

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

2 **IN THE MATTER OF:**

)
) **CONSENT ORDER**

3 **TERRY AUNE, AN INDIVIDUAL,**

4)
5 **RESPONDENT.**

)
) **CASE NO. C2014-0235**
6)

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

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

17 **FINDINGS OF FACT**

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- 19 1. At no relevant time did Respondent hold an Oregon general supervising electrician or
20 journeyman electrician license.
 - 21 2. At all relevant times, Respondent was an employee of Pacific Hot Tub Solutions, LLC.
 - 22 3. On or about December 5, 2013, at 2170 Long Street, West Linn, Oregon, while working for
23 Pacific Hot Tub Solutions, Respondent replaced a spa's defective heater/pump control and re-
24 connected the electrical wiring to the control, for the account of another.
 - 25 4. Respondent did not use weatherproof conduit on the electrical wiring to the spa's
control/heater unit and Respondent tucked exposed wiring not in conduit behind the spa's
water return.

21 **APPLICABLE LAW**

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- 23 1. ORS 479.530(10) defines an electrical installation as the construction or installation of
24 electrical wiring and the permanent attachment or installation of electrical products.
 - 25 2. Under ORS 479.620(3), a person may not make any electrical installation without a
supervising or journeyman electrician's license.
 3. ORS 479.710(1) states no person shall make, supervise or direct the making of an electrical
installation which does not meet minimum safety standards.

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4. The National Electrical Code (NEC) is adopted in Oregon as part of the minimum safety standards for new installations in Oregon under Oregon Administrative Rules, chapter 918, division 305.
 5. The following National Electrical Code (NEC) articles are applicable to wiring methods and materials, and installation of conductors for general wiring:
 - a. Article 300.11(A) – Secured in Place. Raceways, cable assemblies, boxes, cabinets, and fittings shall be securely fastened in place.
 - b. Article 300.12 – Mechanical Continuity – Raceways and Cables. Metal or nonmetallic raceways, cable armors, and cable sheaths shall be continuous between cabinets, boxes, fittings, or other enclosures or outlets.
 - c. Article 300.15 – Boxes, Conduit Bodies, or Fittings – Where Required. A box shall be installed at each outlet and switch point for concealed knob-and-tube wiring. Fittings and connectors shall be used only with the specific wiring methods for which they are designed and listed.
 - d. Article 300.15(C) – Protection. A box or conduit body shall not be required where cables enter or exit from conduit or tubing that is used to provide cable support or protection against physical damage. A fitting shall be provided on the end(s) of the conduit or tubing to protect the cable from abrasion.
 - e. Article 300.18(A) – Raceway Installations, Complete Runs. Raceways, other than busways or exposed raceways having hinged or removable covers, shall be installed complete between outlet, junction, or splicing points prior to the installation of conductors. Where required to facilitate the installation of utilization equipment, the raceway shall be permitted to be initially installed without a terminating connection at the equipment.
 - f. Article 310.10(G) – Uses Permitted – Corrosive Conditions. Conductors exposed to oils, greases, vapors, gases, fumes, liquids, or other substances having a deleterious effect on the conductor or insulation shall be of a type suitable for the application.

CONCLUSIONS OF LAW

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1. Replacing a heater/pump control and re-connecting the electrical wiring to the control is an electrical installation as defined in ORS 479.530(10).
 2. By replacing a heater/pump control and re-connecting the electrical wiring to the control without an Oregon supervising or journeyman electrician's license, Respondent violated ORS 479.620(3).
 3. The method of installing the electrical wiring for the spa's heater/pump control identified in Findings of Fact (4) did not conform to NEC Articles 300.11(A), 300.12, 300.15, 300.15(C), 300.18(A), and 310.10(G).

- 1 4. By not meeting the minimum safety standards of the NEC with the electrical installation
2 identified in Findings of Fact (4), Respondent violated ORS 479.710(1).

3 SETTLEMENT AGREEMENT

4 Respondent and the Electrical and Elevator Board agree to resolve this matter, without a
5 hearing, with the entry of this Consent Order according to the following terms and conditions:

- 6 1. The Board assesses a civil penalty of \$5,000 for violating ORS 479.620.(3), of which \$3,750
7 will be suspended for a period of five years under the following terms:

8 1.1 Respondent agrees to pay the remaining \$1,250 of the civil penalty. *(The invoice will*
9 *be included with Respondent's copy of the Final Order after it is signed by the*
10 *Board.)*

11 1.2 Respondent agrees to pay \$100 a month for 12 months, beginning once the Consent
12 Order becomes final. The final, thirteenth payment will be \$50. The monthly payments
13 must be postmarked by the 25th day of each month.

14 1.3 If Respondent fails to make a payment or otherwise defaults on any terms of this
15 settlement agreement, then the case may be turned over to the Department of Consumer
16 and Business Services collections unit for collection of the entire \$5,000 civil penalty,
17 along with interest and applicable fees.

- 18 2. Respondent agrees if a final order is issued by a board or the Director of the Department of
19 Consumer and Business Services finding Respondent violated any of Building Codes
20 Division's statutes or rules within five (5) years from the date this order was signed by the
21 Board, then Respondent will be responsible for any subsequent penalties in addition to the
22 \$3,750 of suspended penalty from this order that will become due and payable.

- 23 3. Respondent understands that if he fails to comply with any of the terms of this settlement
24 agreement, then the entire civil penalty, including the amount suspended, will be immediately
25 due and payable.

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

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

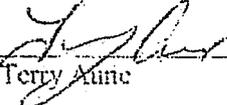
6. Respondent understands that failure to comply with this settlement agreement may result in
denial of future licensing applications and/or suspension of licensing or certification issued by
the Building Codes Division and other state agencies.

7. Respondent understands the suspended civil penalty will be waived five (5) years after the
execution of this Consent Order, provided there is compliance with the order's terms and has
not committed any further violations of the Building Codes Division's statutes or rules.

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- 8. Respondent agrees to cooperate with the Building Codes Division in any other cases related to the Respondent's case.
- 9. 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.
- 10. Respondent understands that, upon signature of all parties, this Consent Order will be a FINAL ORDER.

FOR THE RESPONDENT



Terry Aune

Date: 1-23-15, 2015

APPROVED AS TO FORM



Tyler Smith, Attorney for Respondent

Date: 2/5/15 2015

FOR THE BOARD

 for

Chair
Electrical and Elevator Board
State of Oregon 

Date: 2/9/15, 2015