

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

2 **IN THE MATTER OF:**

**CONSENT ORDER**

3  
4 **DYLAN T. WENTWORTH,**  
5 **AN INDIVIDUAL,**

6 **RESPONDENT.**

**BCD CASE C2015-0136**

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 Dylan T.  
11 Wentworth (Respondent) violated certain provisions of the Division's statutes and administrative  
12 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. At all relevant times, Respondent has held supervising electrician license number 5420S.  
19 2. At all relevant times, Respondent was the registered signing supervising electrician for Ertell  
20 Electric, LLC (Ertell Electric).<sup>1</sup>  
21 3. Ertell Electric employed Mikol Porterfield as a laborer starting in or about January 2015.<sup>2</sup>  
22 4. On or about May 4, 2015, Mr. Porterfield installed medical grade 12-gauge metal clad  
23 wiring in the wall of the Marjorie House, a live-in facility for individuals with dementia  
24 located at 2855 Cumulus NE Drive, McMinnville, Oregon.

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<sup>1</sup> See related Division case C2015-0098.

<sup>2</sup> See related Division case C2015-0099.

- 1 5. At no relevant time did Porterfield hold a supervising or journeyman electrician license.
- 2 6. Ertell Electric has employed Alan R. Steele starting in or about October 20, 2014.<sup>3</sup>
- 3 7. Steele held an Oregon apprentice electrician license at all relevant times until he completed
- 4 the Joint Apprenticeship Training Committee (JATC) program on of April 1, 2015.
- 5 8. Steele performed electrical installations work at the following job sites<sup>4</sup> between October
- 6 and December 2015:

- 7 a. Market Contractors Ltd.
- 8 b. Stout Construction
- 9 c. David A. Nice Builders
- 10 d. Deacon Corp.
- 11 e. Van Osdel Construction
- 12 f. Retail Construction Services, Inc.
- 13 g. Parkway Construction
- 14 h. Apple Aviation
- 15 i. First Class Property
- 16 j. Jerry Yeager
- 17 k. Infinity Property Management
- 18 l. Myrna Hein
- 19 m. Larry Jacobs Construction

- 20 9. Steele performed electrical installations work at the following job sites in January 2016:
- 21 a. Renaissance Homes
- 22 b. Larry Jacobs Construction
- 23 c. Infinity Property Management
- 24 d. Rose Grove Mobile Home
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<sup>3</sup> See related Division case C2016-0015.

<sup>4</sup> The names of the job sites listed are the names indicated on Ertell Electric's time sheets and payroll records.

- e. Retail Construction Services, Inc.
- f. Bank of Commerce Business Center
- g. Abraham Furman

10. At no relevant time has Steele held a supervising or journeyman electrician license.

#### APPLICABLE LAW

1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 455.010(1)-(10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-0010(1)-(11), and OAR 918-251-0090(1)-(43).
2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product.
3. Under ORS 479.620(3), a person may not make any electrical installation without a supervising or journeyman electrician's license.
4. Under OAR 918-282-0140(2)(f), a general signing supervising electrician when working for or as an electrical contractor must ensure electricians have proper licenses for the work performed, and may not permit either by assent or failure to prevent, an individual to perform work for which they are not properly licensed.

#### CONCLUSIONS OF LAW

1. Installing medical grade 12-gauge metal clad wiring in the wall is an electrical installation under ORS 479.530(10).
2. Making the foregoing electrical installation requires a supervising or journeyman electrician license under ORS 479.620(3).
3. By making the foregoing electrical installation without a supervising or journeyman electrician license, Porterfield violated ORS 479.620(3).

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- 1 4. By failing to ensure that Porterfield had the proper license for the foregoing work  
2 performed, and by permitting, either by assent or failure to prevent, Porterfield to perform  
3 work for which he was not properly licensed, Respondent violated OAR 918-282-  
4 0140(2)(f).
- 5 5. The foregoing electrical installations made by Steele between October 2015 and January  
6 2015 require a supervising or journeyman electrician license.<sup>5</sup>
- 7 6. By making the foregoing electrical installations without holding a supervising or  
8 ~~journeyman electrician license, Steele violated ORS 479.620(3).~~
- 9 7. By failing to ensure that Steele had the proper license for the foregoing work performed, and  
10 by permitting, either by assent or failure to prevent, Steele to perform work for which he  
11 was not properly licensed, Respondent violated OAR 918-282-0140(2)(f) in two (2)  
12 different years.

