



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Building Codes Division

1535 Edgewater Street NW

P.O. Box 14470

Salem, OR 97309-0404

503-378-4133

Fax: 503-378-2322

oregon.gov/bcd

Electrical and Elevator Board

Meeting agenda

Agenda was amended during the meeting adding an updated document for Item III.C.

Thursday, September 27, 2018, 9:30 a.m.

Conference Room A

Board meetings are temporarily unavailable via the [Internet](#)

I. Board business

- A. Call to order
- B. Roll call
- C. Approval of agenda and order of business
- D. Approval of the draft board meeting minutes of [July 26, 2018](#)
- E. Date of the next regularly scheduled meeting: November 29, 2018 (*Holiday schedule*)

II. Public comment

*This time is available for individuals wanting to address the board on **non-agenda items only**. The board will not take action on non-agenda items raised under public comment at this meeting. Testimony on agenda items will be heard when the item is called. (See "Issues to remember when addressing board" at the end of this agenda).*

III. Reports

- A. Consideration of amended proposed order in the matter of [JL Electric LLC](#), Case No. C2017-0345 (*Board action required*)
- B. Consideration of amended proposed order in the matter of [Jordan Lambert](#), Case No. C2017-0346 (*Board action required*)
- C. Board vote on consent orders [cases proposed for resolution](#) as outlined in the enforcement board report (*Board action required*)
- D. Summary of enforcement [cases previously resolved](#) by the division as outlined in the enforcement board report (*No board action required*)
- E. Elevator program update
- F. Electrical program update

IV. Communications - None

V. Appeals - None

VI. Unfinished business - None

VII. New business

- A. Review and approve committee recommendations for [new continuing education](#) course and instructor applications
- B. Request received from Northwest Section of the International Association of Electrical Inspectors for [retroactive approval](#) of annual seminar September 9 through September 12, 2018
- C. Board review request received from Daniel Swehosky to seek an [exception](#) to OAR 918-282-0140 (2)(i), regarding a supervising electrician able to sign for only one employer

IX. Announcements - None

X. Adjournment

Issues to remember when addressing the board:

- All public participation is subject to the discretion of the board chair for order of testimony, length and relevance.
- Speakers are generally limited to five minutes.
- Please register on the attendance registration form and on the public testimony registration form, listing the appropriate agenda item.
- The board chair will call you to the front testimony table.
- Please state your name and the organization you represent (if any).
- Always address your comments through the chair.
- If written material is included, please provide 20 three-hole-punched copies of all information to the boards administrator prior to the start of the meeting and, when possible, [staff](#) respectfully requests an electronic copy of materials 24 hours prior to the meeting.

Interpreter services or auxiliary aids for persons with disabilities are available upon advance request. Persons making presentations including the use of video, DVD, PowerPoint, or overhead projection equipment are asked to contact boards coordinator 24 hours prior to the meeting. For assistance, please contact [Debi Barnes-Woods](#) at 503-378-6787.

Please do not park vehicles with "E" plates in "customer only" spaces.

Note: For information regarding re-appointments or board vacancies, please visit the Governor's [website](#).

Electrical and Elevator Board

Meeting minutes

July 26, 2018

Members present: Heather Miller, journeyman electrician, chair
Thomas Kyle, electrical contractor, vice-chair
Randy Carmony, journeyman elevator installer
Thomas Faires, elevator manufacturing representative
Jon Flegel, journeyman electrician
Scott Hall, electrical equipment supplier
Warren Jackson, building official
Vern Palmrose, power and light industry
Joseph Pugh, public member
James Totten, owner/manager of a commercial office building

Members absent: Randy Smith, electrical inspector
Vacant, electrical contractor
Vacant, commercial underwriter
Vacant, electrical equipment manufacturing rep
Vacant, industrial plant employing electricians

Staff present: Richard Rogers, chief building official, Policy and Technical Services
Keith Anderson, electrical program chief, Policy and Technical Services
Alana Cox, senior policy advisor, Policy and Technical Services
Andrea Simmons, enforcement manager, Enforcement Services
Shannon Flowers, contested case representative, Enforcement Services
Nick Howard, contested case representative, Enforcement Services
Warren Hartung, elevator program chief, Statewide Services
Sarah Blam-Linville, contested case representative, Enforcement Services
Todd Smith, policy analyst, Policy and Technical Services
Dan Fager, enforcement & training specialist, Enforcement Services
Debi Barnes-Woods, boards administrator, Policy and Technical Services

Guests present: Tyler Boston, licensed limited maintenance electrician
John Powell, Polk County
Jeff Copeland, City of Portland
Nathan Philips, NECA
Jon Rexing, Weyerhaeuser
Ryan Richards, Cochran Inc., NECA

I. Board business

A. Call to order

Chair Heather Miller called the Electrical and Elevator Board meeting of July 26, 2018, to order at 9:30 a.m. The meeting was held at the Building Codes Division in Conference Room A, 1535 Edgewater Street NW, Salem, Oregon.

