

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

**IN THE MATTER OF:**

**CONSENT ORDER**

**TOTAL QUALITY SERVICES, INC.,  
A DOMESTIC BUSINESS CORPORATION,**

**RESPONDENT.**

**BCD CASE C2016-0003**

**INTRODUCTION**

The Building Codes Division (Division) conducted an investigation on behalf of The Electrical and Elevator Board of the State of Oregon (Board) and determined that Total Quality Services, Inc. (Respondent) violated certain provisions of the Division's statutes and administrative rules as identified below.

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

**FINDINGS OF FACT**

1. In or around August 2015, Respondent employed Mike Willis (Willis). At no relevant time did Willis hold any license with the Division.
2. In or around August 2015, Willis, acting at Respondent's behest, replaced a thermostat for a a heating, ventilation, and air conditioning (HVAC) unit at a commercial property located at 1050 SW Baseline Rd., in Hillsboro Oregon (Baseline property).
3. In or around January 2016, Respondent employed Jansen Goosmann. At no relevant time did Jansen Goosmann hold any license with the Division.
4. In or around January 2016, Jansen Goosmann, acting at Respondent's behest, installed

1 electrical wiring on the line-side of an HVAC unit at a commercial property located at 3602  
2 SE Powell Blvd. (Powell property), in Portland, Oregon.

3 5. No electrical permits were issued to Respondent to perform the foregoing work at the  
4 Baseline and Powell properties.

5 6. At no relevant time did Respondent hold a limited maintenance specialty contractor  
6 HVAC/R license.<sup>1</sup>

7 7. At no relevant time did Respondent hold an electrical contractor license.

8 8. On or around January 4, 2016, Respondent submitted an application with the Division for a  
9 plumbing and boiler business and limited maintenance specialty contractor HVAC/R  
10 license.<sup>2</sup>

#### 11 APPLICABLE LAW

12 1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 447.010(1)-(6),  
13 ORS 455.010(1)-(10), ORS 693.010(1)-(5), ORS 479.530(1)-(23), ORS 479.905(1)-(5),  
14 OAR 918-001-0005(1)-(4), OAR 918-030-0010(1)-(11), OAR 918-251-0090(1)-(43), and  
15 OAR 918-690-0420(1)-(14).

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

19 3. Under ORS 479.550(1), no person shall work on any new electrical installation for which a  
20 permit has not been issued.

21 4. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not  
22 engage in the business of making electrical installations, advertise as or otherwise purport to

23  
24 <sup>1</sup> Respondent's plumbing contractor license number PB504 expired on July 10, 2014, and its boiler contractor license  
number BB58 expired on July 1, 2014.

25 <sup>2</sup> The Division has issued a Notice of Proposed Denial of Respondent's license application. Respondent also submitted  
license applications for limited maintenance specialty contractor HVAC/R, plumbing business, boiler/pressure vessel  
business and plumbing and boiler business licenses. Respondent subsequently withdrew these other license  
applications.

1 be licensed to make electrical installations or purport to be acting as a business that makes  
2 electrical installations.

3 5. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any  
4 other license regulated by ORS chapter 455, "engaging in the business" means to advertise  
5 or solicit, contract or agree to perform, or to perform work for which a license or permit is  
6 required under Oregon law, including but not limited to a single instance.

7 6. Under ORS 479.620(3), a person may not make any electrical installation without a  
8 supervising or journeyman electrician's license.

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

#### 11 CONCLUSIONS OF LAW

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

13 a. Replacing a thermostat for an HVAC unit; and

14 b. Installing electrical wiring on the line-side of an HVAC unit.

15 2. By replacing a thermostat for an HVAC unit at the Baseline property, without holding a  
16 supervising or journeyman electrician's license, Willis violated ORS 479.620(3).

17 3. By allowing Willis to perform the foregoing electrical installation at the Baseline property,  
18 for which he was not properly licensed, Respondent violated OAR 918-282-0120(1).

19 4. By installing electrical wiring on the line-side of an HVAC unit at the Powell property,  
20 without holding a supervising or journeyman electrician's license, Jansen Goosmann  
21 violated ORS 479.620(3).

