

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

2 **IN THE MATTER OF:**

3  
4 **BENJAMIN ESTRELLA,**  
5 **AN INDIVIDUAL,**

6  
7 **RESPONDENT.**

**NOTICE OF PROPOSED ASSESSMENT  
OF CIVIL PENALTIES**

**NOTICE OF FINAL ORDER ON DEFAULT**

**FINAL ORDER**

**As of: May 4, 2016**

**BCD CASE C2015-0214**

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9 **IF YOU DO NOT REQUEST A HEARING IN WRITING WITHIN 20 DAYS**  
10 **OF THE POSTMARK DATE OF THIS NOTICE,**  
11 **THIS NOTICE WILL BECOME A FINAL ORDER.**

12 **More information about this Notice and how to request a hearing is included below.**

13 Pursuant to Oregon Revised Statute (ORS) 455.895(1)(b) and Oregon Administrative Rule  
14 (OAR) 918-001-0036, the Electrical and Elevator Board of the State of Oregon (Board) proposes to  
15 assess civil penalties totaling \$2,000.00 against Benjamin Estrella (Respondent) because  
16 Respondent violated Building Codes Division (Division) statutes and rules as identified below.

17 **FINDINGS OF FACT**

- 18 1. In October 2015, Respondent was employed by Panchos Heating & Cooling LLC (Panchos).  
19 2. On or around October 2, 2015, Respondent, acting at the behest of Panchos, installed new  
20 electrical wiring to a heating, ventilation, and air conditioning (HVAC) unit, thereby  
21 connecting the unit to an existing electrical subpanel and extending electrical service, at a  
22 commercial property located at 2398 N. 1<sup>st</sup> Street, Hermiston, Oregon (1<sup>st</sup> Street property).<sup>1</sup>  
23 3. At no relevant time did Respondent hold an Oregon supervising or journeyman electrician's  
24 license.

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<sup>1</sup> See related Division case number C2015-0213.

1 **APPLICABLE LAW**

- 2 1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 455.010(1)-  
3 (10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-  
4 0010(1)-(11), and OAR 918-251-0090(1)-(43).
- 5 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of  
6 electrical wiring and the permanent attachment or installation of electrical products in or on  
7 any structure that is not itself an electrical product.
- 8 3. Under ORS 479.620(3), a person may not make any electrical installation without a  
9 supervising or journeyman electrician's license.

10 **CONCLUSIONS OF LAW**

- 11 1. Installing new electrical wiring, including connecting wiring to an electrical subpanel and  
12 thereby extending electrical service to an HVAC unit, constitutes an electrical installation  
13 under ORS 479.530(10).
- 14 2. By making the foregoing electrical installation at the 1<sup>st</sup> Street property without an Oregon  
15 supervising or journeyman electrician's license, Respondent violated ORS 479.620(3).

16 **ORDER**

17 Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, the Board assesses a total of  
18 \$2,000.00 in civil penalties for violating ORS 479.620(3).

19 **NOTICE OF RIGHT TO HEARING**

20 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, ORS  
21 chapter 183. If Respondent requests a hearing, the request must be in writing and postmarked no  
22 later than 20 days from the date of service of this Notice. If the Notice was served on Respondent in  
23 person, the date of service is the date Respondent received the Notice. If the Notice was served  
24 through the mail, the date of service is the day the Notice was mailed, not the day it was received by  
25 the Respondent. If a request for hearing is not received within the 20-day period, Respondent's right

1 to a hearing shall be considered waived. Mail hearing requests to Building Codes Division,  
2 Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

3 Respondent may be represented by legal counsel. Pursuant to ORS 183.457 and OAR 918-  
4 001-0030, a corporate Respondent may be represented by an authorized representative at the  
5 hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the  
6 hearing. The Division will give Respondent information on the procedures, right of representation,  
7 and other rights of parties relating to the conduct of the hearing before the commencement of the  
8 hearing.

### 9 **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

10 Active duty servicemembers have a right to stay proceedings under the Federal  
11 Servicemembers Civil Relief Act. Contact the Oregon State Bar at 800-452-8260 or the Oregon  
12 Military Department at 800-452-7500 for more information. If Respondent needs help finding legal  
13 assistance, visit the United States Armed Forces Legal Assistance Legal Services Locator website at  
14 <http://legalassistance.law.af.mil/content/locator.php>.

### 15 **NOTICE OF FINAL ORDER**

16 This Notice will become a final order by default if Respondent does any of the following:  
17 fails to request a hearing in writing within 20 days from the date of service of this Notice;  
18 withdraws a hearing request; notifies the Building Codes Division or the administrative law judge  
19 that Respondent will not appear at a scheduled hearing; or fails to appear at a scheduled hearing. If  
20 this Notice becomes a final order by default, the Division's file on the matter, including all  
21 materials submitted by Respondent, becomes the record for the purpose of establishing a prima  
22 facie case.

### 23 **RIGHT TO JUDICIAL REVIEW**

24 Respondent is entitled to judicial review of a final order in this matter. Judicial review may  
25 be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after a

1 final order is served upon Respondent. See ORS 183.482. If a final order is served on Respondent in  
2 person, the date of service is the date Respondent receives the order. If a final order is served  
3 through the mail, the date of service is the day the order is mailed, not the day it is received by the  
4 Respondent. If Respondent does not file a petition for judicial review within the 60-day time  
5 period, Respondent will lose the right to appeal. The phone number for the Oregon Court of  
6 Appeals is 503-986-5555.

7 **FOR THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON**

8  
9 Andrea Simmons for  
10 Chair  
11 Electrical and Elevator Board  
12 State of Oregon

Date: April 12, 2016