B. Roll call

Randy Smith was excused. James Totten was connected via teleconference. All other members were present in Conference Room A.

The Electrical and Elevator Board has four vacancies: electrical contractor, commercial underwriter, electrical equipment manufacturer representative, and industrial plant representative.

C. Approval of the agenda and order of business

Chair Miller **RULED** the agenda and order of business approved.

D. Approval of the board meeting draft minutes were ruled final:

- Draft minutes of May 24, 2018
- Draft special teleconference meeting minutes of June 5, 2018

Chair Miller **Ruled** both meeting minutes final.

E. Date of the next regularly scheduled meeting: September 27, 2018

F. Farewell to member Robert Pyne, journeyman elevator installer

Although Mr. Pyne was not present, Chair Miller thanked Mr. Pyne for his service on the board. A certificate of appreciation and a letter from the division Administrator will be sent to Mr. Pyne.

G. Welcome new member Randy Carmony, journeyman elevator installer

Chair Miller welcomed Mr. Carmony to the board.

II. Public comment

Tyler Boston, licensed limited maintenance electrician, is a sixth-term manufacturing plant apprentice. His apprenticeship has been terminated in good standing due to not having a supervisor on site. Mr. Boston is also an instructor at LBCC for fourth-term electricians. He suggested a possible rule change to OAR 918-282-0200 related to an indorsement for manufacturing plant electricians. Copies of Mr. Boston's proposal was distributed to the board.

Mr. Boston's rule proposal would change how an indorsement would be issued and not require a general electrical contractor to hire all employed manufacturing plant electricians.

III. Reports

A. Board vote on consent orders for cases proposed for resolution previously resolved as outlined in the enforcement board report.

Shannon Flowers, contested case representative, Enforcement Services, said that because of recent advice from Katharine DiSalle, senior assistant attorney general, the division will no longer be approving consent orders on the board's behalf, but will be approving or disapproving consent orders through a process similar to a vote on committee recommendations on new continuing education applications for instructors and classes., Acting on behalf of the board, 22 cases have entered into consent agreements for the board to review.

Motion by Thomas Kyle, vice-chair, to approve all the consent orders as recommended by the division in the board report.

Motion carried unanimously.

B. Summary of enforcement cases previously resolved by the division as outlined in the enforcement board report. (No board action required)

Shannon Flowers, contested case representative, said that for all the cases listed in this report, Respondents failed to respond to the notices sent out by the division within the deadline, therefore the cases became final by default. Ms. Flowers said that the last case listed on the board report for INFT LLC., was included in error and will be removed from the report.

C. Cases previously resolved by the division for licensing action as outlined in the enforcement board report. (No board action required)

Ms. Flowers reviewed the conditioned licenses report.

D. Elevator program update

Warren Hartung, elevator program chief, Statewide Services, reported on the accident and overdue reports.

Chief Hartung said that interviews are still in the process for the vacant elevator inspector positions.

D. Electrical program update

Keith Anderson, electrical program chief, Policy and Technical Services, said that the assistant chief position has been re-classed with a higher pay scale.

IV. Communications - None

V. Appeals - None

VI. Unfinished business - None

VII. New business

A. Board review request received from Thomas J. Tobin to review proposed denial of application for limited residential electrician license

Ms. Flowers discussed details of the case before Mr. Tobin spoke using the teleconferencing service. Ms. Flowers highlighted some facts: Mr. Tobin's work experience submitted from Connecticut was unlawful, there were no classroom training hours, he did not have a valid electrical license while working in Connecticut, and Mr. Tobin included 6,000 hours of commercial work that was not applicable to the license he had applied for. Also, Mr. Tobin was missing hours in two categories; remodeling and finishing work.

Chair Miller allowed Mr. Tobin to speak while he was connected by teleconference.

