





3. On February 3, 2015, Respondent's father signed the certified mail receipt for the Notice issued January 20, 2015. The Notice proposed to assess a \$2,000 civil penalty against Respondent. To be timely, Respondent needed to file a request for hearing by February 9, 2015. (Ex. A1; test. of Simmons, Respondent.)

4. On February 10, 2015, Respondent had not filed a request for hearing and the Notice of Proposed Assessment of a Civil Penalty and Final Order on Default became final. (Ex. A2; test. of Simmons.)

5. On March 5, 2015, the Division issued an invoice to Respondent requesting payment of the civil penalty assessed in case C2014-0174. (Ex. A6; test. of Simmons.)

6. On June 15, 2015, the Division issued a final demand for payment of the civil penalty assessed in case C2014-0174. (Ex. A7; test of Simmons.)

7. Respondent has not paid the civil penalty assessed in case C2014-0174. (Test. of Simmons, Brunets.)

### CONCLUSION OF LAW

The Division may suspend Respondent's limited residential electrician license 875LR because he failed to pay a civil penalty.

### OPINION

The Division contends that Respondent's limited residential electrician license should be suspended for one year because he failed to pay a civil penalty. The Division has the burden to show, by a preponderance of the evidence, that the license suspension is appropriate. *See* 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).

ORS 455.129(2) provides in relevant part:

Subject to ORS chapter 183, a regulatory body listed in subsection (3) of this section may suspend \* \* \* a license \* \* \* if the regulatory body finds that the licensee\* \* \*[:]

(b) Has failed to comply with an order of the regulatory body or the Director of the Department of Consumer and Business Services, including but not limited to the failure to pay a civil penalty.

On January 20, 2015, the Division issued a Notice of Proposed Assessment to Respondent's address of record. Respondent's father accepted delivery of the Notice. To be timely, Respondent needed to request a hearing by February 9, 2015. Respondent did not timely appeal the Notice and it became final on February 10, 2015. The Division issued two invoices to Respondent requesting payment of the civil penalty. Respondent has not paid the civil penalty.

Because Respondent has not paid the civil penalty assessed in case C2014-0174, the Division may suspend his limited residential electrician license for one year, pursuant to ORS 455.129(2)(b).

**ORDER**

*I propose the Building Codes Division, Electrical and Elevator Board, issue the following order:*

Lyubomir B. Brunets' limited residential electrician license C875LR is suspended for one year.

Marni J. Davis

Administrative Law Judge  
Office of Administrative Hearings

**APPEAL PROCEDURE**

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division  
Manager, Enforcement and Licensing  
PO Box 14470  
Salem, OR 97309-0404