

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

2 **IN THE MATTER OF:**

) **CONSENT ORDER**

3 **COMFORT CENTER, INC., A DOMESTIC**  
4 **BUSINESS CORPORATION, DBA COMFORT**  
5 **CENTER HEATING & AIR,**

) **CASE NO. C2014-0175**

6 **RESPONDENT.**

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

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

13 **FINDINGS OF FACT**

- 14 1. At no relevant time did Respondent possess an Oregon electrical contractor's license.
- 15 2. On or about the period July 22, 2014, at 4949 Gettle Street, Klamath Falls, Oregon,
- 16 Respondent allowed an unlicensed individual, Jim Underwood, to remove a double pole,
- 20-amp breaker and install a single pole, 20-amp breaker, for the account of another.
- 17 3. Respondent failed to apply for and receive an electrical permit prior to allowing its
- 18 employee to make the installation described in paragraph 2.

19 **WHAT THE LAW SAYS**

- 20 1. ORS 479.530(10) defines an electrical installation as the construction or installation of
- 21 electrical wiring and the permanent attachment or installation of electrical products in or
- on any structure that is not itself an electrical product.
- 22 2. Under ORS 479.620(1), no person shall engage in the business<sup>1</sup> of making electrical
- 23 installations, advertise as or otherwise purport to be licensed to make electrical
- installations or purport to be acting as a business that makes electrical installations without
- an electrical contractor's license.

24 <sup>1</sup> OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630 and any other license regulated  
25 by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to  
perform, work for which a license or permit is required under Oregon law, including but not limited to a single  
instance.

- 1 3. Under ORS 479.620(3), a person may not make any electrical installation without a  
2 supervising or journeyman electrician's license.  
3  
4 4. Under Oregon Administrative Rules (OAR) 918-282-0120(1), no person or entity shall  
5 allow any individual to perform electrical work for which the individual is not properly  
6 registered or licensed.  
7  
8 5. Under ORS 479.550(1), no person shall work on any new electrical installation for which  
9 a permit has not been issued.

#### CONCLUSIONS OF LAW

- 6 1. Installing a single pole, 20-amp breaker is an electrical installation as defined in ORS  
7 479.530(10).  
8 2. ~~By engaging in the business of making an electrical installation without a valid electrical~~  
9 ~~contractor's license, Respondent violated ORS 479.620(1).~~  
10 3. By allowing Jim Underwood to make the electrical installation without a valid supervising  
11 or journeyman electrician license, Respondent violated OAR 918-282-0120(1).  
12 4. By making an electrical installation prior to obtaining an electrical permit, Respondent  
13 violated ORS 479.550(1).

#### SETTLEMENT AGREEMENT

13 Respondent and the Electrical and Elevator Board agree to resolve this matter without a  
14 hearing with the entry of this consent order subject to the following terms and conditions:

- 15 1. The Board hereby assesses a civil penalty of \$6,000 for violating OAR 918-282-0120(1),  
16 ORS 479.620(1), and 479.550(1), of which \$4,000 will be suspended for a period of five  
17 (5) years under the following terms:

18 1.1 Respondent agrees to pay the remaining \$2,000 of the civil penalty.  
*(The invoice will be included with Respondent's copy of the Final Order after it  
is signed by the Board.)*

19 1.2 Respondent agrees to pay \$200 a month for ten (10) months, beginning once the  
20 consent order becomes final. The monthly payments must be postmarked by the  
21 25<sup>th</sup> day of each month.

22 1.3 If Respondent fails to make a payment or otherwise defaults on any term of this  
23 settlement agreement, the case may be turned over to the Department of Consumer  
24 and Business Services collections section for collection of the entire \$6,000 civil  
25 penalty, along with interest and applicable fees.

2. Respondent agrees that if a final order is issued by a board or the Director of the  
Department of Consumer and Business Services finding Respondent violated any Building  
Codes Division's statutes or rules within five (5) years from the date this order was signed  
by the Board, then Respondent will pay any subsequent penalties and the \$4,000 of

suspended penalty from this settlement agreement.

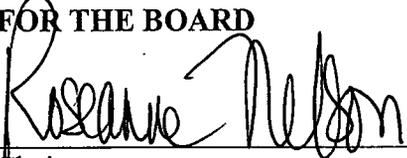
3. Respondent understands that if it fails to comply with any of the terms of this settlement agreement, then the entire civil penalty, including the amount suspended, will be immediately due and payable.
4. Respondent understands and agrees any violation of the terms of this settlement agreement will result in further enforcement action.
5. Respondent understands and agrees that any violations of 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.
6. Respondent understand that failure to comply with this settlement agreement may result in denial of future licensing applications and/or suspension of licensing or certification issued by the Building Codes Division and other state agencies.
7. Respondent understands the suspended civil penalty will be waived five (5) years after the execution of this consent order, provided Respondent complies with the order's terms and has not committed any further violations of Building Codes Division's statutes or rules.
8. Respondent agrees to cooperate with the Building Codes Division in any other cases related to the Respondent's case.
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 a hearing or appeal in this matter.
10. Respondent understands that, upon signature of all parties, this consent order will be a FINAL ORDER.

**FOR THE RESPONDENT**

  
Jimmie R. Underwood, Jr., President  
Comfort Center, Inc.

Date: 11/9/14, 2014

**FOR THE BOARD**

  
for  
Chair  
Electrical and Elevator Board  
State of Oregon

Date: 11-17-14, 2014

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