Mr. Tobin said that he has been in the electrical industry since he was 7. He had been able to confirm hours required only for a limited residential license and is seeking an exemption on his experience, or advice on how to proceed.

Mr. Tobin said he is currently employed working in Portland as an estimator, and the company is eager to hire him as an electrician.

Motion by Vice-chair Kyle to deny Mr. Tobin's request for equivalency.

Andrea Simmons, enforcement services manager, suggested that Vice-chair Kyle withdraw his motion, and allow the case to proceed through the contested case process.

Vice-chair Kyle withdrew his motion.

Motion by Joseph Pugh to not take any action, which would allow the case to move forward through the contested case process.

Motion carried unanimously.

B. Review and approve committee recommendations for new continuing education courses and instructor applications

Todd Smith, policy analyst, Policy and Technical Services, explained what the committee had approved since its last meeting and said that an error had occurred with course hours for line-item number 29. The course hours should be six approved code related hours and not eight.

Motion by Thomas Faires to approve the committee recommendations for approval or denial of applications with the correction mentioned above.

Motion carried unanimously.

C. Request received from Jannock LLC for retroactive approval of continuing education credit hours for specific licenses

Mr. Smith explained that at the time the classes were taught in Oregon they were not approved. Now the Continuing Education Committee has met and the classes have now been approved by the board in Item VII.B.

Motion by vice-chair Kyle to approve the retroactive request from Jannock LLC.

Motion carried unanimously.

IX. Announcements - None

X. Adjournment

Chair Miller adjourned the meeting at 10:10 a.m.

Respectfully submitted by Debi Barnes-Woods, boards administrator/coordinator.

State of Oregon

Board memo

Building Codes Division

September 27, 2018

To: Electrical and Elevator Board

From: Sarah Blam-Linville, contested case representative, Enforcement Services

Subject: Approval of Amended Proposed Order for Case No. C2017-0345, In the matter of JL Electric LLC

Action requested:

To consider the adoption of a Amended Proposed Order and issue a Final Order.

Background:

On October 2, 2017, the Electrical and Elevator Board (Board) issued a Notice of Proposed Assessment of Civil Penalties, Notice of Proposed Suspension of Electrical Contractor License Number C1268 and Notice of Final Order on Default (Notice) to JL Electric LLC (Respondent).

The Notice proposed to assess a total of \$5,000.00 in civil penalties and suspend Respondent's electrical contractor license for alleged violations of the following Division statutes and rules:

1. Failing to continuously employ a signing supervising electrician, in violation of OAR 918-282-0010(1); and,
2. Allowing an individual to make electrical installations for which the were not properly licensed, in violation of OAR 918-282-0120(1).

On October 18, 2017, Jordan Lambert requested a hearing on behalf of Respondent.

On May 29, 2018, Administrative Law Judge (ALJ) Rebecca Lease conducted a telephone hearing. Respondent appeared and was represented by Mr. Lambert, who also testified. The Division appeared and was represented by Shannon Flowers. Tracey Weidner, a NECA contract investigator; Keith Anderson, Electrical Program Chief for the Division; and Andrea Simmons, Enforcement Manager for the Division, each testified on behalf of the Division.

On July 3, 2018, ALJ Lease issued a Proposed Order.

The Division amended the Proposed Order to correct errors and now presents that Amended Proposed Order for Board consideration and approval.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION
ELECTRICAL AND ELEVATOR BOARD**

IN THE MATTER OF:) **PROPOSED ORDER**
)
JL ELECTRIC LLC) OAH Case No. 2018-ABC-01293
) Agency Case No. C2017-0345
)

HISTORY OF THE CASE

On October 2, 2017, the Electrical and Elevator Board of the State of Oregon (Board) issued a Notice of Proposed Assessment of Civil Penalties, Notice of Proposed Suspension of Electrical Contractor License Number C1268 and Notice of Final Order on Default (Notice) to JL Electric LLC (JL Electric). On October 18, 2017, Jordan Lambert (Mr. Lambert) requested a hearing on behalf of JL Electric. On February 1, 2018, the Division referred the matter to the Office of Administrative Hearings (OAH). On February 28, 2018, the OAH assigned Administrative Law Judge (ALJ) Joe Allen to preside at hearing.

On March 1, 2018, the Division filed a request for change of ALJ. On March 8, 2018, the OAH issued a Ruling on Requests for Change of Administrative Law Judge, granting the request. On March 23, 2018, the OAH assigned ALJ Rebecca Lease to preside at hearing.

