

# FINAL ORDER

As of: July 7<sup>th</sup> 2016

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

JOHN M. HARKINS,  
AN INDIVIDUAL,

RESPONDENT.

NOTICE OF PROPOSED ASSESSMENT  
OF CIVIL PENALTIES

NOTICE OF FINAL ORDER ON DEFAULT

BCD CASE C2015-0243

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

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

Pursuant to Oregon Revised Statute (ORS) 455.895(1)(b) and Oregon Administrative Rule (OAR) 918-001-0036, the Electrical and Elevator Board of the State of Oregon (Board) proposes to assess civil penalties totaling \$6,000.00 against John M. Harkins (Respondent) because Respondent violated Building Codes Division (Division) statutes and rules as identified below.

## FINDINGS OF FACT

1. In or around September 2015, Respondent entered into an agreement to perform work at a residential property located at 6507 Springhill Drive, in Albany, Oregon (Springhill property). This work included the installation of two fuse boxes and running of electrical conduit containing electrical wiring.
2. In or around October 2015, Respondent performed the foregoing work at the Springhill property.
3. At no relevant time did Respondent hold an electrical contractor's license.
4. At no relevant time did Respondent hold a supervising or journeyman electrician's license.
5. No electrical permit was issued to perform the foregoing work at the Springhill property.

## APPLICABLE LAW

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

## CONCLUSIONS OF LAW

1. The following constitute electrical installations under 479.530(10):
  - a. Installing fuse boxes; and
  - b. Running conduit containing electrical wiring.
2. By agreeing to perform the foregoing electrical installations at the Springhill property, and by performing them, Respondent engaged in the business of making electrical

1 installations under OAR 918-030-0010(8).

2 3. By engaging in the business of making electrical installations without holding an electrical  
3 contractor license, Respondent violated ORS 479.620(1).

4 4. By making the foregoing electrical installations at the Springhill property without a  
5 supervising or journeyman electrician's license, Respondent violated ORS 479.620(3).

6 5. By making the foregoing electrical installations at the Springhill property for which an  
7 electrical permit had not been issued, Respondent violated ORS 479.550(1).

8 **ORDER**

9 Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, the Board assesses a total of  
10 \$6,000.00 in civil penalties as follows:

- 11 1. \$3,000.00 for violating ORS 479.620(1);  
12 2. \$2,000.00 for violating ORS 479.620(3); and  
13 3. \$1,000.00 for violating ORS 479.550(1).

14 **NOTICE OF RIGHT TO HEARING**

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

23 Respondent may be represented by legal counsel. Pursuant to ORS 183.457 and OAR 918-  
24 001-0030, a corporate Respondent may be represented by an authorized representative at the  
25 hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the

1 hearing. The Division will give Respondent information on the procedures, right of representation,  
2 and other rights of parties relating to the conduct of the hearing before the commencement of the  
3 hearing.

#### 4 **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

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

#### 10 **NOTICE OF FINAL ORDER**

11 This Notice will become a final order by default if Respondent does any of the following:  
12 fails to request a hearing in writing within 20 days from the date of service of this Notice;  
13 withdraws a hearing request; notifies the Building Codes Division or the administrative law judge  
14 that Respondent will not appear at a scheduled hearing; or fails to appear at a scheduled hearing. If  
15 this Notice becomes a final order by default, the Division's file on the matter, including all  
16 materials submitted by Respondent, becomes the record for the purpose of establishing a prima  
17 facie case.

#### 18 **RIGHT TO JUDICIAL REVIEW**

19 Respondent is entitled to judicial review of a final order in this matter. Judicial review may  
20 be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after a  
21 final order is served upon Respondent. See ORS 183.482. If a final order is served on Respondent in  
22 person, the date of service is the date Respondent receives the order. If a final order is served  
23 through the mail, the date of service is the day the order is mailed, not the day it is received by the  
24 Respondent. If Respondent does not file a petition for judicial review within the 60-day time  
25

1 period, Respondent will lose the right to appeal. The phone number for the Oregon Court of  
2 Appeals is 503-986-5555.

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

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5 Andrea Simmons for Date: 5/2/16  
6 Chair  
7 Electrical and Elevator Board  
8 State of Oregon  
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