

1 **BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS**
2 **SERVICES OF THE STATE OF OREGON**

3 **IN THE MATTER OF:**

CONSENT ORDER

4 **ROBERT L. GRAY,**
5 **AN INDIVIDUAL,**

6 **RESPONDENT.**

BCD CASE C2013-0260

7
8 The Building Codes Division (Division) conducted an investigation on behalf of the
9 Director of the Department of Consumer and Business Services of the State of Oregon (Director)
10 and determined that Robert L. Gray (Respondent) violated certain provisions of the Division's
11 statutes and administrative rules as identified below.

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

16 **FINDINGS OF FACT**

- 17 1. Respondent has continuously held general supervising electrician license 5044S since
18 August 13, 2003.
- 19 2. Respondent has continuously held Oregon inspector certification OIC374 since November 7,
20 2006.
- 21 3. Respondent has continuously held electrical inspector certificate 5543EI since August 29,
22 2007.
- 23 4. On or about January 20, 2012, Respondent became employed as the signing supervising
24 electrician for Pro Stat Services LLC (Pro Stat), which holds electrical contractor license
25 C597.

- 1 5. On or about April 19, 2012, while continuing to work for Pro Stat as a signing supervising
2 electrician in a part-time capacity, Respondent was hired as a part-time electrical inspector
3 for the City of Beaverton. Respondent became a full-time employee with the City of
4 Beaverton in June 2012. Respondent continued working for the City of Beaverton and Pro
5 Stat from approximately April 2012 to approximately April 2014.
- 6 6. On or about April 3, 2013, Respondent, acting in his capacity as signing supervising
7 electrician for Pro Stat, applied for permit B2013-1248 with the City of Beaverton on behalf
8 of Pro Stat.
- 9 7. On or about August 9, 2013, Respondent, acting in his capacity as Lead Electrical Inspector
10 for the City of Beaverton, approved final electrical inspection of permit B2013-1248, the
11 same permit he had applied for as the signing supervising electrician for Pro Stat.
- 12 8. Respondent was previously found to have violated Oregon electrical licensing regulations in
13 Building Codes Division case 2007-0356, where he aided Jesse Gray to engage in the
14 business of an electrical contractor without an Oregon electrical contractor license and
15 performed work without a valid Oregon electrical permit. Respondent was assessed a \$2,000
16 penalty.

17 **APPLICABLE LAW**

- 18 1. Under OAR 918-282-0140(2)(c), a general supervising electrician must be continuously
19 employed as a general supervising electrician on the electrical contractor's regular payroll
20 and be available during the working hours to carry out the duties of a supervising electrician.
- 21 2. Under OAR 918-251-0090(8), "continuously employ" means a person, during time periods
22 when electrical work for which they are responsible is performed, devotes their entire time
23 of employment to tasks of supervising, designing, laying out, planning, controlling and
24 making electrical installations for the electrical contractor for which the supervisor is
25 registered as signing supervisor.

- 1 3. Under OAR 918-098-1470(1)(d), an inspector must act in the public interest by enforcing all
2 appropriate building code statutes and rules adopted thereunder.
- 3 4. Under OAR 918-098-1500(1)(h) and (i), failure to act “in the public interest in the
4 performance of their duties” in accordance with ORS 455.740 includes engaging in
5 unprofessional behavior or any other activity prejudicial to the administration and
6 enforcement of the state building code.
- 7 5. Under ORS 455.459, a person shall not inspect or review any project or installation in which
8 the person, employer of the person or relative of the person has any financial interest or
9 business affiliation.
- 10 6. Under ORS 455.740(1)(a) and (1)(d), the Director may revoke a certificate of an inspector if
11 the Director finds that the inspector has consistently failed to act in the public interest in the
12 performance of his duties or has committed an act described in ORS 455.125 or 455.129.
- 13 7. Under ORS 455.129(2)(n), the Director may condition, suspend, or revoke a certification,
14 license or registration when an individual has performed a code inspection on a project the
15 inspector or review has a financial interest in or business affiliation with the project.

