

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF OREGON  
for the  
BUILDING CODES DIVISION**

IN THE MATTER OF: ) **FINAL ORDER**  
)  
**SHANE ROWLEY, DBA QUICKNET** ) OAH Case No.: 1504022  
**COMPUTERS** ) Agency Case No.: C2014-0203

**HISTORY OF THE CASE**

On January 7, 2015, the Electrical and Elevator Board (Board) of the Building Codes Division (Division) issued a Notice of Proposed Assessment of Civil Penalty, Final Order on Default and Order to Cease and Desist to Shane Rowley, DBA Quicknet Computers (Respondent). On January 13, 2015, Respondent requested a hearing.

On January 28, 2015, the Division referred the hearing request to the Office of Administrative Hearings. Administrative Law Judge (ALJ) Marni J. Davis was assigned to preside at hearing.

ALJ Davis held a contested case telephone hearing on March 10, 2015. Respondent appeared and testified on his own behalf. Judith Moore represented the Division. Nick Ness, Lia Poole, Jeffrey Estill, Kevin Heck, Shawn Haggin and Andrea Simmons testified on behalf of the Division. The record closed at the conclusion of the hearing.

**ISSUES**

1. Whether Respondent engaged in the business of making electrical installations, advertised as or otherwise purported to be licensed to make electrical installations or purported to be acting as a business that makes electrical installations without an electrical contractor's license, in violation of ORS 479.620(1).
2. Whether Respondent allowed an individual to perform electrical work for which the individual is not properly registered or licensed, in violation of OAR 918-282-0120(1).
3. Whether the Division may impose a civil penalty of \$5,000 against Respondent. ORS 455.895(1)(b) and OAR 918-001-0036.
4. Whether the Division may order Respondent to cease and desist from engaging in any violation of the state building code. ORS 455.775(2).

## EVIDENTIARY RULING

Exhibits A1 through A20, offered by the Division, were admitted into the record without objection.

### FINDINGS OF FACT

1. Shane Rowley, DBA Quicknet Computers, (Respondent) does not hold an electrical contractor's license. Mr. Rowley is the owner of Quicknet Computers. (Ex. A9; test. of Respondent.)

2. Carmax Auto Superstores Westcoast, Inc. (Carmax) contracted with American Systems, an electrical contractor, to perform all the low-voltage installations for all Carmax dealerships under construction. American Systems hired Total Networks Interface, Inc. (TNI) to install the cabling for the low-voltage installations located at the Carmax location at 9405 SW Cascade Avenue, Beaverton, Oregon. (Ex. A7.)

3. On February 21, 2014, Respondent participated in a pre-construction meeting with TNI to discuss the Carmax project. Respondent was listed in Field Nation, an online platform that lists contractors. TNI searched for low-voltage technicians in Oregon on the Field Nation website when it found Respondent's name. TNI understood that Respondent was a low-voltage technician. (Test. of Ness, Poole.)

4. On March 17, 2014, TNI entered into a Partner Purchase Agreement with Respondent. The work was to begin on March 31, 2014, and by June 13, 2014 all system cable would be installed. The statement of work on the purchase order stated that Respondent would install all cabling and cable support per the direction and prints, that he would terminate, label, test and device all the cabling, that he would terminate and test the fiber and that he would adhere to daily and weekly reporting procedures. TNI understood that Respondent would be managing the work, performing the work, meeting all deadlines and ensuring that all low-voltage cabling was installed in accordance with the guidelines and standards of the industry. He would be the lead technician at the job site and he would not be sub-contracting the work out to any other company. (Ex. A5; test. of Poole, Ness.)

5. Respondent hired Jared Kimber, DBA Columbia Voice & Data (Columbia), Jeffrey Estill and Scott Stevanus to perform the low-voltage cabling installation he contracted with TNI to complete. TNI was not aware that Respondent contracted the work out to these individuals. Columbia does not have an electrical contractor's license and Mr. Kimber does not have a journeyman electrician's license. (Exs. A5, A11; test. of Respondent, Heck, Estill, Poole.) Respondent believed Columbia and Mr. Kimber were properly licensed in Oregon. (Test. of Respondent.)