22 5. By allowing Jansen Goosmann to perform the foregoing electrical installation at the Powell  
23 property, for which he was not properly licensed, Respondent violated OAR 918-282-  
24 0120(1).

25 6. By performing the foregoing electrical installations at the Baseline and Powell properties,

1 Respondent engaged in the business of performing electrical installations under OAR 918-  
2 030-0010(8).

- 3 7. By engaging in the business of performing electrical installations, without holding an  
4 electrical contractor's license, Respondent violated ORS 479.620(1).  
5 8. By performing the foregoing electrical HVAC activities and/or installations at the Baseline  
6 and Powell properties, without having been issued electrical permits, Respondent violated  
7 ORS 479.550(1).

8 **ORDER**

- 9 1. The Board hereby assesses a total civil penalty of \$8,000.00 against Respondent for  
10 violating ORS 479.620(1) (\$3,000.00), OAR 918-282-0120(1) (\$4,000.00) (\$2,000 per  
11 occurrence), and ORS 479.550(1) (\$1,000.00) as follows:

- 12 a. \$5,250.00 of the total civil penalty will be suspended for a period of five years if  
13 there is compliance with all other terms of this Consent Order.  
14 b. Respondent agrees to pay the remaining \$2,750.00 of the civil penalty. Respondent  
15 will make nine monthly payments of \$300, followed by a final monthly payment of  
16 \$50, all of which shall be postmarked no later than the 25<sup>th</sup> day of each month.  
17 Respondent's first payment shall be postmarked no later than the 25<sup>th</sup> day of the  
18 month following the month in which this Consent Order becomes a final order: *(An*  
19 *invoice will be included with Respondent's copy of the final order after the*  
20 *Director signs it. This is a one-time invoice; Respondent will not receive monthly*  
21 *invoices or other reminders to pay. Respondent understands timely payments must*  
22 *be made even if no invoice is ever received.)* Payments shall be mailed to  
23 Department of Consumer and Business Services, Fiscal Services Section, P.O. Box  
24 14610, Salem, OR 97309-0445.  
25 c. Respondent understands the suspended civil penalty (\$5,250.00) will be considered

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

10 2. Respondent shall be issued a conditional plumbing and boiler business and limited  
11 maintenance specialty contractor HVAC/R license, active upon the date that this Consent  
12 Order is executed by all parties.

13 3. Respondent's plumbing and boiler business and limited maintenance specialty contractor  
14 HVAC/R license shall be conditioned for a period of six months, as follows:

15 a. Respondent shall provide the Division with monthly reports for the six-month  
16 conditional license period.

17 b. The monthly reports shall include: a list of all jobs worked on during the month with  
18 each customer's name and address (including jobs reported in a previous quarter's  
19 report if the job runs longer than one quarter); copies of all invoices from each job;  
20 copies of Respondent's payroll records for each quarter; and copies of all permits  
21 issued for each job.

22 c. The monthly reports shall report all of the above information from the preceding  
23 month. The first report shall be postmarked by May 25, 2016, and report information  
24 for April 2016. Subsequent reports shall be submitted every month, postmarked by  
25 the twenty-fifth day of the month they are due.

1           d. The monthly reports shall be submitted by regular or electronic mail. If mailed, they  
2           shall be sent to Building Codes Division, Enforcement Section, P.O. Box 14470,  
3           Salem, Oregon, 97309. If e-mailed, they shall be emailed to  
4           BCD.Complaint@oregon.gov.

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

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

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

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

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

21          ///

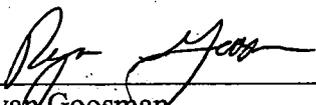
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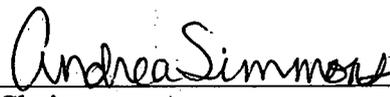
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1 9. Respondent understands that, upon signature of all parties, this Consent Order will be a  
2 Final Order.

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4  It is so agreed this 12 day of May, 2016.  
5 Ryan Goosman  
6 Authorized Representative for  
7 Total Quality Services, Inc.

8  for It is so agreed this 16 day of May, 2016.  
9 Chair  
10 Electrical and Elevator Board  
11 State of Oregon  
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