

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

2 **IN THE MATTER OF:** ) **CONSENT ORDER**  
3 )  
4 **PACIFIC HOT TUB SOLUTIONS, LLC.,** ) **CASE NO. C2014-0198**  
5 **A DOMESTIC LIMITED LIABILITY** )  
6 **CORPORATION,** )  
7 **RESPONDENT.** )

7 The Building Codes Division (BCD) conducted an investigation on behalf of the Oregon  
8 Electrical and Elevator of the State of Oregon (Board) and determined that Respondent violated  
9 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  
13 in the Board's records. Respondent agrees to conduct all future business in compliance with the  
14 applicable statutes, administrative rules, and specialty codes. Respondent understands that this  
15 order is a public record.

13 **FINDINGS OF FACT**

- 14 1. At no relevant time did Respondent possess an Oregon electrical contractor license.
- 15 2. At no relevant time did Respondent employ an individual licensed as an Oregon general  
16 supervising electrician or journeyman electrician license.
- 17 3. On or about December 5, 2013, at 2170 Long Street, West Linn, Oregon, Respondent  
18 allowed Terry Aune, who does not possess an electrician's license, to replace a defective  
19 heater/pump control for a spa and reconnect the electrical wiring to the control, without  
20 first obtaining an electrical permit.
- 21 4. On or about December 5, 2013, at 2170 Long Street, West Linn, Oregon, when  
22 Respondent allowed Terry Aune to replace a defective heater/pump control for a spa and  
23 reconnect the electrical wiring to the control, Terry Aune did not use weatherproof conduit  
24 on the electrical wiring to the spa's control/heater unit and he tucked exposed wiring not  
25 in conduit behind the spa's water return.
5. The property owner who resides in the single-family dwelling at 2170 Long Street, West  
Linn, Oregon, subsequently obtained an electrical permit for the above-mentioned  
installation that received final inspection and the installation is now in compliance.

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## APPLICABLE LAW

1. ORS 479.530(10) defines an electrical installation as the construction or installation of electrical wiring and the permanent attachment or installation of electrical products.
2. Under ORS 479.620(1), no person may, without an electrical contractor's license, engage in the business<sup>1</sup> of making electrical 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.
3. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform electrical work for which the individual is not properly registered or licensed.
4. Under ORS 479.550(1), no person shall work on any new electrical installation for which a permit has not been issued.
5. ORS 479.710(1) states no person shall make, supervise or direct the making of an electrical installation which does not meet minimum safety standards.
6. The National Electrical Code (NEC) is adopted in Oregon as part of the minimum safety standards for new installations in Oregon under Oregon Administrative Rules, chapter 918, division 305.
7. The following National Electrical Code (NEC) articles are applicable to wiring methods and materials, and installation of conductors for general wiring:
  - a. Article 300.11(A) – Secured in Place. Raceways, cable assemblies, boxes, cabinets, and fittings shall be securely fastened in place.
  - b. Article 300.12 – Mechanical Continuity – Raceways and Cables. Metal or nonmetallic raceways, cable armors, and cable sheaths shall be continuous between cabinets, boxes, fittings, or other enclosures or outlets.
  - c. Article 300.15 – Boxes, Conduit Bodies, or Fittings – Where Required. A box shall be installed at each outlet and switch point for concealed knob-and-tube wiring. Fittings and connectors shall be used only with the specific wiring methods for which they are designed and listed.
  - d. Article 300.15(C) – Protection. A box or conduit body shall not be required where cables enter or exit from conduit or tubing that is used to provide cable support or protection against physical damage. A fitting shall be provided on the end(s) of the conduit or tubing to protect the cable from abrasion.
  - e. Article 300.18(A) – Raceway Installations, Complete Runs. Raceways, other than busways or exposed raceways having hinged or removable covers, shall be

<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 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 installed complete between outlet, junction, or splicing points prior to the  
2 installation of conductors. Where required to facilitate the installation of utilization  
3 equipment, the raceway shall be permitted to be initially installed without a  
4 terminating connection at the equipment.

