

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

2 **IN THE MATTER OF:**

CONSENT ORDER

3
4 **ROSS ELECTRIC COMPANY, A
CORPORATION OF WASHINGTON,
5 A FOREIGN BUSINESS CORPORATION,**

6
7 **RESPONDENT.**

BCD CASE C2015-0240

8
9 **INTRODUCTION**

10 The Building Codes Division (Division) conducted an investigation on behalf of the
11 Electrical and Elevator Board of the State of Oregon (Board) and determined that Ross Electric
12 Company, a Corporation of Washington (Respondent) violated certain provisions of the Division's
13 statutes and administrative rules as identified below.

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

18 **FINDINGS OF FACT**

- 19 1. At all relevant times Respondent has held Oregon electrical contractor license number 37-
20 779C.
- 21 2. From November 28, 2005 through February 8, 2016, Respondent's registered signing
22 supervisor was Erasmo Gonzales, AKA Ed Gonzales (Gonzales).¹
- 23 3. At all relevant times, Gonzales held Oregon supervising electrician license number 4097S
24 and Oregon journeyman electrician license number 10960J.

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¹ See related Division case C2015-0241.

- 1 4. At all relevant times, Dale Ross (Ross) was the owner of Respondent. Ross passed away in
2 or about January 2016.
- 3 5. At all relevant times, Gonzales was paid a monthly stipend or fee to remain as Respondent's
4 registered supervising electrician. Gonzales performed minimal, if any, work for Respondent
5 as Respondent's signing supervisor.
- 6 6. While registered as Respondent's signing supervisor, Gonzales owned and operated his own
7 business, Eds Electric LLC, in the State of Washington for the past few years.
- 8 7. While registered as Respondent's signing supervisor, Gonzales never visited any of
9 Respondent's job sites and did not know most of Respondent's staff, including Respondent's
10 journeyman electricians.
- 11 8. While registered as Respondent's signing supervisor, Gonzales did not sign a permit for a
12 period of at least three years, although he did give Dale Ross permission to sign permits on
13 his behalf.
- 14 9. While registered as Respondent's signing supervisor, Gonzales's job duties for Respondent
15 never included the supervision of Respondent's employees.
- 16 10. While registered as Respondent's signing supervisor, Gonzales did not assist Respondent or
17 Respondent's employees in the design, planning, or layout of electrical installations.
- 18 11. While registered as Respondent's signing supervisor, Gonzales did not confirm
19 Respondent's employees' license credentials.
- 20 12. At all relevant times, Max Riggs (Riggs) was an employee of Respondent.²
- 21 13. During or about June and July 2015, Riggs performed the following work at a commercial
22 structure at 207 7th Street in Oregon City, Oregon (7th Street project):
 - 23 a. The installation of approximately 700 feet of electrical wiring. This included
24 installing conduit between rooftop and the basement of the building, installing wiring
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² See related Division cases C2015-0232.

1 within that conduit, connecting wiring to combiner boxes on the roof, and
2 terminating the wiring in the main electrical panel in the basement; and

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

5 14. Riggs completed the foregoing electrical installations with Nicholas Sundby (Sundby), who
6 held an Oregon apprentice license. Riggs directed and supervised work performed by
7 Sundby.

8 15. Riggs directed, supervised, and controlled the making of the foregoing electrical
9 installations for the 7th Street project.

10 16. At no time did Riggs perform any of the foregoing electrical work at the 7th Street project
11 under the supervision or direction of a signing supervising electrician.

12 17. At no relevant time did Riggs hold an Oregon supervising or journeyman electrician license.

13 18. On or about November 7, 2015, Riggs applied for an Oregon journeyman electrician license.

14 19. Since March 28, 2016, Respondent's registered signing supervisor has been Herbert Dahlen,
15 license number 37-709C.

16 APPLICABLE LAW

17 1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 455.010(1)-
18 (10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-
19 0010(1)-(11), and OAR 918-251-0090(1)-(43).