On May 29, 2018, ALJ Lease conducted a telephone hearing.¹ JL Electric appeared and was represented by Mr. Lambert, who testified. The Division appeared and was represented by Shannon Flowers. Tracey Weidner, a Division license enforcement investigator; Keith Anderson, Electrical Program Chief for the Division; and Andrea Simmons, Enforcement Manager for the Division, testified on behalf of the Division.

ISSUES

1. Whether JL Electric allowed an individual to perform electrical work for which the individual was not properly registered or licensed, in violation of OAR 918-282-0120(1).
2. Whether JL Electric failed to continuously employ at least one full-time general supervising electrician, in violation of OAR 918-282-0010(1).
3. Whether the Board should suspend JL Electric's electrical contractor license. ORS 455.129(2)(a) and (h).

¹ ALJ Lease consolidated this matter for purposes of hearing with three other matters involving the same or related parties, OAH Case Nos. 2018-ABC-01289, 2018-ABC-01291, and 2018-ABC-01295.

4. Whether the Board should assess a civil penalty against JL Electric. ORS 455.895(1) and OAR 918-001-0036.

EVIDENTIARY RULINGS

Exhibits A1 through A9, offered by the Division, were admitted into the record without objection.

FINDINGS OF FACT

1. Mr. Lambert is the owner, manager and sole employee of JL Electric. (Test. of Lambert and Weidner.)

2. In or around June 2017, while working on behalf of JL Electric, Mr. Lambert installed a new electrical panel, a new outlet in the garage and new electrical wiring at a residence located at 3151 NE 126th Court in Portland, Oregon (the residence). (Test. of Lambert and Weidner.)

3. JL Electric has held Oregon electrical contractor license number C1268 since March 28, 2017. (Test. of Lambert.)

4. At no relevant time did Mr. Lambert hold any active licenses, including a supervising or journeyman electrician license, issued by the Board. (Test. of Lambert and Anderson.)

5. From March 28, 2017 until August 15, 2017, Keith Winburn (Mr. Winburn) was the registered signing supervising electrician for JL Electric. (Test. of Lambert and Anderson.) During this period, Mr. Winburn had no contact with Mr. Lambert or JL Electric. (Test. of Lambert and Weidner.) On August 15, 2017, Mr. Winburn resigned as JL Electric's registered signing supervising electrician. (Test. of Lambert and Anderson; Ex. A4.)

6. As of the date of the hearing, Mr. Lambert had not registered a new signing supervising electrician with the Division. (Test. of Lambert and Anderson.)

7. The Division implemented a civil penalty matrix (Penalty Matrix) for electrical violations. The Penalty Matrix provides for civil penalties based upon the type of violation and "upon the number of violations committed within five years of the date of the present violation." (Ex. A8 at 1.) For entities without any prior violations, the Penalty Matrix provides for a civil penalty of \$2,000 for allowing an individual to perform unlicensed activities. (*Id.*) For entities without any prior violations, the Penalty Matrix provides for a civil penalty of \$3,000 for violations by contractors working in a trade that requires a specialty license. (*Id.* at 2.) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board's behalf for purposes of settling cases prior to hearing.

(*Id.* at 1.) JL Electric has no prior violations with the Division. (Test. of Simmons.)

Conclusions of Law

1. JL Electric allowed an individual to perform electrical work for which the individual was not properly registered or licensed, in violation of OAR 918-282-0120(1).
2. JL Electric failed to continuously employ at least one full-time general supervising electrician, in violation of OAR 918-282-0010(1).
3. The Board should suspend JL Electric's electrical contractor license.
4. The Board should assess a civil penalty against JL Electric.

OPINION

The Board contends that JL Electric's electrical contractor license should be suspended because JL Electric failed to meet a condition or requirement to maintain that license and because it violated Division statutes and rules. The Board also contends that JL Electric should be assessed a civil penalty of \$5,000 for its alleged violations. The Division has the burden to show, by a preponderance of the evidence, that JL Electric committed the alleged violations, and that the proposed civil penalty is appropriate. ORS 183.450(2), *Harris v. SAIF*, 292 Or 683, 690 (1982). Proof by a preponderance of the 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).

Electrical Installations

ORS 479.530 defines certain electrical terms. It provides, in part:

(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. "Electrical installation" also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. "Electrical installation" does not include an oil module.

