JUL 21 2014

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

IN THE MATTER OF:	)	**CONSENT ORDER**
BRANDON GIANOTTI, AN INDIVIDUAL	)	
RESPONDENT	)	**CASE NO. 2013-0205**

The Electrical and Elevator Board (Board) of the State of Oregon conducted an investigation and determined that Respondent violated certain provisions of the Oregon Building Codes statutes, administrative rules, and specialty codes.

The parties wish to settle this matter informally. Respondent understands that Respondent has the right to a hearing under the Administrative Procedures Act (chapter 183), Oregon Revised Statutes (ORS), and fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing and entry of this consent order in the Board's records. Respondent agrees to conduct all future business in compliance with the applicable statutes, Oregon Administrative Rules (OAR), and specialty codes. Respondent understands that, once final, this order is a public record.

FINDINGS OF FACT

1. At no relevant time did Respondent hold an Oregon journeyman or supervising electrician license.

2. Beginning on or about August 1, 2012, through September 2013, at the locations indicated and for the account of another, Respondent performed the following acts:

   a. Installation of two new heaters, new plugs, switches, ground-fault circuit interrupter device (GFCI), four 3-ways; new lighting (luminaires): four light fixtures, one Hollywood light, two wall sconces; 30-inch range and 30-inch vent hood with new rat tail and plug at 300 NW 14th Street #4, Corvallis, Oregon, during or about August 2012.

   b. Installation of a new heater; new plugs, switches, GFCI, four 3-ways; new lighting, four light fixtures, one Hollywood light, two wall sconces; 30-inch range and 30-inch vent hood with new rat tail plug at 300 NW 14th Street #17, Corvallis, Oregon, during or about September 2012.

   c. Installation of whisper fan and box at 1400 NW 14th Street #4, Corvallis, Oregon, during or about January 2013.

   d. Installation of new heater, new thermostat, new plugs, switches, GFCI, 3-ways; new lighting (luminaires): four light fixtures, one Hollywood light, two wall sconces; and 30-inch vent hood at 300 NW 14th Street #11, Corvallis, Oregon, during or about June 2013.

e. Installation of new heater, new plugs, switches, GFCI; new lighting (luminaires); 5 light fixtures and one Hollywood light; and 24-inch range and vent hood with new rat tail at 300 NW 14th Street #13, Corvallis, Oregon, during or about July 2013.

f. Installation of two new heaters, switches, GFCI, new lighting (luminaires): four light fixtures, one Hollywood light, two wall sconces; 30-inch range and 30-inch vent hood with new rat tail plug at 300 NW 14th Street #12, Corvallis, Oregon, during or about August 2013.

g. Installation of new lights (luminaires), and new range hood at 142 N 8th Street, Philomath, Oregon, during or about August 2013.

h. Installation of Panasonic whisper fan at 1582 NW Jonquil Place, Corvallis, Oregon during or about September 2013.

i. Installation of plugs, switches, GFCI, four 3-ways; garbage disposal; new lighting (luminaires): bathroom luminaire, four light fixtures, one Hollywood light, two wall sconces; 30-inch range and cable for kitchen stove, and 30-inch vent and cable above kitchen exhaust fan which did not meet minimum electrical safety standards at 300 NW 14th Street #15, Corvallis, Oregon during or about August 2013.

3. During or about August 2013, at 300 NW 14th Street #15, Corvallis, Oregon, Respondent performed electrical installations that did not meet minimum safety standards and caused immediate danger to the public. Specifically, Respondent installed a garbage disposal lacking proper physical protection because there was a broken flex on the garbage disposal, no cover on the make-up box for garbage disposal, the flex was not secured for garbage disposal, and the flex was not trimmed. Respondent installed in the bathroom a luminaire lens unsuitable for damp locations; Respondent installed exposed, non-metallic sheathed cable above the kitchen exhaust fan; and Respondent installed exposed, non-metallic sheathed cable for the kitchen stove.

4. On our about May 2014, Premier Electric, Inc. repaired or replaced the following electrical items at 426 NW 14th Street #4, Corvallis, Oregon:

   a. Corrected reverse polarity on GFCI and on other receptacle in living room

   b. Grounded receptacle in laundry room

   c. Corrected reverse polarity on receptacle in bedroom

5. On or about March 2014, Premier Electric, Inc. repaired or replaced the following electrical items at 300 NW 14th Street #17, Corvallis, Oregon, under permit ELP13-00145:

   a. Four-foot baseboard heater

   b. Receptacles (plugs), switches, GFCI, four 3-way switches

   c. One Hollywood fixture (5 bulb), two wall sconces, surface-mount fixtures

   d. 30-inch range and 30-inch vent hood with new rat tail plug

6. On or about March 2014, Premier Electric, Inc. repaired or replaced the following electrical items at 300 NW 14th Street #11, Corvallis, Oregon, under permit ELP13-01027:

    a. Twelve receptacles, seven switches, four 3-way switches

    b. One Hollywood light fixture, two wall sconces, three surface mount fixtures

    c. One smoke detector, one 4-inch baseboard heater, one thermostat

7. On or about March 2014, Premier Electric, Inc. repaired or replaced the following electrical items at 300 NW 14th Street #13, Corvallis, Oregon, under permit ELP13-00145:

    a. Ten SP switches, five receptacles

    b. One Hollywood fixture, five surface mount fixtures

    c. One 4-inch baseboard heater

8. On or about March 2014, Premier Electric, Inc. repaired or replaced the following electrical items at 300 NW 14th Street #12, Corvallis, Oregon, under permit ELP14-00017:

