

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

2 **IN THE MATTER OF:**

**NOTICE OF PROPOSED ASSESSMENT
OF CIVIL PENALTIES**

3
4 **JOHN HAMMOND,
AN INDIVIDUAL,**

NOTICE OF FINAL ORDER ON DEFAULT

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7 **RESPONDENT.**

BCD CASE C2015-0137

FINAL ORDER
As of: May 31, 2016

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

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

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12 Pursuant to Oregon Revised Statutes (ORS) 455.895(1)(b) and Oregon Administrative Rules
13 (OAR) 918-001-0036, the Electrical and Elevator Board of the State of Oregon (Board) proposes to
14 assess civil penalties totaling \$5,000.00 against John Hammond (Respondent) because Respondent
15 violated Building Codes Division (Division) statutes and rules as identified below.

16 **FINDINGS OF FACT**

- 17 1. In December 2014, Respondent installed a 30-amp electrical branch circuit and an electrical
18 receptacle, along with associated metal-clad conduit and electrical wiring, at a retail store
19 located at 1250 SE Booth Bend Rd., in McMinnville, Oregon (Booth Bend property).¹
- 20 2. In performing the foregoing electrical work, Respondent installed a 20-amp electrical
21 receptacle into a 30-amp circuit.
- 22 3. In performing the foregoing electrical work, Respondent failed to support and secure all of
23 the conduit and wiring.
- 24 4. In performing the foregoing electrical work, Respondent left live wiring terminals of the

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¹ Respondent was acting at the behest of West Coast Lighting & Energy, Inc. See related Division case number C2015-0068.

1 newly-installed receptacle exposed to contact.

- 2 5. At no relevant time did Respondent hold an Oregon supervising or journeyman electrician's
3 license.²

4 **APPLICABLE LAW**

- 5 1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 455.010(1)-
6 (10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-
7 0010(1)-(11), OAR 918-251-0090(1)-(43), Oregon Electrical Specialty Code (OESC)
8 Article 100 and OESC 330.2.
- 9 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
10 electrical wiring and the permanent attachment or installation of electrical products in or on
11 any structure that is not itself an electrical product.
- 12 3. Under ORS 479.620(3), a person may not make any electrical installation without a
13 supervising or journeyman electrician's license.
- 14 4. Under ORS 479.710(1), except as provided in ORS 479.540, no person shall make,
15 supervise, or direct the making of an electrical installation which does not meet minimum
16 safety standards.
- 17 5. Under OESC 210.21(B)(1), a single receptacle installed on an individual branch circuit shall
18 have an ampere rating not less than that of the branch circuit.
- 19 6. Under OESC 330.30(A), type MC (metal-clad) cable shall be supported and secured by
20 staples, cable ties, straps, hangers, or similar fittings or other approved means designed and
21 installed so as not to damage the cable.
- 22 7. Under OESC 406.5(G), receptacles shall be enclosed so that live wiring terminals are not
23 exposed to contact.

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² On September 12, 2012, Respondent was issued limited building maintenance electrician license number 155BME.

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CONCLUSIONS OF LAW

2. The following constitute electrical installations under ORS 479.530(10):
- 3 a. Installing an electrical branch circuit;
 - 4 b. Installing an electrical receptacle; and
 - 5 c. Installing electrical conduit and wiring.
- 6 2. By making the foregoing electrical installations at the Booth Bend property without a
7 supervising or journeyman electrician's license, Respondent violated ORS 479.620(3).
- 8 3. By installing a 20-amp electrical receptacle into a 30-amp circuit at the Booth Bend
9 property, Respondent failed to meet the minimum safety standards set forth in OESC
10 210.21(B)(1).
- 11 4. By failing to support and secure all of the metal-clad conduit associated with the foregoing
12 electrical installations at the Booth Bend property, Respondent failed to meet the minimum
13 safety standards set forth in OESC 330.30(A).
- 14 5. By leaving live wiring terminals of the receptacle he installed at the Booth Bend property
15 exposed to contact, Respondent failed to meet the minimum safety standards set forth in
16 OESC 406.5(G).
- 17 6. By making the foregoing electrical installations at the Booth Bend property which failed to
18 meet the minimum safety standards set forth in OESC 210.21(B)(1), OESC 330.30(A), and
19 OESC 406.5(G), Respondent made electrical installations which did not meet minimum
20 safety standards, in violation of ORS 479.710(1).

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ORDER

22 Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, the Board assesses a total of
23 \$5,000.00 in civil penalties as follows:

- 24 1. \$2,000.00 for violating ORS 479.620(3); and
25 2. \$3,000.00 for violating ORS 479.710(1).

1 **NOTICE OF RIGHT TO HEARING**

2 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, ORS
3 chapter 183. If Respondent requests a hearing, the request must be in writing and postmarked no
4 later than 20 days from the date of service of this Notice. If the Notice was served on Respondent in
5 person, the date of service is the date Respondent received the Notice. If the Notice was served
6 through the mail, the date of service is the day the Notice was mailed, not the day it was received by
7 the Respondent. If a request for hearing is not received within the 20-day period, Respondent's right
8 to a hearing shall be considered waived. Mail hearing requests to Building Codes Division,
9 Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

10 Respondent may be represented by legal counsel. Pursuant to ORS 183.457 and OAR 918-
11 001-0030, a corporate Respondent may be represented by an authorized representative at the
12 hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the
13 hearing. The Division will give Respondent information on the procedures, right of representation,
14 and other rights of parties relating to the conduct of the hearing before the commencement of the
15 hearing.

16 **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

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

22 **NOTICE OF FINAL ORDER**

23 This Notice will become a final order by default if Respondent does any of the following:
24 fails to request a hearing in writing within 20 days from the date of service of this Notice;
25 withdraws a hearing request; notifies the Building Codes Division or the administrative law judge

1 that Respondent will not appear at a scheduled hearing; or fails to appear at a scheduled hearing. If
2 this Notice becomes a final order by default, the Division's file on the matter, including all
3 materials submitted by Respondent, becomes the record for the purpose of establishing a prima
4 facie case.

5 **RIGHT TO JUDICIAL REVIEW**

6 Respondent is entitled to judicial review of a final order in this matter. Judicial review may
7 be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after a
8 final order is served upon Respondent. See ORS 183.482. If a final order is served on Respondent in
9 person, the date of service is the date Respondent receives the order. If a final order is served
10 through the mail, the date of service is the day the order is mailed, not the day it is received by the
11 Respondent. If Respondent does not file a petition for judicial review within the 60-day time
12 period, Respondent will lose the right to appeal. The phone number for the Oregon Court of
13 Appeals is 503-986-5555.

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

15 Andrea Simmons for Date: 4/27/16
16 Chair
17 Electrical and Elevator Board
18 State of Oregon