

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

3 **IN THE MATTER OF:**

4 **PATRICK DOWNER, AN INDIVIDUAL**

5 **RESPONDENT**

)
) **CONSENT ORDER**

)
) **CASE NO. C2014-0211**

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

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

13 **FINDINGS OF FACT**

- 14 1. At no relevant time did Respondent hold an Oregon general supervising electrician or
journeyman electrician license.
- 15 2. On or about August 21, 2014, at 4320 N Hwy 101, Gearhart, Oregon, Respondent
16 installed a thermostat wire to a self-storage unit's heater, for the account of another,
without a supervising or journeyman electrician license.
- 17 3. Clatsop County Building Codes issued and finalized electrical permit number 27151
18 which was issued to B & O Electric, electrical contractor Number 26-921C.

19 **WHAT THE LAW SAYS**

- 20 1. Oregon Revised Statutes (ORS) 479.530(10) defines an electrical installation as the
21 construction or installation of electrical wiring and the permanent attachment or
22 installation of electrical products in or on any structure that is not itself an electrical
product.
- 23 2. Under ORS 479.620(3), a person may not make any electrical installation without a
supervising or journeyman electrician's license.

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CONCLUSIONS OF LAW

1. The installation of a thermostat wire to a self-storage unit's heater is an electrical installation as defined in ORS 479.530(10).
2. By installing a thermostat wire to a self-storage unit's heater without an Oregon supervising or journeyman electrician's license, Respondent violated ORS 479.620(3).

SETTLEMENT AGREEMENT

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

1. ~~The Board hereby assesses a civil penalty of \$2,000 for violating ORS 479.620(3), of which \$1,250 will be suspended for a period of five years under the following terms:~~

- 1.1 Respondent agrees to pay the remaining \$750 of the civil penalty.

(The invoice will be included with your copy of the Final Order after it is signed by the Board.)

- 1.1. Respondent agrees to pay the entire \$750 postmarked by the 25th day of the month after this consent order becomes final. As long as the payment is received in a timely manner, there shall be no interest added to Respondent's balance.

- 1.2. If Respondent fails to make the payment or otherwise defaults on any term of this Settlement Agreement, the case will be turned over to the Department of Consumer and Business Services collections department for collection of the entire \$2,000 civil penalty, along with interest and applicable fees.

2. Respondent agrees if a final order is issued by a board or the Director finding Respondent violated any of Building Codes Division's statutes or rules within five years from the date this order was signed by the Board, then Respondent will pay any subsequent penalty and the suspended penalty from this order.

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

4. Respondent understands that if he 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, or failure to make payments according to the terms of any payment arrangement or Final Demand Notice.

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 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.
9. Respondent understands that, upon the signature of all parties, this consent order will be a FINAL ORDER.

10. Respondent further agrees by signing this consent order that he is the Respondent or authorized representative for the Respondent in this matter.

FOR THE RESPONDENT


Patrick Downer

Date: 9/19, 2014

FOR THE BOARD

 for
Chair
Electrical and Elevator Board
State of Oregon

Date: 9-23-14, 2014