6. Columbia hired James Gibson to perform some of the low-voltage cabling at the Carmax location. Mr. Gibson is not a licensed journeyman electrician. (Ex. A7.)

7. Columbia contracted with Kevin Heck, the owner of Hecktec Technical, LLC (Hecktec) to install low-voltage cabling at the Carmax location. (Test. of Heck.)

8. In March 18, 2014, the City of Beaverton issued a permit to Hecktec to install all the low-voltage wiring for all buildings at the Carmax location. (Ex. A8; test. of Heck.)

9. On March 31, 2014, Respondent emailed Mr. Kimber a template that he needed to complete each day and return to Respondent so Respondent would have a record of the work performed that day. (Ex. A17.)

10. On April 1, 2014, Mr. Kimber emailed Respondent a report of the work he completed that day. He wrote that he worked from 6:00 am until 5:30 pm and that he "roughed in" seven d-packs, three b-packs, two speakers and two cameras. (Ex. A17.)

11. On April 2, 2014, Respondent confirmed that he received payment from TNI for the cost of the permits obtained for the Carmax project. (Ex. A17.)

12. Respondent assisted Mr. Heck in installing some dressing on one of the electrical runs and gave directions to Mr. Heck about what Carmax wanted repaired. Respondent also grabbed wire that Mr. Heck dropped down a shaft so that it would not rub against the metal. (Ex. A10.)

13. Roughing in seven d-packs, three b-packs, two speakers and two cameras are electrical installations pursuant to ORS 479.530(10). Assisting in dressing an electrical run and grabbing wire and pulling it so it would not rub against metal are also electrical installations pursuant to ORS 479.530(10). (Test. of Haggin.)

14. The Board based the proposed penalty in this case on the factors set forth in the Division's penalty matrix. (Ex. A19; test. of Simmons.)

### **CONCLUSIONS OF LAW**

(1) Respondent engaged in the business of making electrical installations, advertised as or otherwise purported to be licensed to make electrical installations or purported to be acting as a business that makes electrical installations without an electrical contractor's license, in violation of ORS 479.620(1).

(2) Respondent allowed an individual to perform electrical work for which the individual was not properly registered or licensed, in violation of OAR 918-282-0120(1).

(3) The Division may impose a civil penalty of \$5,000 against Respondent.

(4) The Division may not order Respondent to cease and desist from engaging in any violation of the state building code.

## OPINION

The Division contends that Respondent engaged in the business of making electrical installations, advertised as or otherwise purported to be licensed to make electrical installations or purported to be acting as a business that makes electrical installations without an electrical contractor's license and that he allowed an individual to perform electrical work for which the individual was not properly registered or licensed. The Division also contends that Respondent should be assessed a \$5,000 civil penalty for the violations and he should be ordered to cease and desist from engaging in any further violation of the state building code. The Division has the burden to show, by a preponderance of the evidence, that Respondent committed the alleged violations, and that the proposed penalty and the order to cease and desist are appropriate. ORS 183.450(2), *Harris v. SAIF*, 292 Or 683, 690 (1982). Proof by a preponderance of evidence means that the fact finder is persuaded that the facts asserted are more likely true than not true. *Riley Hill General Contractor, Inc. v. Tandy Corp.*, 303 Or. 390 (1987).

*Engaging in Certain Conduct without an Electrical Contractor's License:*

ORS 479.620(1) provides:

Subject to ORS 479.540, a person may not:

Without an electrical contractor's license, engage in the business 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.

