

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

2
3 **IN THE MATTER OF:**

CONSENT ORDER

4 **AARON D. ZACHARY,**
5 **AN INDIVIDUAL,**

6 **RESPONDENT.**

BCD CASE C2014-0289

7 The Building Codes Division (Division) conducted an investigation on behalf of the Electrical
8 and Elevator Board of the State of Oregon (Board) and determined that Aaron Zachary
9 (Respondent) violated statutes and administrative rules as identified below.

10 The parties agree to resolve this matter without a hearing. Respondent understands that
11 Respondent has the right to a contested case hearing under the Administrative Procedures Act,
12 Oregon Revised Statutes (ORS) chapter 183, and Respondent fully and finally waives the right to a
13 hearing and any judicial review therefrom by the signing of this Consent Order.

14 **FINDINGS OF FACT**

- 15 1. Respondent has held journeyman electrician license number 22095J since January 11, 2005.
- 16 2. During or about the period of time from September 12, 2012 through October 29, 2012,
17 Respondent installed two antique light fixtures and an electrical outlet at the Glaser
18 Building, 710 NW 17th Street, Portland, Oregon (the Glaser Building).
- 19 3. During or about October 30, 2012 through January 7, 2013, Respondent installed electrical
20 outlets in an office and installed electrical outlets in newly-constructed walls at the Glaser
21 Building.
- 22 4. Respondent did not obtain permits prior to performing any work at the Glaser Building.
- 23 5. At no relevant time has Respondent held an electrical contractor license.
- 24 6. On November 14, 2012, the Division issued Respondent general supervising electrician
25 license number 5889S.

1 7. On or about January 11, 2013, Respondent registered as the signing supervising electrician
2 for ER Electric, Inc. (ER Electric).¹

3 8. At no relevant time did Respondent perform any work for ER Electric.

4 9. At no relevant time did Respondent: direct, supervise, make, or control the making of
5 electrical installations for ER Electric; design, plan, or lay out work for the customers of ER
6 Electric; and/or direct, supervise, or control the installation or alteration of electrical service
7 for ER Electric.

8 ~~10. At no relevant time did Respondent do any of the following as signing supervisor for ER~~
9 Electric: sign permits; ensure all electrical installations meet minimum safety standards; be
10 continuously employed as a general supervising electrician on the regular payroll and be
11 available during working hours to carry out the duties of a supervising electrician; ensure
12 proper electrical safety procedures are used; ensure all electrical labels and permits required
13 to perform electrical work are used and signed; and/or ensure electricians have proper
14 licenses for the work performed.

15 11. In or about April 2014, Respondent terminated his relationship with ER Electric.

16 12. Respondent has not notified the Division in writing that he terminated his relationship with
17 ER Electric.

18 **APPLICABLE LAW**

19 1. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
20 electrical wiring and the permanent attachment or installation of electrical products in or on
21 any structure that is not itself an electrical product.

22 2. Under ORS 479.550(1), no person shall work on any new electrical installation for which a
23 permit has not been issued.

24 3. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not
25 engage in the business of making electrical installations, advertise as, or otherwise purport to

¹ See BCD case C2015-0015

1 be licensed to make electrical installations or purport to be acting as a business that makes
2 electrical installations.

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

7 5. Under OAR 918-282-0140(1), a general supervising electrician when working for or as an
8 ~~electrical contractor requiring a signing supervisor:~~

9 (a) directs, supervises, makes, or controls the making of electrical installations;

10 (b) may design, plan, and lay out work for the customers of the contractor with whom
11 the supervising electrician is continuously employed; and

12 (c) is the only individual authorized to direct, supervise, or control the installation of an
13 electrical service.

14 6. Under OAR 918-282-0140(2), a general signing supervising electrician when working for or
15 as an electrical contractor must:

16 (a) sign all permits;

17 (b) ensure all electrical installations meet minimum safety standards;

18 (c) be continuously employed as a general supervising electrician on the regular payroll
19 and be available during working hours to carry out the duties of a supervising
20 electrician;

21 (d) ensure proper electrical safety procedures are used;

22 (e) ensure all electrical labels and permits required to perform electrical work are used
23 and signed;

1 (f) ensure electricians have proper licenses for the work performed, and may not permit,
2 either by assent or by failure to prevent, an individual to perform work for which
3 they are not properly licensed;

4 (g) comply with corrective notices issued by the inspecting authority; and

5 (h) notify the Division in writing within five days if the signing supervising electrician
6 terminates the relationship with the electrical contractor.

7 7. Under ORS 455.129(2)(a) and (3)(b), the Board may condition, suspend, or revoke a license
8 if the license holder fails to comply with a provision of ORS 479.510 - 479.945, ORS
9 chapter 455, or any rule adopted under those statutes.

10 CONCLUSIONS OF LAW

11 1. Installing light fixtures and electrical outlets constitute electrical installations under ORS
12 479.530(10).

13 2. Making the electrical installations described in the previous paragraph requires a permit
14 under ORS 479.550(1).

15 3. By making electrical installations without a permit, Respondent violated ORS 479.550(1).

16 4. Agreeing to perform and performing electrical installations constitutes engaging in the
17 business of making electrical installations under OAR 918-030-0010(8).

18 5. Engaging in the business of making electrical installations requires an electrical contractor
19 license under 479.620(1).

