

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

2 **IN THE MATTER OF:**

CONSENT ORDER

3
4 **ERASMO GONZALES,**
5 **AN INDIVIDUAL,**

6 **RESPONDENT.**

BCD CASE C2015-0241

7
8 **INTRODUCTION**

9 The Building Codes Division (Division) conducted an investigation on behalf of the
10 Electrical and Elevator Board of the State of Oregon (Board) and determined that Erasmo Gonzales,
11 AKA Ed Gonzales (Respondent), violated certain provisions of the Division's statutes and
12 administrative rules as identified below.

13 The parties agree to resolve this matter without a hearing. Respondent understands that
14 Respondent has the right to a contested case hearing under the Administrative Procedures Act,
15 Oregon Revised Statutes (ORS) chapter 183, and Respondent fully and finally waives the right to a
16 hearing and any judicial review therefrom by the signing of this Consent Order.

17 **FINDINGS OF FACT**

- 18 1. Respondent has held Oregon supervising electrician license number 4097S since May 24,
19 1994.
- 20 2. Respondent has held Oregon journeyman electrician license number 10960J since July 12,
21 1990.
- 22 3. From November 28, 2005 through February 8, 2016, Respondent was the registered signing
23 supervisor for Ross Electric Company, a Corporation of Washington (Ross Electric),
24 electrical contractor license number 37-779C.¹

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¹ See related Division case C2015-0240. Since March 28, 2016, Ross Electric's registered signing supervisor has been Herbert Dahlen, license number 5522S.

- 1 4. At all relevant times, Respondent was paid a monthly stipend or fee to remain as Ross
2 Electric's registered supervising electrician. Respondent performed minimal, if any, work
3 for Ross Electric as the signing supervisor.
- 4 5. While registered as Ross Electric's signing supervisor, Respondent owned and operated his
5 own business, Eds Electric LLC, in the State of Washington for the past few years.
- 6 6. While registered as Ross Electric's signing supervisor, Respondent never visited any of Ross
7 Electric's job sites and could not identify most of Ross Electric's staff, including Ross
8 Electric's journeyman electricians.
- 9 7. While registered as Ross Electric's signing supervisor, Respondent did not sign a permit for
10 a period of at least three years, although he did give Dale Ross, the company's owner,
11 permission to sign permits on his behalf.
- 12 8. While registered as Ross Electric's signing supervisor, Respondent's job duties for Ross
13 Electric never included the supervision of the company's employees.
- 14 9. While registered as Ross Electric's signing supervisor, Respondent did not assist the
15 company or its employees in the design, planning, or layout of electrical installations.
- 16 10. While registered as Ross Electric's signing supervisor, Respondent did not verify the
17 company's employees' license credentials.
- 18 11. At all relevant times, Max Riggs (Riggs) was an employee of Ross Electric.²
- 19 12. During or about June and July 2015, Riggs performed the following work at a commercial
20 structure at 207 7th Street in Oregon City, Oregon (7th Street project):
 - 21 a. The installation of approximately 700 feet of electrical wiring. This included
22 installing conduit between the rooftop and the basement of the building, installing
23 wiring within that conduit, connecting wiring to combiner boxes on the roof, and
24 terminating the wiring in the main electrical panel in the basement; and
 - 25 b. The installation of conduit between the main electrical panel in the basement and two

² See related Division case C2015-0232.

1 subpanels located on the first floor.

2 13. Riggs completed the foregoing electrical installations with Nicholas Sundby (Sundby), who
3 held an Oregon apprentice license.

4 14. Riggs directed, supervised, and controlled the making of the foregoing electrical
5 installations for the 7th Street project.

6 15. At no time did Riggs perform any of the foregoing electrical work at the 7th Street project
7 under the supervision or direction of Respondent.

8 16. At no relevant time did Riggs hold an Oregon supervising or journeyman electrician
9 license.³

10 APPLICABLE LAW

11 1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 455.010(1)-
12 (10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-
13 0010(1)-(11), and OAR 918-251-0090(1)-(43).

14 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
15 electrical wiring and the permanent attachment or installation of electrical products in or on
16 any structure that is not itself an electrical product.

17 3. Under ORS 479.550(1), no person shall work on any new electrical installation for which a
18 permit has not been issued.

19 4. Under ORS 479.620(2), a person may not direct, supervise, or control the making of an
20 electrical installation without a supervising electrician's license.

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

23 6. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform
24 electrical work for which the individual is not properly registered or licensed.

25 7. Under OAR 918-282-0140(2), a general signing supervising electrician must:

³ On or about November 7, 2015, Riggs applied for an Oregon journeyman electrician license.