(11) "Electrical product" means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

(12) "Equipment" means any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation[.]

Pursuant to ORS 479.530, the installation of a new electrical panel, a new outlet in the garage and new electrical wiring at a residence are "electrical installations." In June 2017, Mr. Lambert performed electrical installations at the residence while working for JL Electric.

ORS 479.620 provides, in part:

Subject to ORS 479.540, a person may not:

* * * * *

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician's license.

* * * * *

(5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician's license[.]

At no relevant time has Mr. Lambert held an active license issued by the Board. Therefore, Mr. Lambert violated ORS 479.620(3) by performing electrical installations without the required electrician's license.

OAR 918-282-0120(1) provides:

No person or entity shall allow any individual to perform electrical work for which the individual is not properly registered or licensed.

Electrical work is not defined by rule or statute. However, it is reasonable that an electrical installation, as defined by ORS 479.530(10), is electrical work. Therefore, Mr. Lambert's installation of a new electrical panel, a new outlet in the garage and new electrical wiring at the residence would be included in the definition of "electrical work." Because JL Electric allowed Mr. Lambert to perform electrical work for which he was not properly licensed, JL Electric violated OAR 918-282-0120(1).

OAR 918-282-0010 provides, in part:

An electrical contractor:

(1) Shall continuously employ at least one full-time general supervising electrician except as otherwise exempted[.]

OAR 918-251-0090(8) provides:

"Continuously Employ" means a person, including a person leased from a worker leasing company licensed under ORS 656.850, during time periods when electrical work for which they are responsible is performed, devotes their entire time of employment to tasks of supervising, designing, laying out, planning, controlling, and making electrical installations for the electrical contractor for which the supervisor is registered as signing supervisor.

From March 28, 2017 until August 15, 2017, Mr. Winburn had no contact with Mr. Lambert or JL Electric. On August 15, 2017, Mr. Winburn resigned as JL Electric's registered signing supervising electrician. Because Mr. Winburn was not involved in any work performed by JL Electric, he was not continuously employed as defined by OAR 918-251-0090(8). By failing to continuously employ a general supervising electrician, JL Electric violated OAR 918-282-0010(1).²

Suspension of Electrical Contractor License

ORS 455.129 provides, in part:

(2) Subject to ORS chapter 183, a regulatory body listed in subsection (3) of this section may deny a license, certificate, registration or application or may suspend, revoke, condition or refuse to renew a license, certificate or registration if the regulatory body finds that the licensee, certificate holder, registrant or applicant:

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

* * * * *

(h) Has failed to meet any condition or requirement to obtain or maintain a license, certificate or registration.

* * * * *

(3) Subsection (2) of this section applies to:

* * * * *

(b) The Electrical and Elevator Board for purposes of licenses issued under ORS 479.510 to 479.945[.]

JL Electric failed to comply with the laws and rules governing electrical work and licensing requirements because it allowed an unlicensed individual to perform electrical installations and failed to continuously employ a general supervising electrician, in violation of OAR 918-282-0010(1) and OAR 918-282-0120(1). As of the date of the hearing, JL Electric still does not continuously employ a general supervising electrician, a requirement of all electrical contractors as provided by OAR 918-282-0010(1). Pursuant to ORS 455.129(2)(a) and (h), the Board should suspend JL Electric's electrical contractor license number C1268 for its violations of the administrative rules and its failure to meet a requirement to maintain its license. The suspension shall continue until JL Electric meets the requirements of an electrical contractor license.

///

² None of the exemptions listed in ORS 479.540 are applicable in this matter.

Assessment of Civil Penalties

ORS 455.895(1)(b) provides, in part:

The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036(6) provides:

The division may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

For the above-established violations, the Board seeks to assess a civil penalty against JL Electric in the amount of \$5,000. Pursuant to OAR 918-001-0036(6), the Division developed the Penalty Matrix, which provides that first-time violators must be assessed a \$2,000 civil penalty for allowing an individual to perform unlicensed activities and a \$3,000 civil penalty for other violations by contractors working in a trade that requires a specialty license. Because JL Electric allowed Mr. Lambert, an unlicensed individual, to perform an electrical installation, the Board should assess JL Electric a civil penalty of \$2,000 for its violation of OAR 918-282-0120(1). Because JL Electric, an electrical contractor, also violated OAR 918-282-0010(1), the Board should also assess it a civil penalty of \$3,000. Pursuant to ORS 455.895(6) and ORS 183.745(2), the civil penalties are due and payable 10 days after the final order imposing the civil penalty becomes final by operation of law or on appeal.