16 CONCLUSIONS OF LAW

- 17 1. By working on a part-time basis where Respondent was paid \$800 per month as a general
18 supervising electrician for Pro Stat while Respondent was also working full-time for the City
19 of Beaverton, Respondent was not continuously employed by Pro Stat and therefore
20 continuously violated OAR 918-282-0140(2)(c) from April 2012 through April 2014.
- 21 2. By applying for a permit from the municipality that employed him as an inspector,
22 Respondent engaged in a potential conflict of interest that was unprofessional and
23 prejudicial to the administration of the building code, and which compromised Respondent’s
24 ability to enforce the specialty code and properly perform inspections, and thereby failed to
25 act in the public interest according to OAR 918-098-1500(1)(h) and (i).

- 1 3. By inspecting and providing the final approval for Pro Stat's City of Beaverton permit
2 B2013-1248, with whom Respondent maintained an ongoing business affiliation as an
3 employee, Respondent engaged in a conflict of interest in violation of ORS 455.459.
- 4 4. By engaging in the conflict of interest as described in Conclusions of Law paragraph 3,
5 Respondent was unprofessional, his action was prejudicial to the administration of the
6 building code, and Respondent compromised his own ability to enforce the specialty code
7 and properly perform inspections, in violation of ORS 455.740(1)(a).
- 8 5. By violating 455.459(1), the Director may deny, condition, suspend, or revoke a registration,
9 certification, license or other authority of a person to perform work or conduct business
10 according to ORS 455.129(2)(n).
- 11 6. By consistently failing to act in the public interest in the performance of his duties and
12 committing an act described in ORS 455.129, the Director may suspend, revoke or refuse to
13 renew a certificate of an inspector under ORS 455.740(1)(a) and (d).

14 **CONSENT ORDER TERMS**

- 15 1. The Director hereby assesses a total civil penalty of \$1,500 against Respondent for violating
16 ORS 455.459, ORS 455.740(1)(a) and (d), and OAR 918-282-0140(2)(c) as follows:
- 17 1.1. \$1000 of the total civil penalty will be suspended for a period of five years if there is
18 compliance with all other terms of this Consent Order.
- 19 1.2. Respondent agrees to pay the remaining \$500 of the civil penalty. Respondent will
20 make 10 monthly payments on the 25th day of each month in the amount of \$50 per
21 month. Respondent's first payment shall be postmarked no later than July 25, 2015.
- 22 *(An invoice will be included with Respondent's copy of the final order after the*
23 *Director signs it.)* Payments shall be mailed to Oregon Building Codes Division,
24 Fiscal and Customer Services, PO Box 14470, Salem, OR 97309-0404.

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- 1 2. Respondent understands the suspended civil penalty (\$1000) will be considered satisfied
2 five years after this Consent Order becomes a final order, provided Respondent complies
3 with its terms and has not committed any further violations of the Division's statutes and
4 rules within that five-year period. Respondent understands and agrees that if he does not
5 comply with the terms of this Consent Order or if Respondent commits any further
6 violations of the Division's statutes or rules within the five-year period, then the entire civil
7 penalty, including any suspended amount, will become immediately due and payable.
8 Failure to comply with this Consent Order includes, but is not limited to, failure to pay the
9 civil penalty amount due by the due date.
- 10 3. Respondent agrees to permanently surrender his Electrical Inspector Certificate 5543EI and
11 Oregon Inspector Certification OIC374 to the Division on the day this Consent Order is
12 executed by all parties, on which date those certifications will be considered revoked.
- 13 4. Respondent's general supervising electrician license number 5044S shall be suspended for a
14 period of two years as follows:
- 15 4.1. Respondent will serve one year of his license suspension beginning on the date this
16 Consent Order is executed by all parties. Respondent will surrender his general
17 supervising electrician license card to the Division on the day the suspension begins,
18 and the Division will reissue the license card following Respondent's completion of
19 the suspension.
- 20 4.2. The second year of the suspension will be stayed for one year following the
21 fulfillment of Respondent's one-year suspension as long as Respondent complies
22 with all the terms of this Consent Order. If and when the stayed year elapses and
23 Respondent has maintained compliance with this Consent Order, the stayed
24 suspension will be deemed satisfied.

