

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

2 **IN THE MATTER OF:**

3
4 **WEST COAST LIGHTING & ENERGY,**
5 **INC.,**
6 **A FOREIGN BUSINESS CORPORATION,**

7
8 **RESPONDENT.**

**NOTICE OF PROPOSED ASSESSMENT
OF CIVIL PENALTIES**

NOTICE OF FINAL ORDER ON DEFAULT

FINAL ORDER

As of: May 31, 2016

BCD CASE C2015-0068

9 **IF YOU DO NOT REQUEST A HEARING IN WRITING WITHIN 20 DAYS**
10 **OF THE POSTMARK DATE OF THIS NOTICE,**
11 **THIS NOTICE WILL BECOME A FINAL ORDER.**

12 More information about this Notice and how to request a hearing is included below.

13 Pursuant to Oregon Revised Statutes (ORS) 455.895(1)(b) and Oregon Administrative Rules
14 (OAR) 918-001-0036, the Electrical and Elevator Board of the State of Oregon (Board) proposes to
15 assess civil penalties totaling \$6,000.00 against West Coast Lighting & Energy, Inc. (Respondent)
16 because Respondent violated Building Codes Division (Division) statutes and rules as identified
17 below.

18 **FINDINGS OF FACT**

- 19 1. On or around December 3, 2014, Respondent contracted to install a 30-amp electrical branch
20 circuit and electrical receptacle, along with associated metal-clad conduit and electrical
21 wiring, at a retail store located at 1250 SE Booth Bend Rd., in McMinnville, Oregon (Booth
22 Bend property).
- 23 2. In December 2014, Respondent employed John Hammond (Hammond).
- 24 3. In December 2014, Hammond, acting at Respondent's behest, performed the foregoing
25 electrical work at the Booth Bend property.¹

¹ See related Division case number C2015-0137.

- 1 4. Respondent was not issued a permit to perform the foregoing electrical work at the Booth
2 Bend property.
- 3 5. At no relevant time did Hammond hold an Oregon supervising or journeyman electrician's
4 license.²
- 5 6. At no relevant time did Respondent hold an Oregon electrical contractor license.

6 **APPLICABLE LAW**

- 7 1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 455.010(1)-
8 (10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-
9 0010(1)-(11), and OAR 918-251-0090(1)-(43).
- 10 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
11 electrical wiring and the permanent attachment or installation of electrical products in or on
12 any structure that is not itself an electrical product.
- 13 3. Under ORS 479.550(1), no person shall work on any new electrical installation for which a
14 permit has not been issued.
- 15 4. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not
16 engage in the business of making electrical installations, advertise as or otherwise purport to
17 be licensed to make electrical installations or purport to be acting as a business that makes
18 electrical installations.
- 19 5. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any
20 other license regulated by ORS chapter 455, "engaging in the business" means to advertise
21 or solicit, contract or agree to perform, or to perform work for which a license or permit is
22 required under Oregon law, including but not limited to a single instance.
- 23 6. Under ORS 479.620(3), a person may not make any electrical installation without a
24 supervising or journeyman electrician's license.
- 25

² On September 12, 2012, Hammond was issued limited building maintenance electrician license number 155BME.

1 7. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform
2 electrical work for which the individual is not properly registered or licensed.

3 **CONCLUSIONS OF LAW**

4 1. The following constitute electrical installations under ORS 479.530(10):

- 5 a. Installing an electrical branch circuit;
6 b. Installing an electrical receptacle; and
7 c. Installing electrical conduit and wiring.

8 2. By working on the foregoing electrical installations at the Booth Bend property, for which a
9 permit had not been issued, Respondent violated ORS 479.550(1).

10 3. By contracting to perform, and performing, the foregoing electrical installations at the Booth
11 Bend property, Respondent engaged in the business of making electrical installations under
12 OAR 918-030-0010(8).

13 4. By engaging in the business of making electrical installations without an electrical
14 contractor license, Respondent violated 479.620(1).

15 5. By making the foregoing electrical installations at the Booth Bend property without a
16 supervising or journeyman electrician's license, Hammond violated ORS 479.620(3).

17 6. By allowing Hammond to perform the foregoing electrical installations at the Booth Bend
18 property, for which he was not properly licensed, Respondent violated OAR 918-282-
19 0120(1).

20 **ORDER**

21 Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, the Board assesses a total of
22 \$6,000.00 in civil penalties as follows:

- 23 1. \$1,000.00 for violating ORS 479.550(1);
24 2. \$3,000.00 for violating ORS 479.620(1); and
25 3. \$2,000.00 for violating OAR 918-282-0120(1).

1 **NOTICE OF RIGHT TO HEARING**

2 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, ORS
3 chapter 183. If Respondent requests a hearing, the request must be in writing and postmarked no
4 later than 20 days from the date of service of this Notice. If the Notice was served on Respondent in
5 person, the date of service is the date Respondent received the Notice. If the Notice was served
6 through the mail, the date of service is the day the Notice was mailed, not the day it was received by
7 the Respondent. If a request for hearing is not received within the 20-day period, Respondent's right
8 to a hearing shall be considered waived. Mail hearing requests to Building Codes Division,
9 Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

10 Respondent may be represented by legal counsel. Pursuant to ORS 183.457 and OAR 918-
11 001-0030, a corporate Respondent may be represented by an authorized representative at the
12 hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the
13 hearing. The Division will give Respondent information on the procedures, right of representation,
14 and other rights of parties relating to the conduct of the hearing before the commencement of the
15 hearing.

16 **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

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

22 **NOTICE OF FINAL ORDER**

23 This Notice will become a final order by default if Respondent does any of the following:
24 fails to request a hearing in writing within 20 days from the date of service of this Notice;
25

1 withdraws a hearing request; notifies the Building Codes Division or the administrative law judge
2 that Respondent will not appear at a scheduled hearing; or fails to appear at a scheduled hearing. If
3 this Notice becomes a final order by default, the Division's file on the matter, including all
4 materials submitted by Respondent, becomes the record for the purpose of establishing a prima
5 facie case.

6 **RIGHT TO JUDICIAL REVIEW**

7 Respondent is entitled to judicial review of a final order in this matter. Judicial review may
8 be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after a
9 final order is served upon Respondent. See ORS 183.482. If a final order is served on Respondent in
10 person, the date of service is the date Respondent receives the order. If a final order is served
11 through the mail, the date of service is the day the order is mailed, not the day it is received by the
12 Respondent. If Respondent does not file a petition for judicial review within the 60-day time
13 period, Respondent will lose the right to appeal. The phone number for the Oregon Court of
14 Appeals is 503-986-5555.

15 **FOR THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON**

16
17 Andrea Simmons for Date: 4/28/16
18 Chair
19 Electrical and Elevator Board
20 State of Oregon
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