

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

2 **IN THE MATTER OF:**

CONSENT ORDER

3
4 **ERTELL ELECTRIC, LLC,**
5 **A DOMESTIC LIMITED LIABILITY**
6 **COMPANY,**

7 **RESPONDENT.**

BCD CASE C2015-0098

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9 **INTRODUCTION**

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

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

18 **FINDINGS OF FACT**

- 19 1. At all relevant times, Respondent has held electrical contractor license C390.¹
- 20 2. Respondent employed Mikol Porterfield as a laborer starting in or about January 2015.²
- 21 3. On or about May 4, 2015, Mr. Porterfield installed medical grade 12-gauge metal clad
22 wiring in the wall of the Marjorie House, a live-in facility for individuals with dementia
23 located at 2855 Cumulus NE Drive, McMinnville, Oregon.
- 24 4. At no relevant time did Porterfield hold a supervising or journeyman electrician license.

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¹ See related Division case C2015-0136 against Respondent's signing supervisor Dylan T. Wentworth.

² See related Division case C2015-0099.

- 1 5. Respondent has employed Alan R. Steele starting in or about October 20, 2014.³
- 2 6. Steele held an Oregon apprentice electrician license at all relevant times until he completed
- 3 the Joint Apprenticeship Training Committee (JATC) program on of April 1, 2015.
- 4 7. Steele performed electrical installations at the following job sites⁴ between October and
- 5 December 2015:
- 6 a. Market Contractors Ltd.
 - 7 b. Stout Construction
 - 8 c. David A. Nice Builders
 - 9 d. Deacon Corp.
 - 10 e. Van Osdel Construction
 - 11 f. Retail Construction Services, Inc.
 - 12 g. Parkway Construction
 - 13 h. Apple Aviation
 - 14 i. First Class Property
 - 15 j. Jerry Yeager
 - 16 k. Infinity Property Management
 - 17 l. Myrna Hein
 - 18 m. Larry Jacobs Construction
- 19 8. Steele performed electrical installations at the following job sites in January 2016:
- 20 a. Renaissance Homes
 - 21 b. Larry Jacobs Construction
 - 22 c. Infinity Property Management
 - 23 d. Rose Grove Mobile Home
 - 24 e. Retail Construction Services, Inc.
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³ See related Division case C2016-0015.

⁴ The names of the job sites listed are the names indicated on Respondent's time sheets and payroll records.

1 f. Bank of Commerce Business Center

2 g. Abraham Furman

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

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), and OAR 918-251-0090(1)-(43).

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

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

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

15 **CONCLUSIONS OF LAW**

16 1. Installing medical grade 12-gauge metal clad wiring in the wall is an electrical installation
17 under ORS 479.530(10).

18 2. Making the foregoing electrical installation requires a supervising or journeyman electrician
19 license under ORS 479.620(3).

20 3. By making the foregoing electrical installation without a supervising or journeyman
21 electrician license, Porterfield violated ORS 479.620(3).

22 4. By allowing Porterfield to make the foregoing electrical installation for which Porterfield
23 was not properly licensed, Respondent violated OAR 918-282-0120(1).

24 5. The foregoing electrical installations made by Steele between October 2015 and January
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1 2016 require a supervising or journeyman electrician license.⁵

2 6. By making the foregoing electrical installations without holding a supervising or
3 journeyman electrician license, Steele violated ORS 479.620(3).

4 7. By allowing Steele to make the foregoing electrical installations, Respondent violated OAR
5 918-282-0120(1) in two (2) different years.

6 **ORDER**

7 1. Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, the Board assesses a total of
8 \$6,000.00 in civil penalties as follows:

9 a. \$2,000.00 for violating OAR 918-282-0120(1) with respect to Porterfield; and

10 b. \$4,000.00 for violating OAR 918-282-0120(1) with respect to Steele (\$2,000 for
11 violating this rule in 2015 and \$2,000 for violating this rule in 2016).

12 2. The \$6,000 civil penalty is assessed as follows:

13 a. \$3,750.00 of the total civil penalty will be suspended for a period of five years if
14 there is compliance with all other terms of this Consent Order.

15 b. Respondent agrees to pay the remaining \$2,250.00 of the civil penalty. Respondent's
16 payment shall be postmarked no later than the 25th day of the month following the
17 month in which this Consent Order becomes a final order. *(An invoice will be*
18 *included with Respondent's copy of the final order after the Director signs it.*

19 *Respondent understands timely payment must be made even if no invoice is ever*
20 *received.)* Payment shall be mailed to Department of Consumer and Business

21 Services, Fiscal Services Section, P.O. Box 14610, Salem, OR 97309-0445.

22 c. Respondent understands the suspended civil penalty (\$3,750.00) will be considered
23 satisfied five years after this Consent Order becomes a final order, provided
24 Respondent complies with its terms and has not committed any further violations of
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⁵ Under ORS 479.620(4), a person may perform work as an electrical apprentice if that person holds a valid electrical apprentice license.

1 the Division's statutes and rules within that five-year period. Respondent
2 understands and agrees that if Respondent does not comply with the terms of this
3 Consent Order or if Respondent commits any further violations of the Division's
4 statutes or rules within the five-year period, then the entire civil penalty, including
5 any suspended amount, will become immediately due and payable. Failure to comply
6 with this Consent Order includes, but is not limited to, failure to pay the civil penalty
7 amount due by the due date.

8 3. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases

9 that rely on the facts underlying this case. Cooperation may include, but may not be limited
10 to, making sworn statements or testifying in administrative hearings.

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

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

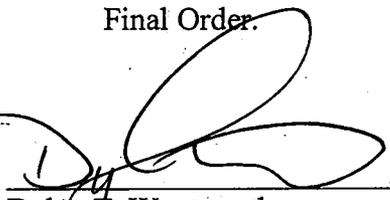
20 6. Respondent understands that this Consent Order is a public record.

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

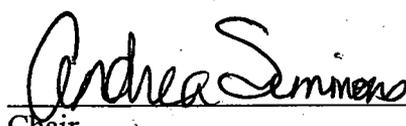
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1 8. Respondent understands that, upon signature of all parties, this Consent Order will be a
2 Final Order.

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4 
5 Dylan F. Wentworth
6 Owner and authorized representative
7 Ertell Electric, LLC

It is so agreed this 31st day of March, 2016.

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8 Chair
9 Electrical and Elevator Board
10 State of Oregon

It is so agreed this 8th day of April, 2016.

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