

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

2 **IN THE MATTER OF:**

)  
) **CONSENT ORDER**

3 **PROLINE CONSTRUCTION & REMODEL,**  
4 **LLC, A LIMITED LIABILITY COMPANY**

)  
) **CASE NO. 2013-0204**

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

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

13 **FINDINGS OF FACT**

- 14 1. At no relevant time did Respondent hold an active Oregon electrical contractor license.
- 15 2. At no relevant time did Respondent employ an individual licensed as an Oregon general  
16 supervising electrician or journeyman electrician license.
- 17 3. At no relevant time did Respondent obtain any valid electrical permits for the work indicated  
18 below.
- 19 4. Beginning approximately August 1, 2012, through September 2013, at the following  
20 locations and for the account of another, Respondent permitted or suffered an unlicensed  
21 person, Brandon Gianotti, to work as a journeyman or supervising electrician who performed  
22 electrical work.
- 23 a. Installation of two new heaters, new plugs, switches, GFCI, four 3-ways; new lighting  
24 (luminaires): four light fixtures, one Hollywood light, two wall sconces; 30-inch  
25 range and 30-inch vent hood with new rat tail and plug at 300 NW 14<sup>th</sup> Street #4,  
Corvallis, Oregon, during or about August 2012.
- b. Installation of a new heater; new plugs, switches, GFCI, four 3-ways; new lighting  
(luminaires): four light fixtures, one Hollywood light, two wall sconces; 30-inch  
range and 30-inch vent hood with new rat tail plug at 300 NW 14<sup>th</sup> Street #17,  
Corvallis, Oregon, during or about September 2012.

JUL 21 2014  
*[Signature]*

- 1 c. Installation of whisper fan and box at 300 NW 14<sup>th</sup> Street #4, Corvallis, Oregon,  
during or about January 2013.
- 2 d. Installation of new heater, new thermostat, new plugs, switches, GFCI, 3-ways; new  
3 lighting (luminaires): four light fixtures, one Hollywood light, two wall sconces; and  
4 30-inch vent hood at 300 NW 14<sup>th</sup> Street #11, Corvallis, Oregon, during or about June  
2013.
- 5 e. Installation of new heater, new plugs, switches, GFCI; new lighting (luminaires): 5  
6 light fixtures and one Hollywood light; and 24-inch range and vent hood with new rat  
tail at 300 NW 14<sup>th</sup> Street #13, Corvallis, Oregon, during or about July 2013.
- 7 f. Installation of two new heaters, switches, GFCI, new lighting (luminaires): four light  
8 fixtures, one Hollywood light, two wall sconces; 30-inch range and 30-inch vent hood  
with new rat tail plug at 300 NW 14<sup>th</sup> Street #12, during or about August 2013.
- 9 g. Installation of new lights (luminaires) and new range hood at 142 N 8<sup>th</sup> Street,  
Philomath, Oregon, during or about August 2013.
- 10 h. Installation of Panasonic whisper fan at 1582 NW Jonquil Place, Corvallis, Oregon  
11 during or about September 2013.
- 12 5. During or about August 2013, at 300 NW 14<sup>th</sup> Street #15, Corvallis, Oregon, Respondent  
permitted or suffered Brandon Gianotti to perform electrical installations that did not meet  
13 minimum safety standards. The following installations do not meet minimum safety  
standards:
- 14 a. Brandon Gianotti installed a garbage disposal lacking proper physical protection  
15 because there was a broken flex on the garbage disposal, no cover on the make-up  
16 box for garbage disposal, the flex was not secured for garbage disposal, and the flex  
was not trimmed;
- 17 b. Brandon Gianotti installed in the bathroom a luminaire lens unsuitable for damp  
18 locations;
- 19 c. Brandon Gianotti installed exposed, non-metallic sheathed cable above the kitchen  
exhaust fan; and
- 20 d. Brandon Gianotti installed exposed, non-metallic sheathed cable for the kitchen stove.
- 21 6. An electrical contractor has obtained valid electrical permits for the above-mentioned  
22 locations and the installations are now in compliance.

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## WHAT THE LAW SAYS

1. Oregon Revised Statutes (ORS) 479.530(10) defines an electrical installation as the construction or installation of electrical wiring and the permanent attachment or installation of electrical products.
2. Under ORS 479.620(1), a person must have an electrical contractor license to engage in the business of making electrical installations, including advertising or otherwise purporting to be a business that makes electrical installations.<sup>1</sup>
3. Under ORS 479.620(3), a person may not make any electrical installation without a supervising or journeyman electrician's license.
4. Under ORS 479.550(1), no person shall work on any new electrical installation for which a permit has not been issued.
5. Under Oregon Administrative Rules (OAR) 918-282-0120(1), no person or entity shall allow any individual to perform electrical work for which the individual is not properly registered or licensed.
6. ORS 479.710 states no person shall make, supervise or direct the making of an electrical installations which does not meet minimum safety standards.
7. The National Electrical Code is adopted in Oregon as part of the minimum safety standards for new installations in Oregon under Oregon Administrative Rules, chapter 918, division 305.
8. The National Electrical Code articles applicable to garbage disposal installation include:
  - a. Article 110.3(B) – Installation and Use. Listed or labeled equipment shall be installed and used in accordance with any instructions included in the listing or labeling.
  - b. Article 348.30 – Securing and Supporting. FMC [Flexible Metal Conduit] shall be securely fastened in place and supported in accordance with 348.30(A) and (B).
  - c. Article 348.28 – Trimming. All cut ends shall be trimmed or otherwise finished to remove rough edges, except where fitting that thread into the convolutions are used.
9. National Electrical Code (NEC) article 410.10(A) – Luminaires in Wet and Damp Locations, states that luminaires installed in wet or damp location shall be installed such that water cannot enter or accumulate in wiring compartments, lampholders, or other electrical parts.
10. NEC Article 334.15(A) and (B) states that in exposed work, cable shall closely follow the surface of the building finish or of running boards, and be installed to protect from physical

<sup>1</sup> Pursuant to OAR 918-030-0010(8), for purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law.

