

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

3 **IN THE MATTER OF:**

4 **VIVINT, INC.,**
5 **A FOREIGN BUSINESS CORPORATION**

6 **RESPONDENT**

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) **CONSENT ORDER**
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) **CASE NO. C2013-0097**
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8 1.

9 The Director of the Department of Consumer and Business Services (Director) is responsible
10 for administration and enforcement of Oregon's statewide building code, and is authorized to regulate
11 electrical installations and persons engaged in making those installations, in Oregon. On or about July
12 29, 2014, the Director and the Electrical and Elevator Board (Board) of the State of Oregon properly
13 served a Notice of proposed discipline on Vivint, Inc. (Respondent), alleging violations of statutes and
14 administrative rules under the their authority; on or about October 1, 2014, the Director and the Board
15 properly served an Amended Notice of proposed discipline (Amended Notice) on Respondent alleging
16 violations of statutes and administrative rules under the their authority. On or about March 18, 2015,
17 the Director properly served a Second Amended Notice of proposed discipline (Director's Notice) on
18 Respondent, alleging the same violations of statutes and administrative rules alleged in the Amended
19 Notice.

20 2.

21 The parties wish to settle this matter informally. Respondent understands that Respondent has
22 the right to a hearing under the Administrative Procedures Act (chapter 183), Oregon Revised Statutes
23 (ORS), and fully and finally waives the right to a contested case hearing, any appeal therefrom, and

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1 any judicial review by the signing and entry of this Consent Order in the Agency's records.
2 Respondent agrees to conduct all future business in compliance with the applicable statutes, Oregon
3 Administrative Rules (OAR), and specialty codes. Respondent understands that this Consent Order is a
4 public record.

5 3.

6 The Director Finds and Respondent stipulates:

7 3.1 During all relevant times, Respondent held a valid Oregon Limited Energy Electrical
8 Contractor license #CLE216.

9 3.2 On or about January 2011, Respondent was granted authorization to purchase and use
10 electrical minor installation labels during the installation of burglar alarm systems.

11 3.3 On May 16, 2014, Respondent's representative signed a Consent Order in Building
12 Codes Division case C2014-0090, which found that Respondent violated OAR 918-100-
13 0050(1)(c) by failing to return hundreds of unused minor installation labels to the Division
14 within 12 months from the date of sale.

15 3.4 From at least January 30, 2013 to at least June 22, 2013, Respondent allowed
16 unlicensed individuals to run electrical wire through interior walls, or through raceways
17 attached to interior walls, during the installation of burglar alarm systems under minor
18 installation labels signed by Respondent's properly licensed employees on multiple occasions.

19 3.5 Installing electrical wire through interior walls, or through raceways attached to interior
20 walls, is an electrical installation as defined by ORS 479.530(10).

21 4.

22 The Director finds, but Respondent does not admit, that by allowing individuals to perform
23 electrical work for which those individuals were not properly registered or licensed, Respondent
24 violated OAR 918-282-0120(1) on multiple occasions.

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The Director hereby assesses a \$30,000 civil penalty against Respondent for violating OAR 918-282-0120(1) on multiple occasions, \$15,000 of which will be stayed for a period of five years from issuance of this Consent Order, under the terms of this order. If Respondent fully complies with all terms of this Consent Order, the stayed amount of the civil penalty shall be considered satisfied at the end of five years. Respondent shall pay the \$15,000 of civil penalty that has not been stayed, to the Department of Consumer and Business Services – Building Codes Division, no later than June 25, 2015.¹ If Respondent fails to fully and timely comply with any term of this Consent Order, the \$15,000 of the civil penalty that has been stayed shall be immediately due and payable.

6.