1 (a) sign all permits;

2 ***

3 (c) be continuously employed as a general supervising electrician on the electrical
4 contractor's regular payroll and be available during working hours to carry out the duties
5 of a supervising electrician under this section; [and]

6 ***

7 (f) ensure all electricians have proper licenses for the work performed, and may not
8 permit, either by assent or by failure to prevent, an individual to perform work for which
9 they are not properly licensed.

10 8. Under OAR 918-251-0090(8), "Continuously Employ" means a person, including a person
11 leased from a worker leasing company licensed under ORS 656.850, during time periods
12 when electrical work for which they are responsible is performed, devotes their entire time
13 of employment to tasks of supervising, designing, laying out, planning, controlling, and
14 making electrical installations for the electrical contractor for which the supervisor is
15 registered as signing supervisor.

16 9. Under ORS 455.129(2), a regulatory body may deny a license, certificate, registration, or
17 application or may suspend, revoke, condition, or refuse to renew a license, certificate, or
18 registration if the regulatory body finds that the licensee, certificate holder, registrant, or
19 applicant:

20 (a) Has failed to comply with the laws administered by the regulatory body or with the
21 rules adopted by the regulatory body.

22 ***

23 (m) Has, while performing work that requires or that is related to work that requires a
24 valid license or certificate under ORS 479.510 to 479.945 or this chapter, violated any
25 statute or rule related to the state building code.

1 10. Under ORS 455.129(3)(b), the Board may deny a license, certificate, registration, or
2 application or may suspend, revoke, condition, or refuse to renew a license, certificate, or
3 registration for those reasons enumerated in ORS 455.129(2).

4 CONCLUSIONS OF LAW

- 5 1. The following constitute electrical installations under ORS 479.530(10):
- 6 a. The installation of approximately 700 feet of electrical wiring;
 - 7 b. The installation of conduit between a rooftop and a basement of a building, the
8 installation of wiring within that conduit, the connection of wiring to combiner boxes
9 on a roof, and the termination of the wiring in a main electrical panel in a basement;
10 and
 - 11 c. The installation of conduit between the main electrical panel in a basement and two
12 subpanels.
- 13 2. By directing, supervising, or controlling the making of the foregoing electrical installations
14 without holding an Oregon supervising electrician license, Riggs violated ORS 479.620(2).
- 15 3. By making the foregoing electrical installation without a supervising or journeyman
16 electrician's license, Riggs violated ORS 479.620(3).
- 17 4. By failing to ensure that Ross Electric's electricians have proper licenses for the work
18 performed and by permitting, either by assent or by failure to prevent, Riggs and Sundby to
19 perform work for which they were not properly licensed, Respondent violated OAR 918-
20 202-0140(2)(f).
- 21 5. By failing to sign all permits for Ross Electric, the electrical contractor to whom Respondent
22 was registered, Respondent violated OAR 918-202-0140(2)(a).
- 23 6. By failing to devote his entire time of employment to tasks of supervising, designing, laying
24
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1 out, planning, controlling, and making electrical installations for Ross Electric, the electrical
2 contractor for which Respondent was registered as signing supervisor, Respondent was not
3 continuously employed by Ross Electric under OAR 918-251-0090(8).

- 4 7. By failing to be continuously employed as a general supervising electrician on the regular
5 payroll of Ross Electric, the electrical contractor to whom Respondent was registered, and
6 by failing to be available during working hours to carry out the duties of a supervising
7 electrician, Respondent violated OAR 918-202-0140(2)(c).
- 8 8. Because Respondent has failed to comply with the foregoing laws administered by the
9 Board and the rules adopted by the Board and because Respondent has, while performing
10 work that requires or that is related to work that requires a valid license or certificate under
11 ORS 479.510 to 479.945 or this chapter, violated the foregoing statutes or rules related to
12 the state building code, the Board may revoke Respondent's supervising electrician license
13 number 4097S and may suspend Respondent's journeyman electrician license number
14 10960J under ORS 455.129(2)(a), (2)(m), and (3)(b).