### 13 ORDER

- 14 1. Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, the Board assesses a total of  
15 \$6,000.00 in civil penalties as follows:
- 16 a. \$2,000.00 for violating OAR 918-282-0140(2)(f) with respect to Porterfield; and  
17 b. \$4,000.00 for violating OAR 918-282-0140(2)(f) with respect to Steele (\$2,000 for  
18 violating this rule in 2015 and \$2,000 for violating this rule in 2016).
- 19 2. The \$6,000 civil penalty is assessed as follows:
- 20 a. \$3,750.00 of the total civil penalty will be suspended for a period of five years if  
21 there is compliance with all other terms of this Consent Order.
- 22 b. Respondent agrees to pay the remaining \$2,250.00 of the civil penalty. Respondent's  
23 payment shall be postmarked no later than the 25<sup>th</sup> day of the month following the  
24 month in which this Consent Order becomes a final order. *(An invoice will be*
- 25

<sup>5</sup> Under ORS 479.620(4), a person may perform work as an electrical apprentice if that person holds a valid electrical apprentice license.

1 *included with Respondent's copy of the final order after the Director signs it.*  
2 *Respondent understands timely payment must be made even if no invoice is ever*  
3 *received.)* Payment shall be mailed to Department of Consumer and Business  
4 Services, Fiscal Services Section, P.O. Box 14610, Salem, OR 97309-0445.

5 c. Respondent understands the suspended civil penalty (\$3,750.00) will be considered  
6 satisfied five years after this Consent Order becomes a final order, provided  
7 Respondent complies with its terms and has not committed any further violations of  
8 the Division's statutes and rules within that five-year period. Respondent  
9 understands and agrees that if Respondent does not comply with the terms of this  
10 Consent Order or if Respondent commits any further violations of the Division's  
11 statutes or rules within the five-year period, then the entire civil penalty, including  
12 any suspended amount, will become immediately due and payable. Failure to comply  
13 with this Consent Order includes, but is not limited to, failure to pay the civil penalty  
14 amount due by the due date.

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

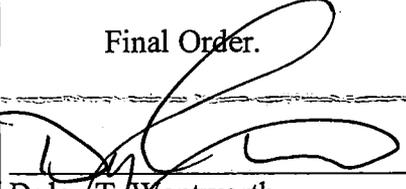
18 4. Respondent understands that further enforcement action may be taken for any violation of  
19 the Division's statutes or rules not alleged in this Consent Order, whether committed before  
20 or after the execution of this Consent Order, and/or for any violation of the terms of this  
21 Consent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

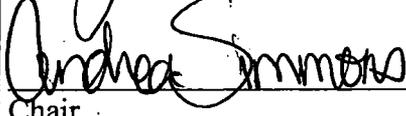
22 5. Respondent understands that failure to comply with this Consent Order may be used as a  
23 basis for the denial of future license, certificate, registration, or other applications, or for the  
24 refusal to renew the same; for the suspension, revocation, or conditioning of a license,  
25 certificate, or registration issued by the Division or other state agencies; and/or for any other

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reason provided for in law.

- 6. Respondent understands that this Consent Order is a public record.
- 7. Respondent has read and fully understands the terms of this Consent Order, freely and voluntarily consents to the entry of this Consent Order without any force or duress, and expressly waives all rights to hearing or judicial review in this matter.
- 8. Respondent understands that, upon signature of all parties, this Consent Order will be a Final Order.

 It is so agreed this 31 day of March, 2016.  
Dylan T. Wentworth

 for It is so agreed this 8 day of April, 2016.  
Chair  
Electrical and Elevator Board  
State of Oregon