1 damage.

2 **CONCLUSIONS OF LAW**

- 3 1. The installation of wall mount range plug, new heater, new plugs, switches, GFCI, 3-ways,  
4 new lighting , Hollywood lights, wall sconces, 30-ince range and 30-inch vent hoods with  
5 new rat tail plugs, whisper fans and box, electrical outlets and switches, garbage disposals  
6 and range hoods are electrical installations as defined in ORS 479.530(10).
- 7 2. By making electrical installations without first obtaining valid electrical permits, Respondent  
8 violated ORS 479.550(1).
- 9 3. By making electrical installations for the account of another without an Oregon electrical  
10 contractor's license, Respondent violated ORS 479.620(1).
- 11 4. By allowing Brandon Gianotti to perform electrical installations for which Mr. Gianotti was  
12 not properly licensed to perform, Respondent violated OAR 918-282-0120(1).
- 13 5. The manner in which the garbage disposal was installed in the kitchen as identified in  
14 Findings of Fact (5) violated NEC Articles 110.3(b), 348.30, and 348.28.
- 15 6. The manner in which the luminaires were installed in the bathroom as identified in Findings  
16 of Fact (5) violated NEC article 410.10(A).
- 17 7. The manner in which the electrical cable above the exhaust fan was installed as identified in  
18 Findings of Fact (5) violated NEC Article 334.15(A) and (B).
- 19 8. The method of installing the electrical cable for the stove identified in Findings of Fact (5)  
20 violated NEC Article 334.15(B)
- 21 9. By not meeting the minimum safety standards of the National Electrical Code with the  
22 electrical installations identified in Findings of Fact (5), Respondent violated ORS  
23 479.710(1).

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## STIPULATED AGREEMENT

Respondent and the Elevator and Electrical Board agree to resolve this matter without a hearing with the entry of this consent order subject to the following terms and conditions:

1. The Board hereby assesses a civil penalty of \$42,000 for violating ORS 479.550(1), ORS 479.620(1), ORS 479.710(1), and OAR 918-282-0120(1), of which \$29,250 will be suspended for a period of five years under the following terms:
  - 1.1 Respondent agrees to pay the remaining \$12,750 of the civil penalty.  
*(The invoice will be included with your copy of the Final Order after it is signed by the Board.)*
  - 1.2 Respondent agrees to pay \$475 postmarked by the 25<sup>th</sup> day of each month once this consent order is executed, 26 months. The final, 27<sup>th</sup> payment will be \$400. As long as the payments remain timely, there shall be no interest added to Respondent's balance.
  - 1.3 If Respondent fails to make a payment or otherwise defaults on any term of this Settlement Agreement, including failure to make a timely monthly payment, the case will be turned over to the Department of Consumer and Business Services collections department for collection of the remaining civil penalty, along with interest and applicable fees.
2. Respondent agrees if a final order is issued by a board or the Director finding it violated any of Building Codes Division's statutes or rules, within five years from the date this order was signed by the Board, Respondent will pay any subsequent penalty and the suspended penalty from this order.
3. Respondent agrees to cooperate with the division's investigation and prosecution of any related cases that arise out of the facts of this case.
4. Respondent agrees not to commit further violations of Building Codes Division's statutes or rules.
5. Respondent understands that if it fails to comply with any of the terms of this stipulated agreement, then the entire civil penalty, including the amount suspended, will be immediately due and payable. Failure to comply includes failure to pay the civil penalty amount on the Final Demand Notice by the due date, or failure to make payments according to the terms of any payment arrangement or Final Demand Notice.
6. Respondent understands and agrees any violation of the terms of this consent order will result in further enforcement action.
7. Respondent understands and agrees that any violations of Building Code Division's statutes or rules not alleged in this order, whether committed before or after the execution of this consent order, may be the basis for further enforcement action.
8. Respondent understands the suspended civil penalty will be waived five years after the execution of this consent order, provided Respondent complies with its terms and has not

committed any further violations of Building Codes Division's statutes or rules.

9. Respondent has read and fully understand 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 a hearing or appeal in this matter.

10. Respondent understands that, upon signature of all parties, this consent order will be a FINAL ORDER.

11. Respondent further agrees by signing this consent order that it is the Respondent or authorized representative for the Respondent in this matter.

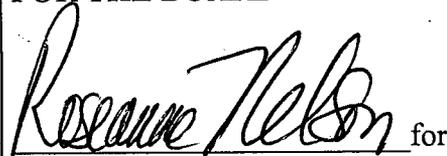
**FOR THE RESPONDENT**



Brandon Scott Gianotti, Owner  
Proline Construction & Remodel, LLC

Date: 7/21, 2014

**FOR THE BOARD**



Chair  
Electrical and Elevator Board  
State of Oregon

Date: 7-22-, 2014