15 **ORDER**

- 16 1. The Board hereby assesses a total civil penalty of \$9,000.00 against Respondent for
17 violating OAR 918-202-0140(2)(a) (\$3,000.00), OAR 918-202-0140(2)(c) (\$3,000.00), and
18 OAR 918-202-0140(2)(f) (\$3,000.00) as follows:
- 19 a. \$4,500.00 of the total civil penalty will be suspended for a period of five years if
20 there is compliance with all other terms of this Consent Order.
- 21 b. Respondent agrees to pay the remaining \$4,500.00 of the civil penalty. Respondent's
22 payment shall be postmarked no later than the 25th day of the month following the
23 month in which this Consent Order becomes a final order. *(An invoice will be*
24 *included with Respondent's copy of the final order after the Director signs it.*
25 *Respondent understands timely payment must be made even if no invoice is ever*

1 *received.*) Payment shall be mailed to Department of Consumer and Business
2 Services, Fiscal Services Section, P.O. Box 14610, Salem, OR 97309-0445.

- 3 c. Respondent understands the suspended civil penalty (\$4,500.00) will be considered
4 satisfied five years after this Consent Order becomes a final order, provided
5 Respondent complies with its terms and has not committed any further violations of
6 the Division's statutes and rules within that five-year period. Respondent
7 understands and agrees that if Respondent does not comply with the terms of this
8 Consent Order or if Respondent commits any further violations of the Division's
9 statutes or rules within the five-year period, then the entire civil penalty, including
10 any suspended amount, will become immediately due and payable. Failure to comply
11 with this Consent Order includes, but is not limited to, failure to pay the civil penalty
12 amount due by the due date.

13 2. Respondent's supervising electrician license number 4097S and journeyman electrician
14 license number 10960J shall be suspended as follows:

- 15 a. Respondent's supervising electrician license shall be suspended for a period of one
16 year, commencing on the date that this Consent Order is executed by all parties.
17 b. Respondent's journeyman electrician license shall be suspended for a period of three
18 months, commencing on the date that this Consent Order is executed by all parties.
19 c. Respondent shall submit both his supervising electrician license and his journeyman
20 electrician license to the Division along with Respondent's signed Consent Order.
21 d. Following the three-month suspension of Respondent's journeyman electrician
22 license, Respondent shall be issued a conditional journeyman electrician license.
23 e. Nine months from the issuance of his conditional journeyman electrician license,
24 Respondent may return that conditional license to the Division in exchange for
25 Respondent's original journeyman electrician license and Respondent's supervising

1 electrician license, provided that Respondent has complied with all terms of this
2 Consent Order. If Respondent has failed to comply with the terms of this Consent
3 Order, or has violated any other provision of the state building code or related
4 statutes and rules, Respondent's original journeyman electrician license and
5 supervising electrician license will not be returned at the end of the nine-month
6 period. Instead, Respondent may retain the conditional journeyman electrician
7 license until: the license expires; the license is suspended or revoked; or Respondent
8 and either the Division or the Board execute a written agreement for the return of
9 Respondent's original license.

10 f. Respondent understands that Respondent is responsible for complying with all
11 licensing requirements for his supervising electrician license and his journeyman
12 electrician license, including but not limited to completing all required continuing
13 education courses, paying all applicable renewal or other fees, and completing all
14 required renewal applications and related paperwork.

15 g. **Respondent understands that Respondent's supervising electrician license**
16 **number 4097S and journeyman electrician license number 10960J must be**
17 **submitted along with Respondent's signed Consent Order. This Consent Order**
18 **will not be accepted, and will not become a final order, if Respondent does not**
19 **submit these licenses.**

20 3. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases
21 that rely on the facts underlying this case. Cooperation may include, but may not be limited
22 to, making sworn statements or testifying in administrative hearings.

23 4. Respondent understands that further enforcement action may be taken for any violation of
24 the Division's statutes or rules not alleged in this Consent Order, whether committed before
25 or after the execution of this Consent Order, and/or for any violation of the terms of this

1 Consent Order.

2 5. Respondent understands that failure to comply with this Consent Order may be used as a
3 basis for the denial of future license, certificate, registration, or other applications, or for the
4 refusal to renew the same; for the suspension, revocation, or conditioning of a license,
5 certificate, or registration issued by the Division or other state agencies; and/or for any other
6 reason provided for in law.

7 6. Respondent understands that this Consent Order is a public record.

8 7. Respondent has read and fully understands the terms of this Consent Order, freely and
9 voluntarily consents to the entry of this Consent Order without any force or duress, and
10 expressly waives all rights to hearing or judicial review in this matter.

11 8. Respondent understands that, upon signature of all parties, this Consent Order will be a
12 Final Order.

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14 Erasmio Gonzales It is so agreed this 6 day of May, 2016.
15 Erasmio Gonzales

16 Andrea Simmons for It is so agreed this 10 day of May, 2016.
17 Chair
18 Electrical and Elevator Board
19 State of Oregon
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