

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

CONSENT ORDER

**WILD HAVEN HANDYMAN SERVICES
LLC,
A DOMESTIC LIMITED LIABILITY
COMPANY,**

RESPONDENT.

BCD CASE C2015-0225

INTRODUCTION

The Building Codes Division (Division) conducted an investigation on behalf of the Electrical and Elevator Board of the State of Oregon (Board) and determined that Wild Haven Handyman Services LLC (Respondent) violated certain provisions of the Division's statutes and administrative rules as identified below.

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

FINDINGS OF FACT

1. On or about September 15, 2015, at 351 NW Willamina Dr. in Willamina, Oregon,

Respondent allowed its employee Jeremy Lynn Sampson to install electric baseboard heaters and allowed its employee Daniel K. Mottern to install a ceiling fan and the wiring for a ceiling light.¹

2. At no relevant time did Sampson or Mottern hold a supervising or journeyman electrician license.

¹ See related BCD cases C2015-0223 and C2015-0224.

- 1 3. At no relevant time did Respondent have an active Oregon electrical contractor's license.
- 2 4. No permit was issued for the work performed at 351 NW Willamina Dr. in Willamina,
- 3 Oregon.

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. ORS 479.530(10) defines an electrical installation as the construction or installation of~~
- 9 ~~electrical wiring and the permanent attachment or installation of electrical products.~~
- 10 3. Under ORS 479.620(3), a person may not make any electrical installation without a
- 11 supervising or journeyman electrician's license.
- 12 4. Under ORS 479.550(1), no person shall work on any new electrical installation for which a
- 13 permit has not been issued.
- 14 5. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform
- 15 electrical work for which the individual is not properly registered or licensed.
- 16 6. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not
- 17 engage in the business of making electrical installations, advertise as or otherwise purport to
- 18 be licensed to make electrical installations or purport to be acting as a business that makes
- 19 electrical installations.
- 20 7. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any
- 21 other license regulated by ORS chapter 455, "engaging in the business" means to advertise
- 22 or solicit, contract or agree to perform, or to perform work for which a license or permit is
- 23 required under Oregon law, including but not limited to a single instance.

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CONCLUSIONS OF LAW

1. The installation of electric baseboard heaters, ceiling fans, and wiring for a ceiling light are electrical installations as defined by ORS 479.530(10).
2. By allowing its employees to perform the foregoing electrical installations, Respondent engaged in the business of an electrical contractor under OAR 918-030-0010(8).
3. By engaging in the business of an electrical contractor without an Oregon electrical contractor's license, Respondent violated ORS 479.620(1).
- ~~4. By allowing Sampson and Mottern to perform electrical work for which they were not properly registered or licensed, Respondent violated OAR 918-282-0120(1).~~
5. By making the foregoing electrical installations without first having obtained a valid electrical permit, Respondent violated ORS 479.550(1).

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ORDER

1. The Board hereby assesses a total civil penalty of \$6,000 against Respondent for violating ORS 479.620(1), OAR 918-282-0120(1) and ORS 479.550(1) as follows:
 - a. \$4,250 of the total civil penalty will be suspended for a period of five years if there is compliance with all other terms of this Consent Order.
 - b. Respondent agrees to pay the remaining \$1,750 of the civil penalty. Respondent will make three (3) monthly payments on the 25th day of each month. The first two (2) payments shall be in the amount of \$600 per month. The final payment shall be in the amount of \$550. Respondent's first payment shall be postmarked no later than the 25th day of the month following the month in which this Consent Order becomes a final order. Each following payment shall be due on or before the 25th day of each subsequent month. *(An invoice will be included with Respondent's copy of the final order after the Board signs it. This is a one-time invoice; Respondent will not receive monthly invoices or other reminders to pay. Respondent understands timely*

1 *payments must be made even if no invoice is ever received.*) Payments shall be
2 mailed to Department of Consumer and Business Services, Fiscal Services Section,
3 P.O. Box 14610, Salem, OR 97309-0445.

4 c. Respondent understands the suspended civil penalty (\$4,250) will be considered
5 satisfied five years after this Consent Order becomes a final order, provided
6 Respondent complies with its terms and has not committed any further violations of
7 the Division's statutes and rules within that five-year period. Respondent
8 understands and agrees that if Respondent does not comply with the terms of this
9 Consent Order or if Respondent commits any further violations of the Division's
10 statutes or rules within the five-year period, then the entire civil penalty, including
11 any suspended amount, will become immediately due and payable. Failure to comply
12 with this Consent Order includes, but is not limited to, failure to pay the civil penalty
13 amount due by the due date.

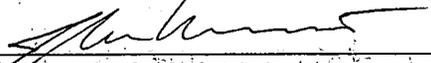
14 2. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases
15 that rely on the facts underlying this case. Cooperation may include, but may not be limited
16 to, making sworn statements or testifying in administrative hearings.

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

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

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

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8  It is so agreed this 25 day of JANUARY, 2016.

9 John Beriault,
Authorized representative for Respondent Wild Haven Handyman Services LLC

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11  for It is so agreed this 29th day of January, 2016.

12 Chair
Electrical and Elevator Board
State of Oregon

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