

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

2 **IN THE MATTER OF:**

CONSENT ORDER

3
4 **MAX W. RIGGS,**
5 **AN INDIVIDUAL,**

6 **RESPONDENT.**

BCD CASE C2015-0232

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8 **INTRODUCTION**

9 The Building Codes Division (Division) conducted an investigation on behalf of the
10 Electrical and Elevator Board of the State of Oregon (Board) and determined that Max W. Riggs
11 (Respondent) violated certain provisions of the Division's statutes and administrative rules as
12 identified below.

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

17 **FINDINGS OF FACT**

- 18 1. At all relevant times, Respondent was an employee of Ross Electric Company, a
19 Corporation of Washington (electrical contractor license 37-779C).¹
- 20 2. During or about June and July 2015, Respondent performed the following work at a
21 commercial structure at 207 7th Street in Oregon City, Oregon (7th Street project):
- 22 a. The installation of approximately 700 feet of electrical wiring. This included
23 installing conduit between rooftop and the basement of the building, installing wiring
24 within that conduit, connecting wiring to combiner boxes on the roof, and

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¹ See related Division cases C2015-0240 and C2015-0241.

1 terminating the wiring in the main electrical panel in the basement; and

2 b. The installation of conduit between the main electrical panel in the basement to two
3 subpanels located on the first floor.

- 4 3. Respondent completed the foregoing electrical installations with Nicholas Sundby, who held
5 an Oregon apprentice license. Respondent directed and supervised work performed by
6 Sundby.
- 7 4. Respondent represented himself as holding an Oregon electrician license.
- 8 5. Respondent directed, supervised, and controlled the making of the foregoing electrical
9 installations for the 7th Street project.
- 10 6. At no time did Respondent perform any of the foregoing electrical work at the 7th Street
11 project under the supervision or direction of a signing supervising electrician.
- 12 7. On or about November 7, 2015, Respondent applied for an Oregon journeyman electrician
13 license.

14 **APPLICABLE LAW**

- 15 1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 455.010(1)-
16 (10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-
17 0010(1)-(11), and OAR 918-251-0090(1)-(43).Law
- 18 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
19 electrical wiring and the permanent attachment or installation of electrical products in or on
20 any structure that is not itself an electrical product.
- 21 3. Under ORS 479.620(2), a person may not direct, supervise, or control the making of an
22 electrical installation without a supervising electrician's license.
- 23 4. Under ORS 479.620(3), a person may not make any electrical installation without a
24 supervising or journeyman electrician's license.

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1 5. 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 6. Under ORS 455.129(2), subject to ORS chapter 183, a regulatory body listed in subsection
4 (3) of this section may deny a license application if the regulatory body finds that the
5 licensee, certificate holder, registrant or applicant:

6 (a) Has failed to comply with the laws administered by the regulatory body or with the
7 rules adopted by the regulatory body.

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9 (d) Has performed work without appropriate licensing, certification or registration or has
10 employed individuals to perform work without appropriate licensing, certification or
11 registration.

12 7. Under ORS 455.129(3), subsection (2) of this section applies to:

13 (b) The Electrical and Elevator Board for purposes of licenses issued under ORS
14 446.210 or 479.510 to 479.945.

15 8. Under ORS 455.127(2)(a), the Board may disqualify a person from obtaining or renewing a
16 license if the person is or has been subject to civil penalties, revocation, cancellation or
17 suspension of a license, registration, certificate or certification or other sanction by the
18 director, department or an advisory board.

19 9. Under ORS 455.127(3), a disqualification under subsection (2) of this section shall be for a
20 period determined by the director, department or appropriate advisory board by rule, not to
21 exceed five years.

22 10. Under OAR 918-001-0034(1), disqualification under ORS 455.127(2) shall be for a period
23 of five years except as provided in subsection (2) of this rule.

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1 11. Under OAR 918-001-0034(2), the board may, in its discretion, order a disqualification fewer
2 than five years. In doing so the board may, but is not required to, consider any mitigating
3 factors.

