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Department of Insurance  
State of Idaho

*Attorneys for the Department of Insurance*

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE**

**STATE OF IDAHO**

In the Matter of:

EVANS PLUMBING, INC.

Fire Protection Sprinkler  
Contractor License No. FPSC-123

Docket No. 18-3350-17

**STIPULATION AND  
FINAL ORDER**

COMES NOW the Idaho State Fire Marshal (“SFM”) and EVANS PLUMBING, INC. (“RESPONDENT”), an Idaho corporation licensed as a fire protection sprinkler contractor under title 41 of the Idaho Code, holding Fire Protection Sprinkler Contractor License No. FPSC-123, and do hereby agree and stipulate as follows:

**STIPULATION**

1. In accord with sections 41-253 and 41-254, Idaho Code, the SFM is appointed by the Director of the Department of Insurance (“Director”) and is delegated certain duties and powers including, but not limited to, enforcement of the International Fire Code (“IFC”) as adopted by the

SFM, authority to promulgate rules in furtherance of the IFC, and the exclusive jurisdiction over single service integrated fire sprinkler systems.

2. In accord with Department of Insurance (“Department”) Rule No. 49, the definition of “fire protection sprinkler contractor” includes corporations who contract to install, repair, modify or maintain fire sprinkler systems. IDAPA 18.01.49.001.02.

3. RESPONDENT is an Idaho corporation duly authorized by the SFM as a fire protection sprinkler contractor and holds Idaho License No. FPSC-123, which is scheduled to expire on December 31, 2017. RESPONDENT is therefore subject to title 41, Idaho Code, and to the rules of the Department.

4. On or about April 4, 2017, the SFM received a telephone call from Tim Lauda, the Fire Marshal for the City of Twin Falls (“FM Lauda”), in which FM Lauda and the SFM discussed potential violations of the law related to the installation of a fire protection sprinkler system in Twin Falls, Idaho.

5. FM Lauda subsequently provided the SFM with a detailed written account of the circumstances giving rise to his belief that the law had been violated. The information provided by FM Lauda to the SFM revealed the following facts.

6. In a letter to FM Lauda dated April 5, 2017, Todd Crist, with Crist and Sons Contractors, Inc., gave the following account of his interaction with RESPONDENT. In approximately August of 2016, Crist and Sons arranged for RESPONDENT to install fire protection sprinklers into an office addition they were constructing in Twin Falls, Idaho. Mr. Crist stated that the construction project was scheduled to commence in October of 2016.

7. Mr. Crist stated that, in October of 2016, Crist and Sons notified RESPONDENT that they were ready for the fire protection sprinklers to be installed into the office addition. Mr.

Crist reported that Dave Gates (“Gates”) was the employee sent by RESPONDENT to perform the project.

8. Mr. Crist reported that, prior to the commencement of the fire sprinkler system installation, he was told by Gates that the fire protection sprinkler plans had been approved by the SFM.

9. Mr. Crist reported that, once the fire protection sprinkler system had been installed, he was told by Gates that the fire protection sprinkler system had been inspected by FM Lauda and that finishing work could continue.

10. On or about April 3, 2017, FM Lauda called the SFM after learning that Crist and Sons had requested a final inspection with the City Building Department. FM Lauda called the SFM to inquire whether a set of fire protection sprinkler plans had been filed with the SFM related to the subject construction project.

11. During the phone call on or about April 3, 2017, the SFM informed FM Lauda that no such plans had been filed with the SFM’s office.

12. Following the phone call to the SFM, on or about April 3, 2017, FM Lauda went to the construction site. FM Lauda had not previously inspected the fire protection sprinkler system at this job site. FM Lauda met with Gates at the job site and Gates admitted to him that he had not submitted fire protection sprinkler plans to the SFM.

13. Upon inspection of the fire protection sprinkler system, FM Lauda discovered that the newly added fire sprinkler system for the office addition was not attached to the existing fire protection sprinkler system, meaning that the new fire sprinkler system would not have functioned in the event of a fire.

14. In an email dated April 6, 2017, Mr. Crist told FM Lauda that Gates had not installed sprinkler heads within the combustible attic. Mr. Crist further informed FM Lauda that

when the newly added portion of the fire protection sprinkler system was tested under pressure, leaks were found within the system.

15. Gates is no longer employed by RESPONDENT.

16. The parties agree that this matter may be brought to a close by this Stipulation and Final Order.

17. IDAPA 18.01.49.021.01 and .06 provides that fire protection sprinkler plans must be submitted to the SFM and that such plans must be approved by the SFM before the commencement of work.

18. IDAPA 18.01.49.017.01.a provides that the SFM may revoke, suspend, or deny the renewal of a license for “[f]raud, bad faith, misrepresentation, or bribery ... in the conduct of business under a license.”

19. At all times relevant to the violations alleged herein, Dave Gates was an employee of RESPONDENT and was acting within the course and scope of such employment. RESPONDENT is therefore vicariously liable for Gates’ conduct pursuant to the common law doctrine of respondeat superior.

20. RESPONDENT, through its employee, installed a fire protection sprinkler system without submitting plans to the SFM for approval, in violation of Department Rule 49. Further, RESPONDENT, through its employee, misrepresented that fire protection sprinkler plans had been reviewed and approved by the SFM and that the required inspections had been performed, in violation of Department Rule 49.