- 5 f. Article 310.10(G) – Uses Permitted – Corrosive Conditions. Conductors exposed  
6 to oils, greases, vapors, gases, fumes, liquids, or other substances having a  
7 deleterious effect on the conductor or insulation shall be of a type suitable for the  
8 application.

### 9 CONCLUSIONS OF LAW

- 10 1. Replacing a defective heater/pump control for a spa and reconnecting the electrical wiring  
11 to the control are electrical installations as defined in ORS 479.530(10).  
12  
13 2. By replacing a defective heater/pump control for a spa and reconnecting the electrical  
14 wiring to the control without an Oregon electrical contractor's license, Respondent  
15 violated ORS 479.620(1).  
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17 3. By allowing an unlicensed individual to replace a defective heater/pump control for a spa  
18 and reconnect the electrical wiring to the control, Respondent violated OAR 918-282-  
19 0120(1).  
20  
21 4. By making electrical installations without first obtaining a valid electrical permit,  
22 Respondent violated ORS 479.550(1).  
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24 5. The method of installing the electrical wiring for the spa's heater/pump control -identified  
25 in Findings of Fact (4) did not conform to NEC Articles 300.11(A), 300.12, 300.15,  
300.15(C), 300.18(A), and 310.10(G).  
6. By not meeting the minimum safety standards of the NEC with the electrical installation  
identified in Findings of Fact (4), Respondent violated ORS 479.710(1).

### 18 ORDER

19 Respondent and the Electrical and Elevator Board agree to resolve this matter without a  
20 hearing with the entry of this Consent Order according to the following terms and conditions:

- 21 1. The Board hereby assesses a civil penalty of \$9,000 for violating ORS 479.620(1), ORS  
22 479.550(1), ORS 479.710(1), and OAR 918-282-0120(1) of which \$4,500 will be  
23 suspended for a period of five (5) years under the following terms:

- 24 1.1 Respondent agrees to pay the remaining \$4,500 of the civil penalty.  
25 *(The invoice will be included with Respondent's copy of the Final Order after it  
is signed by the Board.)*

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1.2 Respondent agrees to pay \$250 a month for 18 months, beginning once the Consent Order becomes final. The monthly payments must be postmarked by the 25<sup>th</sup> day of each month.

1.3 If Respondent fails to make a payment or otherwise defaults on any term of this settlement agreement, the case may be turned over to the Department of Consumer and Business Services collections department for collection of the entire \$9,000 civil 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 of Building Codes Division's statutes or rules within five (5) years from the date this order was signed by the Board, then Respondent will be responsible for any subsequent penalties in addition to the \$4,500 of suspended penalty from this order that will become due and payable.

3. Respondent agrees not to commit further violations of Building Codes Division's statutes or rules.

4. 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. Failure to comply includes failure to pay the civil penalty amount on the Final Demand Notice by the due date.

5. Respondent understands and agrees any violation of the terms of this Consent Order will result in further enforcement action.

6. 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.

7. Respondent understands the suspended civil penalty will be waived five (5) years after the execution of this Consent Order, provided Respondent complies with its terms and has not committed any further violations of Building Codes Division's statutes or rules.

8. 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.

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1 9. Respondent understands that, upon the signature of all parties, this Consent Order will be  
a FINAL ORDER.

2 10. Respondent further agrees by signing this Consent Order that it is the Respondent or  
3 authorized representative for the Respondent in this matter.

4 **FOR THE RESPONDENT**

5 Kimberly K. Priest  
6 Kimberly Kay Priest, Member  
7 Pacific Hot Tub Solutions, LLC

Date: 1-23-15, 2015

8 **APPROVED AS TO FORM**

9 [Signature]  
10 Tyler Smith, Attorney for Respondent

Date: 2/5/15, 2015

11 **FOR THE BOARD**

12 Andrea Simmons for  
13 Chair, Electrical and Elevator Board  
14 State of Oregon

Date: 2/5/15, 2015