

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

2 **IN THE MATTER OF:**)

3 **THOMAS A. DAVIS, AN INDIVIDUAL**)

4 **RESPONDENT**)

) **CONSENT ORDER**

) **CASE NO. 2013-0155**

5 _____)
6 The Building Codes Division conducted an investigation on behalf of the Electrical and
7 Elevator Board (Board) and determined that Respondent violated certain provisions of the Oregon
8 Building Codes Statutes, administrative rules, and specialty codes.

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

15 **FINDINGS OF FACT**

- 16 1. Respondent holds general supervising electrician license 3926S.
- 17 2. From October 1, 2010, through October 1, 2013, Respondent was the general signing
18 supervising electrician for Industrial Electrical Services Co. of Oregon.
- 19 3. According to the arrangements of Respondent's employment as general signing supervising
20 electrician for Industrial Electric Service Co. of Oregon, Respondent was paid \$250 per month
21 to perform a limited role of signing permits and to be available if necessary.
- 22 4. During or about the period of October 1, 2012, through September 25, 2013, at the following
23 locations in Oregon and for the account of another, Respondent failed to ensure Randolph
24 Forrest was licensed to perform:

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- 1 a. Installation of “a feeder and six branch circuits for a swimming pool” at 357 Hayes
2 Eden Road, Roseburg, Oregon, on or about October 10, 2012;
3 b. Installation of “a subpanel and four branch circuits” at 160 Callahan View Way,
4 Roseburg, Oregon, on or around July 25, 2013;
5 c. Installation of “two branch circuits for a [building] addition” at 782 Snowberry Road,
6 Roseburg, Oregon, on or around August 21, 2013.

7 **APPLICABLE LAW**

- 8 1. ORS 479.530(10) defines an electrical installation as the construction or installation of
9 electrical wiring and the permanent attachment or installation of electrical products.
10 2. Under ORS 479.620(3), a person may not make any electrical installation without a supervising
11 or journeyman electrician’s license.
12 3. Under OAR 918-282-0140(2)(f), the general signing supervising electrician must ensure
13 electricians have proper licenses for the work performed, and may not either by assent or by
14 failure to prevent an individual to perform work for which they are not properly licensed.
15 4. Under OAR 918-282-0140(1)(a), 918-282-0140(1)(c), and 918-282-0140(2)(c) the general
16 signing supervising electrician directs, supervises, makes, or controls the making of electrical
17 installations and is the only individual authorized to direct, supervise, or control the installation
18 or alteration of an electrical service, and therefore is required to be continuously employed as a
19 general signing supervising electrician on the electrical contractor’s regular payroll and be
20 available during working hours to carry out the duties of a supervising electrician under this
21 section.
22 5. Under ORS 455.129(2)(a) and 455.129(3)(b), the Board may revoke a license if the holder fails
23 to comply with the laws administered by the Board or with the rules adopted by the Board.

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CONCLUSIONS OF LAW

1. Installing a feeder and six branch circuits for a swimming pool, a subpanel and four branch circuits, and two branch circuits for a building addition are each instances of performing electrical installations under ORS 479.530(10).
2. By failing to ensure that Randolph Forrest was licensed to perform electrical installations requiring licensure under ORS 479.620(3), Respondent violated OAR 918-282-0140(2)(f).
3. By acting as the general signing supervising electrician for Industrial Electric Service Co. of Oregon while actually performing the limited role of signing permits, Respondent violated OAR 918-282-0140(1)(a) and 918-282-0140(2)(c).

SETTLEMENT AGREEMENT

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

1. The Board hereby assesses a \$9,000 civil penalty for violating OAR 918-282-0140(2)(f), 918-282-0140(1)(a), and 918-282-0140(2)(c) , of which \$6,750 will be suspended for a period of five years under the following terms:
 - 1.1. Respondent agrees to pay the remaining \$2,250 of the civil penalty. (*An invoice will be included with Respondent's copy of the final order after the Board signs it.*)
 - 1.2. Respondent agrees to pay \$375 postmarked by July 25, 2014, continuing each month, for six (6) months. All payments are due (postmarked) by the 25th day of the month. As long as the payments remain timely, there shall be no interest added to Respondent's balance. There are no early-payoff penalties; lump sum payoffs of the Respondent's remaining balance are welcomed.
2. Respondent agrees to the revocation of his general supervising electrician license, effective the same day and time that this agreement becomes a final order. Respondent will mail or hand deliver his general supervising electrician license 3926S card and any copies he may possess to

1 the Building Codes Division's Salem office, or mail it to Building Codes Division, C/O Juliet
2 Wiersma, P.O. 14470, Salem, OR 97309-0404, to arrive no later than July 1, 2014.

- 3 3. Respondent understands that a single failure to comply with any of the terms of this Settlement
4 Agreement could result in the entire civil penalty, including the suspended amount, becoming
5 immediately due and payable. Failure to comply includes failure to pay the civil penalty
6 amount by the due date, and failure to timely remit his supervising electrician card for license
7 number.
- 8 2. Respondent agrees to cooperate with the Building Codes Division's enforcement efforts in
9 cases against other entities or individuals that rely on the underlying facts in this case.
- 10 3. Respondent agrees not to commit violations of the Building Code Division's statutes and rules.
- 11 4. Respondent understands and agrees that any violation of the terms of this Consent Order
12 will result in further enforcement action.
- 13 5. Respondent understands and agrees that any violation of the Building Code Division's statutes
14 or rules not alleged in this order, whether committed before or after the execution of this
15 Consent Order, may be the basis for further enforcement action.
- 16 6. Respondent understands that failure to comply with this settlement agreement may result in the
17 denial of future licensing applications and/or suspension of licensing or certification
18 issued by the Division and/or other state agencies.
- 19 7. Respondent understands the suspended civil penalty will be waived five years after the
20 execution of this Consent Order, provided Respondent complies with its terms and has not
21 committed any further violations of Building Code Division's statutes and rules.
- 22 8. Respondent has read and fully understand the terms of this Consent Order, freely and
23 voluntarily consents to the entry of this order without further hearing, without any force or
24 duress, and expressly waives all rights to hearing or appeal in this matter.
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1 9. Respondent understands that, upon signature of all parties, this Consent Order will be a FINAL
2 ORDER.

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

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6 **FOR THE RESPONDENT**

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9 Thomas A. Davis

Date: 6-11-2014

10 **FOR THE ELECTRICAL AND ELEVATOR BOARD**

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13 Chair
14 Electrical and Elevator Board
15 State of Oregon

Date: 6-24-14