ORDER

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

JL Electric LLC's electrical contractor license number C1268 is suspended until JL Electric LLC registers a full-time general supervising electrician with the Building Codes Division.

JL Electric LLC is assessed a civil penalty of \$2,000 for its violation of OAR 918-282-0120(1).

JL Electric LLC is assessed a civil penalty of \$3,000 for its violation of OAR 918-282-0010(1).

The civil penalties are due and payable 10 days after the final order imposing the civil penalty becomes final by operation of law or on appeal.

Rebecca Lease

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

CERTIFICATE OF MAILING

On July 3, 2018, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2018-ABC-01293.

By: First Class Mail

Jordan Lambert
23110 S. Highway 99E
Canby, OR 97013

By: Electronic Mail

Shannon Flowers, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Ryan K Clark
Hearing Coordinator

~~BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS~~
~~STATE OF OREGON~~
for the
~~BUILDING CODES DIVISION~~
ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

IN THE MATTER OF:) AMENDED PROPOSED ORDER
)
JL ELECTRIC LLC) OAH Case No. 2018-ABC-01293
) Agency Case No. C2017-0345
)

HISTORY OF THE CASE

On October 2, 2017, the Electrical and Elevator Board of the State of Oregon (Board) issued a Notice of Proposed Assessment of Civil Penalties, Notice of Proposed Suspension of Electrical Contractor License Number C1268 and Notice of Final Order on Default (Notice) to JL Electric LLC (JL Electric). On October 18, 2017, Jordan Lambert (Mr. Lambert) requested a hearing on behalf of JL Electric. On February 1, 2018, the Division referred the matter to the Office of Administrative Hearings (OAH). On February 28, 2018, the OAH assigned Administrative Law Judge (ALJ) Joe Allen to preside at hearing.

On March 1, 2018, the Division filed a request for change of ALJ. On March 8, 2018, the OAH issued a Ruling on Requests for Change of Administrative Law Judge, granting the request. On March 23, 2018, the OAH assigned ALJ Rebecca Lease to preside at hearing.

On May 29, 2018, ALJ Lease conducted a telephone hearing.¹ JL Electric appeared and was represented by Mr. Lambert, who testified. The Division appeared and was represented by Shannon Flowers. Tracey Weidner, a Division license enforcement investigator; Keith Anderson, Electrical Program Chief for the Division; and Andrea Simmons, Enforcement Manager for the Division, testified on behalf of the Division.

On July 3, 2018, ALJ Lease issued a Proposed Order affirming the Notice. Further amendments to the Proposed Order are submitted to the Board for consideration.²

ISSUES

1. Whether JL Electric allowed an individual to perform electrical work for which the individual was not properly registered or licensed, in violation of OAR 918-282-0120(1).

¹ ALJ Lease consolidated this matter for purposes of hearing with three other matters involving the same or related parties, OAH Case Nos. 2018-ABC-01289, 2018-ABC-01291, and 2018-ABC-01295.

² **Additions are in bold typeface and underlined; deletions are stricken through.**

2. Whether JL Electric failed to continuously employ at least one full-time general supervising electrician, in violation of OAR 918-282-0010(1).

3. Whether the Board should suspend JL Electric's electrical contractor license. ORS 455.129(2)(a) and (h).

4. Whether the Board should assess a civil penalty against JL Electric. ORS 455.895(1) and OAR 918-001-0036.

EVIDENTIARY RULINGS

Exhibits A1 through A9, offered by the Division, were admitted into the record without objection.

FINDINGS OF FACT

1. Mr. Lambert is the owner, manager and sole employee of JL Electric. (Test. of Lambert and Weidner.)

2. In or around June 2017, while working on behalf of JL Electric, Mr. Lambert installed a new electrical panel, a new outlet in the garage and new electrical wiring at a residence located at 3151 NE 126th Court in Portland, Oregon (the residence). (Test. of Lambert and Weidner.)

3. JL Electric has held Oregon electrical contractor license number C1268 since March 28, 2017. (Test. of Lambert.)

4. At no relevant time did Mr. Lambert hold any active licenses, including a supervising or journeyman electrician license, issued by the Board. (Test. of Lambert and Anderson.)