Through August 31, 2018, Respondent's limited energy contractor license #CLE216 will remain active and valid upon the following terms:

6.1 Respondent shall only offer products in Oregon powered by low-voltage, unattached power cords running between the panel and transformer, which are simply plugged into an outlet, and that do not require installation of wiring on customer premises, other "electrical installation" as defined in ORS 479.530(10), an electrical permit, or a minor installation label; or,

6.2 If Respondent wishes to offer products in Oregon that require installation of wiring on customer premises, other "electrical installation" as defined in ORS 479.530(10), a Building Code permit, or minor installation label authorization, then Respondent: must ensure that only individuals properly licensed and certified by the Director for the electrical installation being made shall obtain any permit for or make any electrical installation of Respondent's products, even if portions of such installation would otherwise be exempt from licensure, except that wireless installations and wireless repairs or wireless upgrades to existing installations may be carried out by individuals who do not hold electrical licensure issued by the Department of Consumer and Business Services, Building Codes

¹ *An invoice will be included with Respondent's copy of the final order after it is signed by the Director or his designee.*

1 Division (Division); must first document to the satisfaction of the Division that it has adequate
2 procedures and staff resources in place to comply with this agreement; must first document to the
3 satisfaction of the Division that it has adequate procedures in place to ensure the return of all unused
4 minor installation labels to the Division within 12 months of the date of sale; and, must first obtain
5 permission from the Division to offer products in Oregon that require installation of wiring on
6 customer premises, and other “electrical installations” as defined under, an electrical permit, or minor
7 installation label.

8 6.3 In addition to the terms outlined in sub-paragraphs 6.1 and 6.2:

9 6.3.1 Only individuals holding a valid Class “A” limited energy technician license or
10 supervising or journeyman electrician license shall repair, alter or replace any portion of
11 Respondent’s home automation systems that are connected to the premises’ permanent
12 electrical wiring. Notwithstanding the preceding, but only to the extent permitted by
13 law, unlicensed individuals may perform repairs to systems that may be connected to
14 the premises’ permanent electrical wiring, e.g., the control panel or sensors, on
15 Respondent’s home automation or security systems as part of a recall or similar
16 circumstances requiring Respondent to take action with respect to substantially all of a
17 particular system model, provided no electrical wires are removed or replaced.

18 6.3.2 Respondent shall fully cooperate with the Division’s enforcement efforts
19 in cases against other entities or individuals that rely on the underlying facts in this case.

20 6.3.3 Respondent shall not commit any new violations of the Division’s
21 statutes or rules.

22 6.3.4 Respondent shall timely complete all required license renewal
23 documentation and shall timely pay all license renewal fees for limited energy
24 contractor license #CLE216.

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If, at any time through August 31, 2018, Respondent fails to comply with any provision of paragraph 6 above, including sub-paragraphs 6.1 through 6.3.4, Respondent understands and agrees that Respondent's limited energy contractor license #CLE216 shall be immediately inactive, invalid for electrical contracting purposes in Oregon, and subject to further discipline. If Respondent fully complies with all provisions of this Consent Order, then on September 1, 2018, Respondent's limited energy contractor license #CLE216 shall no longer be subject the terms of this Consent Order.

8.

Respondent understands that any violation of the terms of this Consent Order will also result in further enforcement action.

9.

Respondent understands and agrees that any violation of the Building Code Division's statutes or rules not alleged in this order, whether committed before or after the execution of this Consent Order, may result in additional enforcement action. However, and notwithstanding the foregoing, this Consent Order fully and finally resolves any and all potential violations of OAR 918-282-0120(1) in connection with the installation or repair of a burglar alarm system that may have occurred before July 29, 2014.

10.

Respondent understands that failure to comply with this Consent Order may result in the denial of future licensing applications and/or suspension of licensing or certification issued by the Division and other state agencies.

11.

Respondent has read and fully understands the terms of this Consent Order, freely and voluntarily consents to the entry of this order without further hearing, without any coercion, force or duress, and expressly waives all rights to hearing, appeal or judicial review in this matter.

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12.

Respondent understands that, upon signature of the Director or his designee, this Consent Order is a final order.

IT IS SO AGREED THIS 11 day of MAY, 2015.

NATHAN WILCOX

SECRETARY AND GENERAL COUNSEL for
(Print Name and Title)
Vivint, Inc.

Nathan Wilcox
(Signature)

APPROVED AS TO FORM:

Robert Steyer
Attorney for Respondent

DATE: May 15, 2015

IT IS SO ORDERED THIS 21 day of May, 2015.

Patrick Allen

Patrick Allen, Director
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
BUILDING CODES DIVISION