

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

2 **IN THE MATTER OF:**

CONSENT ORDER

RECEIVED

3
4 **ROGER B. OLDEMAR,**
5 **AN INDIVIDUAL,**

FEB 15 2016

SCHWABE WILLIAMSON & WYATT

6 **RESPONDENT.**

BCD CASE C2014-0149

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 Roger B. Oldemar
11 (Respondent) violated certain provisions of the Division's statutes and administrative rules as
12 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 general journeyman electrician license 22305J since June 28, 2005.
19 2. At all relevant times Respondent was an employee and project manager for Advanced
20 Electrical Technologies, an assumed business name of Pacific Northern Environmental
21 Corp., which is a foreign business corporation that holds Oregon electrical contractor license
22 C816.¹
23 3. All work and installations described herein were performed at 30365 Redwood Highway,
24 Cave Junction, Oregon (the jobsite) under Josephine County permit numbers 06-174-14, 07-

25
¹ See related Division case C2014-0145.

1 113-14, 07-114-14, 07-115-14, and 05-151-14.

- 2 4. At all relevant times, Respondent was the project manager for the jobsite, and Joe Ken
3 Roddy (Roddy), Bart Allen Smith (Smith), Jason Clark (Clark), and Cody Grams (Grams)
4 were working under Respondent's supervision.²
- 5 5. On or about June 23, 2014, Smith and Roddy installed wire into conduit to bring electrical
6 power to solenoids on a lumber sorter.
- 7 6. On June 23, 2014, a Division representative informed Respondent that a complaint alleging
8 violations of unlicensed individuals making electrical installations was going to be reported
9 to the Division. The representative also warned Respondent not to allow further electrical
10 work to be performed by unlicensed individuals.
- 11 7. Following the Division representative's warning, on June 24 and each day thereafter through
12 June 29, 2014, Respondent allowed Smith and Roddy to install control wiring and metallic
13 conduit.³
- 14 8. On or about June 24 through 26, 2014, Respondent allowed Clark to install wires into an
15 electrical panel.
- 16 9. From on or about June 21 through June 25, 2014, Respondent allowed Grams to cut, thread,
17 bend, and install electrical conduit for wiring on a lumber sorter, and also allowed Grams to
18 fix sealtight conduit and perform the associated rewiring of the conduit.
- 19 10. At no relevant time were Grams, Clark, Smith, or Roddy licensed as Oregon supervising or
20 journeyman electricians.⁴

21 **APPLICABLE LAW**

- 22 1. Under ORS 479.530(10), electrical installations include the construction or installation of

23
24 ² See related Division cases C2014-0147, C2014-0148, C2014-0152, and C2014-0151, respectively.

25 ³ On July 16, 2014, Roddy and Smith executed consent orders with the Board in Division cases C2014-0147 and C2014-0148, respectively, to settle civil penalties assessed by the Division, on behalf of the Board, for making electrical installations without being licensed in Oregon as a supervising or journeyman electrician.

⁴ Smith became licensed in Oregon as a general supervising electrician (license number 5979S) on June 30, 2014. Roddy became licensed in Oregon as a general journeyman electrician (license number 26405J) on June 30, 2014.

1 electrical wiring and the permanent attachment or installation of electrical products in or on
2 any structure that is not itself an electrical product.

- 3 2. Under ORS 479.620(3), a person may not make any electrical installation without a
4 supervising or journeyman electrician license.
- 5 3. Under OAR 918-282-0120(1), a rule adopted under ORS chapter 479, no person or entity
6 shall allow any individual to perform electrical work for which the individual is not properly
7 registered or licensed.
- 8 4. Under OAR 918-001-0036(2)(a), a "continuing offense" or "continuing violation" means
9 violation of a code, rule or law on one or more additional days after having been notified of
10 the violation or ordered to correct the act, or the failure to act. A continuing violation is
11 subject to a civil penalty each day the violation continues after notification.
- 12 5. Under ORS 455.895(2), an appropriate advisory board may at its discretion impose a civil
13 penalty against any person who violates the state building code or ORS 479.510 to 479.945
14 or chapter 455 or any rule adopted or order issued for the administration and enforcement of
15 those statutes. A civil penalty imposed under this section must be an amount determined by
16 the appropriate advisory board or, in the case of a continuing offense, not more than \$1,000
17 for each day of the offense.

18 CONCLUSIONS OF LAW

- 19 1. The following constitute electrical installations under ORS 479.520(10):
- 20 a. Installing wire into conduit on a lumber sorter to bring electrical power to solenoids;
21 b. Installing metallic conduit and terminating or installing wires into an electrical panel;
22 c. Threading, bending, and installing electrical conduit on a lumber sorter to hold wires
23 for carrying power to solenoids; and
24 d. Installing sealtight conduit and performing the associated rewiring of the conduit
- 25 2. Under ORS 479.620(3), performing the foregoing electrical installations requires a

1 supervising or journeyman electrician license.

- 2 3. By allowing Roddy, Smith, Grams, and Clark to make the foregoing electrical installations
3 without holding Oregon supervising or journeyman electrician licenses after Respondent
4 was warned against further violations, Respondent continuously violated OAR 918-282-
5 0120(1) on at least six (6) days in June 2014.

6 **ORDER**

- 7 1. The Board hereby assesses a total civil penalty of \$6,000 against Respondent for violating
8 OAR 918-282-0120(1) on at least six (6) days (\$1,000 per day) as follows:
- 9 a. \$2,000 of the total civil penalty will be suspended for a period of five years if there is
10 compliance with all other terms of this Consent Order.
 - 11 b. Respondent agrees to pay the remaining \$4,000 of the civil penalty. Respondent's
12 payment shall be postmarked no later than the 25th day of the month following the
13 month in which this Consent Order becomes a final order. *(An invoice will be*
14 *included with Respondent's copy of the final order after the Director signs it.*
15 *Respondent understands timely payment must be made even if no invoice is ever*
16 *received.)* Payment shall be mailed to Department of Consumer and Business
17 Services, Fiscal Services Section, P.O. Box 14610, Salem, OR 97309-0445.
 - 18 c. Respondent understands the suspended civil penalty (\$2,000) will be considered
19 satisfied five years after this Consent Order becomes a final order, provided
20 Respondent complies with its terms and has not committed any further violations of
21 the Division's statutes and rules within that five-year period. Respondent
22 understands and agrees that if Respondent does not comply with the terms of this
23 Consent Order or if Respondent commits any further violations of the Division's
24 statutes or rules within the five-year period, then the entire civil penalty, including
25 any suspended amount, will become immediately due and payable. Failure to comply

1 with this Consent Order includes, but is not limited to, failure to pay the civil penalty
2 amount due by the due date.

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

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

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

15 5. Respondent understands that this Consent Order is a public record.

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

19 7. Respondent understands that, upon signature of all parties, this Consent Order will be a
20 Final Order.

21 
22 _____
23 Roger B. Oldemar

It is so agreed this 17 day of FEBRUARY, 2016.

24 Andrea Simmons for
25 Chair
Department of Consumer and Business Services
State of Oregon

It is so agreed this 29 day of February, 2016.