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

23 3. Under ORS 479.620(2), a person may not direct, supervise, or control the making of an
24 electrical installation without a supervising electrician's license.

25 4. Under ORS 479.620(3), a person may not make any electrical installation without a

1 supervising or journeyman electrician's license.

- 2 5. Under OAR 918-282-0010(1), an electrical contractor is required to continuously employ at
3 least one full-time general supervising electrician.
- 4 6. Under OAR 918-282-0015, electrical contractors engaged in the business of making
5 electrical installations that require a signing supervising electrician shall assure that all
6 electrical work is made by, or under the direct supervision or control of, a continuously
7 employed full-time signing supervising electrician acting within the scope of their license.
- 8 7. Under OAR 918-251-0090(8), "Continuously Employ" means a person, including a person
9 leased from a worker leasing company licensed under ORS 656.850, during time periods
10 when electrical work for which they are responsible is performed, devotes their entire time
11 of employment to tasks of supervising, designing, laying out, planning, controlling, and
12 making electrical installations for the electrical contractor for which the supervisor is
13 registered as signing supervisor.
- 14 8. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform
15 electrical work for which the individual is not properly registered or licensed.
- 16 9. Under OAR 918-282-0170(1)(b), a general journeyman electrician shall work under the
17 supervision, direction, and control of a general supervising electrician unless doing the type
18 of work that may be supervised, directed, or controlled by a person holding a specific
19 limited supervising electrician license, or the type of work requiring no supervision.
- 20 10. Under ORS 455.129(2)(a) and (3)(b), the Board may deny a license, certificate, registration,
21 or application or may suspend, revoke, condition, or refuse to renew a license, certificate, or
22 registration if the Board finds that the licensee, certificate holder, registrant, or applicant has
23 failed to comply with the laws administered by the Board or with the rules adopted by the
24 Board.
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CONCLUSIONS OF LAW

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2 1. By failing to devote his entire time of employment to tasks of supervising, designing, laying
3 out, planning, controlling, and making electrical installations for Respondent, the electrical
4 contractor for which he was registered as signing supervisor, Gonzales was not continuously
5 employed as Respondent's signing supervisor under OAR 918-251-0090(8).
- 6 2. By paying Gonzales a monthly stipend while Gonzales ran his own business and otherwise
7 failed to provide general supervising electrician services, Respondent failed to continuously
8 employ at least one full-time general supervising electrician and thus violated OAR 918-
9 282-0010(1).
- 10 3. By engaging in the business of making electrical installations that require a signing
11 supervisor without assuring that all electrical work is made by, or under the direct
12 supervision or control of, a continuously employed full-time supervising electrician,
13 Respondent violated OAR 918-282-0015.
- 14 4. The following constitute electrical installations under ORS 479.530(10):
 - 15 a. The installation of approximately 700 feet of electrical wiring.
 - 16 b. Installing conduit between a rooftop and a basement of a building, installing wiring
17 within that conduit, connecting wiring to combiner boxes on a roof, and terminating
18 the wiring in a main electrical panel in a basement.
 - 19 c. The installation of conduit between the main electrical panel in a basement to two
20 subpanels.
- 21 5. By directing, supervising, or controlling the making of the foregoing electrical installations
22 without holding an Oregon supervising electrician license, Riggs violated ORS 479.620(2).
- 23 6. By making the foregoing electrical installation without a supervising or journeyman
24 electrician's license, Riggs violated ORS 479.620(3).
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- 1 7. By allowing Sundby to perform the foregoing electrical work for which Sundby is not
2 properly registered or licensed, Riggs violated OAR 918-282-0120(1).
- 3 8. By allowing Riggs to perform the foregoing electrical installations without holding an
4 Oregon supervising or journeyman electrician license; by allowing Riggs to direct,
5 supervise, or control the making of the foregoing electrical installations without holding an
6 Oregon supervising electrician license; and by allowing Sundby to perform the foregoing
7 electrical work for which Sundby is not properly registered or licensed, Respondent violated
8 OAR 918-282-0120(1).
- 9 9. Because the Board has found that Respondent has failed to comply with the foregoing laws
10 administered by the Board and rules adopted by the Board, the Board may condition
11 Respondent's electrical contractor license under ORS 455.129(2)(a) and (3)(b).