Respondent does not have an electrical contractor's license. At hearing, Respondent denied that he advertised or otherwise purported to be licensed to make electrical installations or purported to be acting as a business that makes electrical installations. Based on Respondent's listing on the Field Nation website as a low-voltage technician, and its pre-construction meeting with Respondent, TNI believed Respondent was properly licensed as an electrical contractor in Oregon. It entered into an agreement with Respondent to install all the low-voltage cabling at the Carmax location. TNI understood that Respondent would be managing the work, performing the work, meeting deadlines and ensuring that all low-voltage cabling was installed in accordance with the guidelines and standards of the industry. At hearing, Respondent testified that he was only hired to act as a project manager and that his responsibility was limited to hiring technicians to complete the required work.

While Respondent may have believed he was merely functioning as a project manager, TNI's testimony is persuasive that Respondent actually agreed to perform the low-voltage cabling at the Carmax location, and Respondent received payment for the work. Because he agreed to perform this work and received payment for it, the preponderance of the evidence indicates that he purported to be acting as a business that makes electrical installations, specifically low-voltage cabling, and his conduct does not fall within the exemptions as set forth in ORS 479.540. Thus, Respondent engaged in the business of making electrical installations without an electrical contractor's license, in violation of ORS 479.620(1).

*Allowing an Individual to Perform Electrical Work without Proper Licensure:*

OAR 918-282-0120(1) provides:

No person or entity shall allow any individual to perform electrical work for which the individual is not properly registered or licensed.

ORS 479.530(10) provides, in relevant part:

“Electrical installations” means 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. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products.

Electrical work is not defined by rule or statute. However, it is reasonable that electrical work would be included in the definition of an “electrical installation.” Respondent testified that he believed Columbia and Mr. Kimber were licensed to perform electrical work in Oregon when they were hired for the Carmax project. Ms. Simmons testified that neither Columbia nor Mr. Kimber ever held licenses in Oregon and her testimony is supported on the Division’s website. Mr. Kimber roughed in seven d-packs, three b-packs, two speakers and two cameras. These actions constitute electrical installations under ORS 479.530(10). By making these installations, Mr. Kimber performed electrical work for which he was not properly registered or licensed. Because Respondent hired Mr. Kimber to perform this electrical work and he was not properly licensed, Respondent violated OAR 918-282-0120(1).

*Appropriate Penalty*

The Division has adopted administrative rules to administer and enforce ORS chapter 693. OAR 918-001-0036(6) provides that the Director may, subject to approval of the Boards, develop a penalty matrix to use as a guideline for assessing civil penalties.

The Division’s penalty matrix provides for a civil penalty of \$3,000 for violating ORS 479.620(1) and \$2,000 for violating OAR 918-282-0120(1). Therefore, the \$5,000 civil penalty proposed by the Division is appropriate.

*Order to Cease and Desist:*

ORS 455.755(2) provides:

If the director has reason to believe that any person has been engaged, or is engaging, or is about to engage in any violation of the state building code, \* \* \*, the director may issue an order, subject to ORS 183.413 to 183.497, directed to the person to cease and desist from the violation or threatened violation.

The Division contends that Respondent has been or is violating state building code law. Such belief is not supported by the record. While Respondent has two separate violations and a \$5,000 civil penalty, the violations and penalty arise from the same incident. No evidence was presented to establish that he previously violated the state building code or that he is currently engaging in or is about to engage in any further violations of the state building code. The Division has not established grounds to issue an Order to Cease and Desist.

**ORDER**

Shane Rowley, DBA Quicknet Computers, shall pay a \$5,000 civil penalty for violating ORS 479.620(1) and OAR 918-282-0120(1).

Andrea Simmons for  
Director,  
Department of Consumer and Business  
State of Oregon

Dated this 28 day of May, 2015.

[Signature]  
Chair,  
Electrical and Elevator Board  
State of Oregon

Dated this 28 day of May, 2015.

**NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW  
(OREGON COURT OF APPEALS)**

Respondent is entitled to judicial review of this Final Order pursuant to ORS 183.482. Judicial review may be initiated by filing a petition for review with the Oregon Court of Appeals within sixty (60) days from the date this Final Order was mailed to Respondent.