20 6. By engaging in the business of making electrical installations without an electrical
21 contractor license, Respondent violated 479.620(1).

22 7. Under OAR 918-282-0140(1)(a)-(c), as the signing supervisor for ER Electric, Respondent:
23 must direct, supervise, make, or control the making of electrical installations for ER
24 Electric; may design, plan, and lay out work for the customers of ER Electric; and is the
25

1 only individual authorized to direct, supervise, or control the installation of an electrical
2 service for ER Electric.

- 3 8. Under OAR 918-282-0140(2)(a)-(h), as the registered signing supervisor for ER Electric,
4 Respondent must: sign all permits; ensure all electrical installations meet minimum safety
5 standards; be continuously employed as a general supervising electrician on the regular
6 payroll and be available during working hours to carry out the duties of a supervising
7 electrician; ensure proper electrical safety procedures are used; ensure all electrical labels
8 and permits required to perform electrical work are used and signed; ensure electricians have
9 proper licenses for the work performed, and may not permit either by assent or by failure to
10 prevent, an individual to perform work for which they are not properly licensed; comply
11 with corrective notices issued by the inspecting authority; and notify the Division in writing
12 within five days if the signing supervising electrician terminates the relationship with the
13 electrical contractor.
- 14 9. By failing to follow the duties and responsibilities of a signing supervisor as identified in the
15 foregoing Conclusions of Law paragraphs, Respondent violated OAR 918-282-0140(1)(a)-
16 (c) and OAR 918-282-0140(2)(a)-(h).
- 17 10. Under ORS 455.129(2)(a) and (3)(b), Respondent is subject to suspension and conditioning
18 of his license for failing to comply with ORS 479.510 - 479.945, ORS chapter 455, and the
19 rules adopted thereunder.

20 CONSENT ORDER TERMS

- 21 1. The parties agree to resolve this matter without a hearing according to the terms contained in
22 this Consent Order.
- 23 2. The Board assesses a total civil penalty of \$7,000 against Respondent as follows:
- 24 a. \$1,000 for violating ORS 479.550(1); \$3,000 for violating ORS 479.620(1); and
25 \$3,000 for violating OAR 918-282-0140(1)(a)-(c) and OAR 918-282-0140(2)(a)-(h).

1 b. \$5,250 of the total civil penalty shall be suspended for a period of five (5) years if
2 there is compliance with all other terms of this Consent Order.

3 c. Respondent agrees to pay the remaining \$1,750 of the civil penalty. Respondent shall
4 make twelve (12) monthly payments on the 25th day of each month. The first eleven
5 (11) monthly payments shall be in the amount of \$150 per month. The twelfth
6 payment shall be in the amount of \$100. Respondent's first payment shall be
7 postmarked no later than the 25th day of the month following the month in which this
8 Consent Order becomes a final order. ~~(An invoice will be included with~~

9 ***Respondent's copy of the final order after the Director signs it.*** Payments shall be
10 mailed to Oregon Building Codes Division, Fiscal and Customer Services, PO Box
11 14470, Salem, OR 97309-0404.

12 d. The suspended civil penalty (\$5,250) will be considered satisfied five (5) years after
13 this Consent Order becomes a final order, provided Respondent complies with the
14 terms of this Consent Order and has not committed any further violations of the
15 Division's statutes and rules within that five-year period. If Respondent does not
16 comply with the terms of this Consent Order or if Respondent commits any further
17 violations of the Division's statutes or rules within the five-year period, then the
18 entire civil penalty, including any suspended amount, will become immediately due
19 and payable. Failure to comply with this Consent Order includes, but is not limited
20 to, failure to pay the civil penalty amount due by the due date.

21 3. Respondent's general signing supervising electrician license number 5889S shall be
22 suspended for a period of six (6) months, commencing on the date that this Consent Order is
23 executed by all parties.

24 4. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases
25 that rely on the facts underlying this case. Cooperation may include, but may not be limited

1 to, making sworn statements or testifying in administrative hearings.

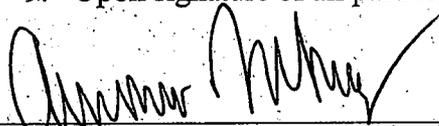
2 5. Further enforcement action may be taken for any violation of the Division's statutes or rules
3 not alleged in this Consent Order, whether committed before or after the execution of this
4 Consent Order, and/or for any violation of the terms of this Consent Order.

5 6. Respondent's failure to comply with this Consent Order may be used as a basis for the
6 denial of a future license, certificate, registration, or other application, or for the refusal to
7 renew the same; for the suspension, revocation, or conditioning of a license, certificate, or
8 registration issued by the Division or other state agencies; and/or for any other reason
9 provided for in law.

10 7. Respondent understands that this Consent Order is a public record.

11 8. Respondent has read and fully understands the terms of this Consent Order, freely and
12 voluntarily consents to the entry of this Consent Order without any force or duress, and
13 expressly waives all rights to hearing or judicial review in this matter.

14 9. Upon signature of all parties, this Consent Order will be a final order.

15 
16 Aaron Zachary It is so agreed this 18th day of July, 2015.

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19 Andrea Semmons for It is so agreed this 27th day of July, 2015.
20 Chair,
21 Electrical and Elevator Board
22 State of Oregon
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