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- 1 5. Respondent agrees that he will take all necessary steps to maintain his general supervising
2 electrician license during and following the suspension, including but not limited to
3 fulfilling continuing education requirements and timely remitting the documentation and
4 fees for renewal.
- 5 6. Immediately following the execution of this Consent Order by all parties, the Division will
6 administratively issue a general journeyman license to Respondent that is valid during
7 Respondent's suspension. At the expiration of the suspension (served and stayed), the
8 general journeyman license will expire and be unrenowable.
- 9 7. Upon the completion of the suspension, Respondent's general supervising electrician license
10 number 5044S shall be conditioned as follows:
- 11 7.1. Respondent shall provide the Division with quarterly reports for one year
12 commencing from the day Respondent resumes actual employment and active work
13 as a general supervising electrician with an electrical contractor.
- 14 7.2. The quarterly reports shall include: a list of all jobs worked during the quarter with
15 each customer's name and address (including jobs reported in a previous quarter's
16 report if the job runs longer than one quarter); copies of each permit application and
17 issued permit; a copy of the inspection record for each permit; and a list of all
18 employees from the electrical contractor working on the job, the individuals' license
19 numbers and description of work that each individual performed. Respondent will
20 also document the work that he performed for each working day of the quarter,
21 including but not limited to designs and layouts, jobsite inspections of installations,
22 and any training instruction he performed for the benefit of the electrical contractor's
23 employees or others.
- 24 7.3. The quarterly reports shall report all work performed in the preceding quarter. The
25 first report shall be postmarked no later than 15 days following the end of the first

1 quarter (each quarter being comprised of three months). For example, if Respondent
2 begins working with his general supervising electrician license August 1, 2016, the
3 first quarterly reporting would be due November 15, 2016. Subsequent reports shall
4 be submitted every three months, postmarked by the fifteenth day of the month they
5 are due.

6 7.4. The quarterly reports shall be mailed to Building Codes Division, Enforcement
7 Section, P.O. Box 14470, Salem, Oregon, 97309, or emailed to
8 <BCD.complaint@oregon.gov>.

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

12 9. Respondent understands that further enforcement action may be taken for any violation of
13 the Division's statutes or rules not alleged in this Consent Order or BCD case C2013-0260,
14 whether committed before or after the execution of this Consent Order, and/or for any
15 violation of the terms of this Consent Order.

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

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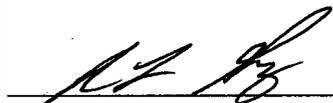
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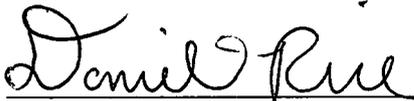
1 11. Respondent has read and fully understands the terms of this Consent Order, freely and
2 voluntarily consents to the entry of this Consent Order without any force or duress, and
3 expressly waives all rights to hearing or judicial review in this matter.

4 12. Respondent understands that, upon signature of all parties, this Consent Order will be a
5 Final Order, and this Consent Order is a public record.

6
7 **For Respondent**

8 
9 _____ It is so agreed this 14 day of July, 2015.
10 Robert L. Gray

11 Approved as to form.

12  Date: 7/14/15
13 Attorney for Respondent
14 Daniel J. Rice, OSB
15 084536

16 **For the Director of the Department of Consumer and Business Services**

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18 _____ for It is so agreed this 4 day of August, 2015.
19 Pat Allen, Director,
20 Department of Consumer and Business Services
21 State of Oregon
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