12 **ORDER**

- 13 1. The Board hereby assesses a total civil penalty of \$6,000.00 against Respondent for
14 violating OAR 918-282-0010(1) (\$2,000.00), OAR 918-282-0015 (\$2,000.00), and OAR
15 918-282-0120(1) (\$2,000.00) as follows:
- 16 a. \$3,000.00 of the total civil penalty will be suspended for a period of five years if
17 there is compliance with all other terms of this Consent Order.
- 18 b. Respondent agrees to pay the remaining \$3,000.00 of the civil penalty. Respondent
19 will make twelve (12) monthly payments, which shall be postmarked no later than
20 the 25th day of each month in the amount of \$250.00 per month. Respondent's first
21 payment shall be postmarked no later than the 25th day of the month following the
22 month in which this Consent Order becomes a final order. *(An invoice will be*
23 *included with Respondent's copy of the final order after the Director signs it. This*
24 *is a one-time invoice; Respondent will not receive monthly invoices or other*
25 *reminders to pay. Respondent understands timely payments must be made even if*

1 *no invoice is ever received.*) Payments shall be mailed to Department of Consumer
2 and Business Services, Fiscal Services Section, P.O. Box 14610, Salem, OR 97309-
3 0445.

4 c. Respondent understands the suspended civil penalty (\$3,000.00) will be considered
5 satisfied five years after this Consent Order becomes a final order, provided
6 Respondent complies with its terms and has not committed any further violations of
7 the Division's statutes and rules within that five-year period. Respondent
8 understands and agrees that if Respondent does not comply with the terms of this
9 Consent Order or if Respondent commits any further violations of the Division's
10 statutes or rules within the five-year period, then the entire civil penalty, including
11 any suspended amount, will become immediately due and payable. Failure to comply
12 with this Consent Order includes, but is not limited to, failure to pay the civil penalty
13 amount due by the due date.

14 2. Respondent's electrical contractor license number 37-779C shall be conditioned as follows:

- 15 a. Respondent shall provide the Division with monthly reports for six (6) months.
16 b. The monthly reports shall include: copies of all permits obtained; a list of all
17 employees of the company, including the address of each employee; and a timesheet
18 or other document reflecting all hours that Respondent's signing supervisor has
19 worked and the specific work the signing supervisor performed.
20 c. The monthly reports shall report all of the above information from the preceding
21 month. The first report shall be postmarked by May 15, 2016, and subsequent reports
22 shall be submitted every month, postmarked by the fifteenth day of the month they
23 are due.

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1 d. The monthly reports shall be submitted via electronic mail to
2 BCD.Complaints@oregon.gov or via regular mail to Building Codes Division,
3 Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

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

7 4. Respondent understands that further enforcement action may be taken for any violation of
8 ~~the Division's statutes or rules not alleged in this Consent Order, whether committed before~~
9 or after the execution of this Consent Order, and/or for any violation of the terms of this
10 Consent Order.

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

16 6. Respondent understands that this Consent Order is a public record.

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

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

3 Candia Sanders

4 It is so agreed this 21 day of May/April, 2016.

5 Candia Sanders
6 Director and Authorized Representative
7 Ross Electric Company

8 Andrea Simms

9 It is so agreed this 25th day of April, 2016.

10 Chair
11 ~~Electrical and Elevator Board~~
12 State of Oregon
13

14 ④ Dale Ross passed away January 27th - not "in" and
15 "about" January. You have a copy of the death
16 certificate.

17 ⑧ Max Riggs applied for Oregon supervisor January 2015.
18 accepted in November 2015, but hours were questioned.
19 He's been an electrician since 1994.
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