4 CONCLUSIONS OF LAW

- 5 1. The following constitute electrical installations under ORS 479.530(10):
- 6 a. The installation of approximately 700 feet of electrical wiring.
 - 7 b. Installing conduit between a rooftop and a basement of a building, installing wiring
8 within that conduit, connecting wiring to combiner boxes on a roof, and terminating
9 the wiring in a main electrical panel in a basement.
 - 10 c. The installation of conduit between the main electrical panel in a basement to two
11 subpanels.
- 12 2. By directing, supervising, or controlling the making of the foregoing electrical installations
13 without holding an Oregon supervising electrician license, Respondent violated ORS
14 479.620(2).
- 15 3. By making the foregoing electrical installation without a supervising or journeyman
16 electrician's license, Respondent violated ORS 479.620(3).
- 17 4. By allowing Sundby to perform the foregoing electrical work for which Sundby is not
18 properly registered or licensed, Respondent violated OAR 918-282-0120(1).
- 19 5. Because Respondent has failed to comply with the foregoing laws administered by the
20 Board, the Board may deny Respondent's application for a journeyman electrician license
21 under ORS 455.129(2)(a) and (3).
- 22 6. Because Respondent has performed the foregoing work without appropriate licensing, the
23 Board may deny Respondent's application for a journeyman electrician license under ORS
24 455.129(2)(d) and (3).

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- 1 7. Because Respondent is subject to civil penalties or other sanction by the Board, the Board
2 may disqualify Respondent from obtaining a journeyman electrician license under ORS
3 455.127(2)(a).
- 4 8. The Board may disqualify Respondent from obtaining a journeyman electrician license for
5 up to five years under ORS 455.127(3) and OAR 918-001-0034.

6 **ORDER**

- 7 1. The Board hereby assesses a total civil penalty of \$7,000 against Respondent for violating
8 ORS 479.620(2) (\$3,000), ORS 479.620(3) (\$2,000), and OAR 918-282-0120(1) (\$2,000) as
9 follows:
- 10 a. \$3,500 of the total civil penalty will be suspended for a period of five years if there is
11 compliance with all other terms of this Consent Order.
- 12 b. Respondent agrees to pay the remaining \$3,500 of the civil penalty. Respondent's
13 payment shall be postmarked no later than the 25th day of the month following the
14 month in which this Consent Order becomes a final order. *(An invoice will be*
15 *included with Respondent's copy of the final order after the Director signs it.*
16 *Respondent understands timely payment must be made even if no invoice is ever*
17 *received.)* Payment shall be mailed to Department of Consumer and Business
18 Services, Fiscal Services Section, P.O. Box 14610, Salem, OR 97309-0445.
- 19 c. Respondent understands the suspended civil penalty (\$3,500) will be considered
20 satisfied five years after this Consent Order becomes a final order, provided
21 Respondent complies with its terms and has not committed any further violations of
22 the Division's statutes and rules within that five-year period. Respondent
23 understands and agrees that if Respondent does not comply with the terms of this
24 Consent Order or if Respondent commits any further violations of the Division's
25 statutes or rules within the five-year period, then the entire civil penalty, including

1 any suspended amount, will become immediately due and payable. Failure to comply
2 with this Consent Order includes, but is not limited to, failure to pay the civil penalty
3 amount due by the due date.

4 2. Respondent's application for a journeyman electrician license is hereby denied pursuant to
5 ORS 455.129(2)(a), (2)(d), and (3).

6 3. Respondent is disqualified from obtaining a journeyman electrician license for six (6)
7 months under ORS 455.127 and OAR 918-001-0034. This six-month period shall
8 commence on the date that this Consent Order becomes a final order.

9 4. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases
10 that rely on the facts underlying this case. Cooperation may include, but may not be limited
11 to, making sworn statements or testifying in administrative hearings.

12 5. Respondent understands that further enforcement action may be taken for any violation of
13 the Division's statutes or rules not alleged in this Consent Order, whether committed before
14 or after the execution of this Consent Order, and/or for any violation of the terms of this
15 Consent Order.

16 6. Respondent understands that failure to comply with this Consent Order may be used as a
17 basis for the denial of future license, certificate, registration, or other applications, or for the
18 refusal to renew the same; for the suspension, revocation, or conditioning of a license,
19 certificate, or registration issued by the Division or other state agencies; and/or for any other
20 reason provided for in law.

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

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

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9. Respondent understands that, upon signature of all parties, this Consent Order will be a Final Order.


_____ It is so agreed this 25 day of February, 2016.
Max W. Riggs


_____ for It is so agreed this 29 day of February, 2016.
Chair
Electrical and Elevator Board
State of Oregon