    a. Twelve outlets, seven SP switches, six 3-way switches, one stacked switch

    b. Three surface mount fixtures, one Hollywood fixture, two sconces

    c. One smoke detector

9. On our about May 2014, Premier Electric, Inc. repaired or replaced the following electrical items at 1582 NW Jonquil Place, Corvallis, Oregon:

    a. Installation of Whisper Quiet fan

    b. Repair of short romex with wires pulled out of connector, cut in junction box to extend romex to fan

    c. Repair of vent pipe that was not hooked to four-inch fan exhaust

10. On or about October 2013, Premier Electric, Inc. repaired and replaced the following electrical items at 300 NW 14th Street #15, Corvallis, Oregon, under electrical permit ELP13-00963:

    a. Provided physical protection for non-metallic sheath to vent hood

    b. Grounded light fixtures and switches as needed

    c. Provided and installed GFCI protection as required

    d. Corrected mis-wired three-way devices

    e. Removed damaged portion of neutral conductor located in dishwasher junction box

APPLICABLE LAW

1. ORS 479.530(10) defines electrical installations as the construction or installation of electrical wiring and the permanent attachment or installation of electrical products.

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

3. Under ORS 479.710(1), no person shall make, supervise or direct the making of an electrical installation which does not meet minimum safety standards.

4. The National Electrical Code 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 National Electrical Code articles applicable to garbage disposal installation include:

   a. Article 110.3(B) – Installation and Use. Listed or labeled equipment shall be installed and used in accordance with any instructions included in the listing or labeling.

   b. Article 348.30 – Securing and Supporting. FMC [Flexible Metal Conduit] shall be securely fastened in place and supported in accordance with 348.30(A) and (B).

   c. Article 348.28 – Trimming. All cut ends shall be trimmed or otherwise finished to remove rough edges, except where fitting that thread into the convolutions are used.

6. National Electrical Code (NEC) article 410.10(A) – Luminaires in Wet and Damp Locations, states that luminaires installed in wet or damp location shall be installed such that water cannot enter or accumulate in wiring compartments, lampholders, or other electrical parts.

7. NEC Article 334.15(A) and (B) states that in exposed work, cable shall closely follow the surface of the building finish or of running boards, and be installed to protect from physical damage.

CONCLUSIONS OF LAW

1. Installing electrical wiring, new lighting, electrical outlets and switches, garbage disposals, range hoods, and whisper fans is an electrical installation as defined in ORS 479.530(10).

2. By making electrical installations without an Oregon supervising or journeyman electrician license, Respondent violated ORS 479.620(3).

3. The manner in which the garbage disposal was installed as identified in Findings of Fact (3) violated NEC articles 110.3(B), 348.30, and 348.28.

4. The manner in which the luminaires were installed in the bathroom identified in Findings of Fact (3) violated NEC article 410.10(A).

5. The manner in which Respondent installed the electrical cable above the exhaust fan identified in Findings of Fact (3) violated NEC Article 334.15(A) and (B).

6. The method of installing the electrical cable for the stove identified in Findings of Fact (3) violated NEC Article 334.15(B)

7. By not meeting the minimum safety standards of the National Electrical Code with the electrical installations identified in Findings of Fact (3), Respondent violated ORS 479.710(1).

SETTLEMENT AGREEMENT

The Respondent and the Board agree to resolve this matter without a hearing according to the following terms:

1. The Board hereby assesses a $30,000 total civil penalty for violating ORS 479.620(3) and 479.710(1), of which $25,750 will be suspended for a period of five years under the following terms:

    1.1. Respondent agrees to pay the remaining $4,250 of the civil penalty. ***(An invoice will be included with Respondent's copy of the Final Order after the Boards sign it.)***

    1.2. Respondent agrees to pay $350 postmarked by the 25th day of each month once this consent order is executed, continuing for twelve (12) months. The final, thirteenth payment will be $50. All payments are due (postmarked) by the 25th day of the month. As long as the payments remain timely, there shall be no interest added to Respondent's balance.

    1.3. Respondent understands that a single failure to comply with any of the terms of this Settlement Agreement could result in the entire civil penalty, including the suspended amount, becoming immediately due and payable. Failure to comply includes failure to pay the civil penalty amount by the due date.

2. Respondent agrees to cooperate with the Building Codes Division's enforcement efforts in cases against other entities or individuals that rely on the underlying facts in this case.

3. Respondent agrees not to commit further violations of the Building Code Division's statutes and rules.

4. Respondent understands that if Respondent fails to comply with any of the terms of this consent agreement that the entire civil penalty, including the amount suspended, will be immediately due and payable. Failure to comply includes failure to pay the civil penalty amount on the Final Demand Notice by the due date, or failure to make payments according to the terms of any payment arrangement or Final Demand Notice.

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

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

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

8. Respondent understands the suspended civil penalty will be waived five years after the execution of this Consent Order, provided Respondent complies with its terms and has not committed any further violations of Building Code Division's statutes and rules.

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.

11. Respondent understands that once this Settlement Agreement and Consent Order becomes a FINAL ORDER, it becomes a public document.

FOR THE RESPONDENT

Date: 7/21, 2014

Brandon Gianotti

FOR THE ELECTRICAL AND ELEVATOR BOARD

for

Date: July 22, 2014

Chair
Electrical and Elevator Board
State of Oregon