

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

**BEFORE THE DIRECTOR OF THE OREGON DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

<p><b>IN THE MATTER OF:</b></p> <p><b>JARED KIMBER,</b></p> <p><b>DBA COLUMBIA VOICE AND DATA</b></p> <p style="text-align: center;"><b>RESPONDENT</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>NOTICE OF PROPOSED ASSESSMENT</b></p> <p><b>OF A CIVIL PENALTY AND FINAL</b></p> <p><b>ORDER ON DEFAULT</b></p> <p><b>ORDER TO CEASE AND DESIST</b></p> <p><b>CASE NO. C2014-0202</b></p>
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Under Oregon Revised Statutes (ORS) 455.895(1)(b) and Oregon Administrative Rules (OAR) 918-001-0036, the Oregon Electrical and Elevator Board (Board) proposes disciplinary action against Respondent in the form of civil penalties totaling \$6,500 for violations of Building Codes Division statutes or rules as follows.

Acting pursuant to ORS 455.775(2), the Director of the Department of Consumer and Business Services (Director) hereby finds there is reason to believe Respondent has been engaged in, is engaging in, or is about to engage in violations of ORS chapter 455 and the rules adopted thereunder. Therefore, the Director issues the following order to immediately CEASE AND DESIST any and all violations of ORS chapter 455 and the laws and rules adopted thereunder.

**FINDINGS OF FACT**

1. On June 10, 2014, a Final Order by Default was issued by the Electrical and Elevator Board for Building Codes Division case number 2014-0018, charging Respondent installed voice and data cabling for the account of another without being an electrical contractor, without being a licensed electrician in Oregon, and without first obtaining an electrical permit. Respondent was assessed a \$6,000 civil penalty for violation of ORS 479.620(1) and (3), and ORS 479.550(1).
2. At no relevant time did Respondent possess an electrical contractor's license.
3. During or about March and April 2014, at CarMax Auto Superstore at 9405 SW Cascade Avenue, Beaverton, Oregon, Respondent acted as the project foreman for low-voltage electrical installations and employed Kevin Heck (license number 4196LEA), Jeff Estill (license number 577LEA), Scott Stevanus (license number 4077LEA), and James G. Gibson (not licensed in Oregon) to install voice and data cabling, terminate outlets and re-identify outlet drops, and rough-in camera wiring for the account of another.
4. During or about March and April 2014, at 9405 SW Cascade Avenue, Beaverton, Oregon, Respondent allowed James G. Gibson, who does not hold an Oregon electrician license, to

install voice and data cabling for the account of another.

5. On March 18, 2014, Respondent provided Jeff Estill with an employment agreement specific to the electrical installations at 9405 SW Cascade Avenue, Beaverton, Oregon.
6. Low-voltage electrical installations at 9405 SW Cascade Avenue, Beaverton, Oregon were performed under permit B2014-1088 issued to Hecktec Technical, LLC (license number CLE14) which received final inspection on April 23, 2014; and permit B2014-2395 issued to Total Networks Interface, Inc. (license number CLE377) which received final inspection on August 29, 2014.

### APPLICABLE LAW

1. ORS 479.530(10) defines electrical installations as the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product.
2. Under ORS 479.620(1), a person may not, 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 OAR 918-001-0036(2)(c), "pattern of violation" means two or more prior violations during a five-year period of any provision of ORS chapter 446, 447, 455, 460, 479, 480, or 693, or the state building code as defined in ORS 455.010, whether or not a penalty was assessed. A pattern of violation is calculated within a five-year period from the date of the latest violation.
5. Under OAR 918-001-0036(6), the Director may, subject to approval of a board, develop a penalty matrix for the board's use to promote equality and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

### CONCLUSIONS OF LAW

1. Installing voice and data cabling, terminating outlets and re-identifying outlet drops, and roughing in camera cabling in a commercial building are electrical installations as defined in ORS 479.530(10).
2. By employing individuals to make electrical installations, Respondent purported to be acting as a business that makes electrical installations without an electrical contractor's

<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.

license, in violation of ORS 479.620(1).

3. By allowing James G. Gibson, an unlicensed individual, to install voice and data cabling for the account of another, Respondent violated OAR 918-282-0120(1).
4. By violating ORS 479.620(1) for a second time within the last five years, respondent may be subject to fines for repeatedly violating Oregon's Electrical Law under OAR 918-001-0036(2)(c) and (6).

### ORDER

Under ORS 455.895(1)(b) and OAR 918-001-0036, the Electrical and Elevator Board assesses the following:

1. a \$4,000 civil penalty for violating ORS 479.620(1),
2. a \$2,500 civil penalty for violating OAR 918-282-0120(1).

The civil penalties assessed total \$6,500.

### CEASE AND DESIST

Pursuant to ORS 455.775(2), the Director orders Respondent to immediately CEASE AND DESIST from further violating the Oregon Electrical Safety Law (ORS 479.510 through ORS 479.945) and rules adopted thereunder. Respondent must immediately cease engaging in violations of ORS 479.620(1), and all other statutes under the electrical safety law that occur when Respondent performs unlicensed electrical installations. In addition, the Director orders Respondent to immediate CEASE AND DESIST engaging in violations of ORS chapter 455 and the rules adopted thereunder.

### NOTICE OF RIGHT TO HEARING

Respondent is entitled to a hearing as provided by the Administrative Procedures Act, Oregon Revised Statutes, chapter 183. If Respondent requests a hearing, the request must be in writing postmarked no later than 20 days from the service date. If this Notice was served to Respondent in person, the service date is the date Respondent received this Notice. If this Notice was served through the mail, the service date is the day the Notice was mailed, not the day Respondent received it. If a request for hearing is not received within 20 days, Respondent's right to a hearing is considered waived. Mail hearing requests to Building Codes Division, Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

Respondent has the right to be represented by legal counsel. ORS 183.457 provides that a corporation may be represented by an authorized representative at the hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the hearing and be given information on procedures, right of representation and other rights of parties relating to the hearing before it begins.

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**NOTICE TO ACTIVE DUTY SERVICE MEMBERS**

Active duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. Contact the Oregon State Bar at 800-452-8260 or the Oregon Military Department at 800-452-7500 for more information. If you need help finding legal assistance, visit the United States Armed Forces Legal Assistance Legal Services Locator website at <http://legalassistance.law.af.mil/content/locator.php>.

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**NOTICE OF FINAL ORDER**

If Respondent does not request a hearing within 20 days, withdraws a hearing request, notifies the Board, the Director, or the administrative law judge that they will not appear, or fails to appear at a scheduled hearing, the Board or the Director will issue a Final Order by Default. If the Board or Director issues a Final Order by Default, it designates the file, including any materials submitted by Respondent that relate to this matter, as the record for purpose of proving a prima facie case.

Respondent is entitled to judicial review of any final order issued in the matter of this Notice of a Proposed Civil Penalty and Order to Cease and Desist. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after the Final Order is served. See ORS 183.482. If the Order was served in person, the service date is the date Respondent received the Order. If the Order was served through the mail, the service date is the day the Order was mailed, not the day it was received by Respondent. If Respondent does not file a petition for judicial review within 60 days, Respondent will lose the right to appeal. The phone number for the Oregon Court of Appeals is 503-986-5555.

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Dated this 7<sup>th</sup> day of January, 2015

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Roseanne Nelson for

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Chair  
Electrical and Elevator Board  
State of Oregon

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Dated this 7<sup>th</sup> day of January, 2015

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Roseanne Nelson for

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Director  
Department of Consumer and Business Services  
State of Oregon