR 918-001-0036, the Plumbing Board proposes to impose
9 a civil penalty against Respondent, David J. Calaway, in the amount of \$4,000.

10 **FINDINGS OF FACT**

11 1. At all relevant times Respondent was not licensed to perform any plumbing installations
12 in Oregon, and was an employee of Calaway Plumbing, Inc.

13 2. On or about January 6, 2009, at 1350 W Main Street, Sheridan, Oregon, Respondent
14 installed a three-inch backflow device, on behalf of Calaway Plumbing, Inc., for the account of
Deer Meadow Assisted Living, for which a journeyman plumber’s license is required under ORS
693.030(1).

15 3. On or about January 12, 2009, at 32175 SW Savage Road, Sheridan, Oregon, Respondent
16 installed an electric hot water heater, on behalf of Calaway Plumbing, Inc., for the account of
Charles Fry, for which a journeyman plumber’s license is required under ORS 693.030(1).

17 **CONCLUSIONS OF LAW**

18 1. The installations of backflow devices and hot water heaters, as outlined in the Findings of
19 Fact, are plumbing installations under ORS 447.010(6).

20 2. By making plumbing installations without a journeyman plumber’s license, as outlined in
21 the Findings of Fact, Respondent violated ORS 693.030(1) on two occasions.

22 **ORDER**

23 Pursuant to ORS 455.895(1)(a) and OAR 918-001-0036, the Plumbing Board finds
24 Respondent violated ORS 693.030(1) on two occasions, and is assessed a \$2,000 civil penalty
per violation for \$4,000.

25 Total civil penalty is \$4,000.

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1 **NOTICE OF RIGHT TO HEARING**

2 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, Oregon
3 Revised Statutes, Chapter 183. If Respondent wishes to receive a hearing Respondent must file a
4 written request for a hearing with the Board no later than 20 days from the date of service of this
5 notice. If a request for hearing is not received within the 20-day period Respondent's right to a
6 hearing shall be considered waived unless the failure to request a hearing was beyond
7 Respondent's reasonable control. Hearing requests shall be mailed to Building Codes Division,
8 Enforcement and Licensing Section, PO Box 14470, Salem, Oregon, 97309.

9 Respondent has the right to be represented by legal counsel. ORS 183.457 provides a
10 corporation may be represented by an authorized representative at the hearing. If Respondent
11 requests a hearing the Board and Director will notify Respondent of the time and place of the
12 hearing. The Board and Director will give Respondent information on the procedures, right of
13 representation and other rights of parties relating to the conduct of the hearing before
14 commencement of the hearing.

15 **NOTICE OF FINAL ORDER**

16 If Respondent does not request a hearing within 20 days, this citation will become a final order,
17 effective 21 days after it was served on Respondent. If Respondent does not request a hearing or
18 fails to appear at a scheduled hearing, the Division's file on the matter becomes record.
19 Respondent is entitled to judicial review of this order. Judicial review may be obtained by filing
20 for review within 81 days from the date this order was served. Judicial review is pursuant to the
21 provisions of ORS 183.482 to the Court of Appeals.

22 Dated this ____ day of _____, 2009

23 _____
24 Chairman
25 Plumbing Board
State of Oregon