

1 BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

2 IN THE MATTER OF:

3 BART ALLEN SMITH, AN INDIVIDUAL

4 RESPONDENT

) CONSENT ORDER

) CASE NO. C2014-0148

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7 The Electrical and Elevator Board (Board) of the State of Oregon conducted an
8 investigation and determined that Respondent violated certain provisions of the Oregon Building
9 Codes statutes, administrative rules, and specialty codes.

10 The parties wish to settle this matter informally. Respondent understands that Respondent
11 has the right to a hearing under the Administrative Procedures Act (chapter 183), Oregon Revised
12 Statutes (ORS), and fully and finally waives the right to a contested case hearing and any appeal
13 therefrom by the signing and entry of this Order in the Board's records. Respondent agrees to
14 conduct all future business in compliance with the applicable statutes, Oregon Administrative Rules
15 (OAR), and specialty codes. Respondent understands that this order is a public record.

16 FINDINGS OF FACT

- 17 1. On or about June 23, 2014, at 30365 Redwood Highway, Cave Junction, Oregon,
18 Respondent was observed feeding wire into conduit to bring electrical power to a lumber
19 sorter, for the account of another, while working as an employee of Advanced Electrical
20 Tech Inc., electrical contractor license number 37-859C.
21 2. At no relevant time did Respondent have an active Oregon general supervising electrician or
22 journeyman electrician license.

23 APPLICABLE LAW

- 24 1. ORS 479.530(10) defines an electrical installation as the construction or installation of
25 electrical wiring and the permanent attachment or installation of electrical products.

- 1 2. Under ORS 479.620(3), a person may not make any electrical installation without a
2 supervising or journeyman electrician's license.

3 **CONCLUSIONS OF LAW**

- 4 1. Installing wire in conduit that brings electrical power to a lumber sorter is an electrical
5 installation as defined by ORS 479.530(10).
6 2. By making electrical installations without a valid supervising or journeyman electrician
7 license, Respondent violated ORS 479.620(3).

8 **SETTLEMENT AGREEMENT**

9 The Respondent and the Board agree to resolve this matter without a hearing according to
10 the following terms:

- 11 1. The Board hereby assesses a \$2,000 total civil penalty for violating ORS 479.620(3), of
12 which \$1,250 will be suspended for a period of five years under the following terms:
13 1.1. Respondent agrees to pay the remaining \$750 of the civil penalty. *(An invoice will*
14 *be included with Respondent's copy of the Final Order after the Board signs it.)*
15 2. Respondent understands that a single failure to comply with any of the terms of this
16 Settlement Agreement could result in the entire civil penalty, including the suspended
17 amount, becoming immediately due and payable. Failure to comply includes failure to pay
18 the civil penalty amount by the due date.
19 3. Respondent agrees to cooperate with the Building Codes Division's enforcement efforts in
20 cases against other entities or individuals that rely on the underlying facts in this case.
21 4. Respondent agrees not to commit violations of the Building Code Division's statutes and
22 rules.
23 5. Respondent understands that if Respondent fails to comply with any of the terms of this
24 consent agreement then the entire civil penalty, including the amount suspended, will be
25 immediately due and payable. Failure to comply includes failure to pay the civil penalty

1 amount on the Final Demand Notice by the due date, or failure to make payments according
2 to the terms of any payment arrangement or Final Demand Notice.

3 6. Respondent understands and agrees that any violation of the terms of this Consent Order
4 will result in further enforcement action.

5 7. Respondent understands and agrees that any violation of the Building Code Division's
6 statutes or rules not alleged in this order, whether committed before or after the execution of
7 this Consent Order, may be the basis for further enforcement action.

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

11 9. Respondent understands the suspended civil penalty will be waived five years after the
12 execution of this Consent Order, provided Respondent complies with its terms and has not
13 committed any further violations of Building Code Division's statutes and rules.

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10. 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 force or duress, and expressly waives all rights to hearing or appeal in this matter.

11. Respondent understands that, upon signature of all parties, this Consent Order will be a FINAL ORDER.

12. Respondent understands that once this Settlement Agreement and Consent Order becomes a FINAL ORDER, it becomes a public document.

FOR THE RESPONDENT


Bart Allen Smith

Date: 7-16-14

FOR THE ELECTRICAL AND ELEVATOR BOARD

 for
Chair
Electrical and Elevator Board
State of Oregon

Date: 7/21/14