21. Idaho Code § 41-117 states, in relevant part, that each violation shall “in addition to any applicable prescribed denial, suspension, or revocation of certificate of authority or license be punishable by an administrative penalty of not more than one thousand (\$1,000) for any

individual or natural person and not more than five thousand (\$5,000) for any other person, imposed by the director .... Each instance of violation may be considered to be a separate offense.”

22. Based upon the foregoing, RESPONDENT and the SFM agree as follows:

- a. That RESPONDENT does not dispute the facts as alleged in this Stipulation;
- b. That RESPONDENT admits to violating provisions of Department Rule 49 as alleged herein;
- c. That the Director of the Idaho Department of Insurance may enter the Final Order attached hereto, which provides as follows:
  - i. That the Stipulation be adopted in full and incorporated into the Final Order;
  - ii. That an administrative penalty be imposed against RESPONDENT in the amount of One Thousand Dollars (\$1,000) to be paid within fifteen (15) days of the entry of the Final Order herein.

23. By entering into this Stipulation, RESPONDENT knowingly and voluntarily waives any rights it would otherwise have to notice and a hearing at which it may be represented by counsel, present evidence, and examine witnesses. The parties hereto further waive their right of reconsideration, appeal, and other rights as set forth in title 67, chapter 52, Idaho Code, including the right to submit this matter for review by a court of competent jurisdiction.

24. The parties agree that the terms of this Stipulation and Final Order are appropriate and proper under the circumstances referenced herein.

25. RESPONDENT agrees that in the future it will comply with all requirements of the Idaho Insurance Code and the rules promulgated thereunder, and specifically with all requirements relating to fire protection sprinkler contractors.

26. RESPONDENT acknowledges that it has read this Stipulation and Final Order and understands its contents; that it has been given the opportunity to discuss this Stipulation and Final

Order with independent legal counsel of its choosing; and that it has entered into this Stipulation knowingly, voluntarily, and with full knowledge of any rights it may be waiving thereby.

27. RESPONDENT acknowledges that this is an administrative action that may be required to be reported on license applications and license renewal forms.

28. This Stipulation is subject to approval by the Director or the Director's designee, and shall become effective and binding upon the SFM and RESPONDENT upon such approval. Should the Director decline to approve this Stipulation and Final Order, the SFM and RESPONDENT shall retain all of their rights, claims and/or defenses, and any factual and/or legal admissions made by RESPONDENT herein shall be withdrawn.

29. This Stipulation constitutes the full and final resolution of all matters addressed herein, and the SFM agrees that, subject to the Director's approval described in Paragraph 28, above, and the full payment of the administrative penalty, the SFM shall seek no further sanctions for the violations addressed herein.

30. RESPONDENT agrees that, upon execution of this Stipulation, no subsequent action or assertion shall be maintained or pursued in any manner asserting the invalidity of this Stipulation and Final Order and its provisions.

31. This Stipulation and Final Order embodies the entire agreement between the SFM and RESPONDENT, and there are no agreements, understandings, representations, or warranties that are not expressly set forth herein.

32. Upon the Director's entry of the Final Order approving this stipulation, this Stipulation and Final Order shall be a public record under the Idaho Public Records Act.

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AGREED THIS 14 day of September, 2017.

EVANS PLUMBING, INC.

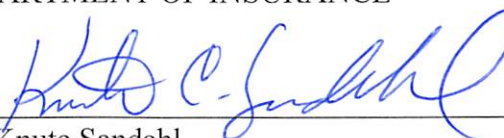
By: 

Printed Name: M Bryan Evans

Title: President

AGREED THIS 15 day of September, 2017.

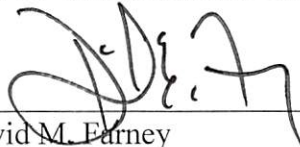
STATE OF IDAHO  
DEPARTMENT OF INSURANCE

By: 

Knute Sandahl  
State Fire Marshal

Approved as to Form:

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By: 

David M. Farney  
Deputy Attorney General  
Attorney for the Department of Insurance

**FINAL ORDER**

The parties hereto, namely the State Fire Marshal and EVANS PLUMBING, INC., having entered into the foregoing Stipulation, and the form of the order having been approved, the Director, having reviewed the same, does hereby find that there is a factual basis for entry of a Final Order herein and does hereby conclude that EVANS PLUMBING, INC. did violate Department Rule 49, as stated in the Stipulation.

NOW, THEREFORE, based on the foregoing and in consideration of the premises,

IT IS HEREBY ORDERED that the foregoing Stipulation is approved and is incorporated herein as if set forth in full and made a part hereof;

IT IS FURTHER ORDERED that an administrative penalty in the amount of One Thousand Dollars (\$1,000) is hereby imposed on EVANS PLUMBING, INC. to be paid within fifteen (15) days of the entry of this Final Order.

DATED this 19 day of September, 2017.

STATE OF IDAHO  
DEPARTMENT OF INSURANCE

  
DEAN L. CAMERON  
Director



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on this 14<sup>th</sup> day of September, 2017, I caused a true and correct copy of the foregoing, fully-executed STIPULATION AND FINAL ORDER to be served upon the following by the designated means:

Evans Plumbing, Inc.  
Attn: Bryan Evans  
111 Gulf Stream Lane  
Hailey, ID 83333

- first class mail
- certified mail
- hand delivery
- via facsimile

Judy L. Geier  
David M. Farney  
Deputy Attorneys General  
Idaho Department of Insurance  
700 W. State Street, 3<sup>rd</sup> Floor  
P.O. Box 83720  
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- via facsimile

  
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Pamela Murray