5. From March 28, 2017 until August 15, 2017, Keith Winburn (Mr. Winburn) was the registered signing supervising electrician for JL Electric. (Test. of Lambert and Anderson.) During this period, Mr. Winburn had no contact with Mr. Lambert or JL Electric. (Test. of Lambert and Weidner.) On August 15, 2017, Mr. Winburn resigned as JL Electric's registered signing supervising electrician. (Test. of Lambert and Anderson; Ex. A4.)

6. As of the date of the hearing, Mr. Lambert had not registered a new signing supervising electrician with the Division. (Test. of Lambert and Anderson.)

7. The Division implemented a civil penalty matrix (Penalty Matrix) for electrical violations. The Penalty Matrix provides for civil penalties based upon the type of violation and "upon the number of violations committed within five years of the date of the present violation." (Ex. A8 at 1.) For entities without any prior violations, the Penalty Matrix provides for a civil penalty of \$2,000 for allowing an individual to perform unlicensed activities. (*Id.*) For entities without any prior violations, the Penalty Matrix provides for a civil penalty of \$3,000 for violations by contractors working in a trade that requires a specialty license. (*Id.* at 2.) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board's behalf for purposes of settling cases prior to hearing.

(*Id.* at 1.) JL Electric has no prior violations with the Division. (Test. of Simmons.)

CONCLUSIONS OF LAW

1. JL Electric allowed an individual to perform electrical work for which the individual was not properly registered or licensed, in violation of OAR 918-282-0120(1).
2. JL Electric failed to continuously employ at least one full-time general supervising electrician, in violation of OAR 918-282-0010(1).
3. The Board should suspend JL Electric's electrical contractor license.
4. The Board should assess a civil penalty against JL Electric.

OPINION

The Board contends that JL Electric's electrical contractor license should be suspended because JL Electric failed to meet a condition or requirement to maintain that license and because it violated Division statutes and rules. The Board also contends that JL Electric should be assessed a civil penalty of \$5,000 for its alleged violations. The Division has the burden to show, by a preponderance of the evidence, that JL Electric committed the alleged violations, and that the proposed civil penalty is appropriate. ORS 183.450(2), *Harris v. SAIF*, 292 Or 683, 690 (1982). Proof by a preponderance of the 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).

Electrical Installations

ORS 479.530 defines certain electrical terms. It provides, in part:

(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. "Electrical installation" also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. "Electrical installation" does not include an oil module.

(11) "Electrical product" means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

(12) "Equipment" means any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation[.]

Pursuant to ORS 479.530, the installation of a new electrical panel, a new outlet in the garage and new electrical wiring at a residence are "electrical installations." In June 2017, Mr. Lambert performed electrical installations at the residence while working for JL Electric.

ORS 479.620 provides, in part:

Subject to ORS 479.540, a person may not:

* * * * *

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician's license.

* * * * *

(5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician's license[.]

At no relevant time has Mr. Lambert held an active license issued by the Board. Therefore, Mr. Lambert violated ORS 479.620(3) by performing electrical installations without the required electrician's license.

OAR 918-282-0120(1) provides:

No person or entity shall allow any individual to perform electrical work for which the individual is not properly registered or licensed.

Electrical work is not defined by rule or statute. However, it is reasonable that an electrical installation, as defined by ORS 479.530(10), is electrical work. Therefore, Mr. Lambert's installation of a new electrical panel, a new outlet in the garage and new electrical wiring at the residence would be included in the definition of "electrical work." Because JL Electric allowed Mr. Lambert to perform electrical work for which he was not properly licensed, JL Electric violated OAR 918-282-0120(1).

OAR 918-282-0010 provides, in part:

An electrical contractor:

(1) Shall continuously employ at least one full-time general supervising electrician except as otherwise exempted[.]

OAR 918-251-0090(8) provides:

“Continuously Employ” means a person, including a person leased from a worker leasing company licensed under ORS 656.850, during time periods when electrical work for which they are responsible is performed, devotes their entire time of employment to tasks of supervising, designing, laying out, planning, controlling, and making electrical installations for the electrical contractor for which the supervisor is registered as signing supervisor.

From March 28, 2017 until August 15, 2017, Mr. Winburn had no contact with Mr. Lambert or JL Electric. On August 15, 2017, Mr. Winburn resigned as JL Electric’s registered signing supervising electrician. Because Mr. Winburn was not involved in any work performed by JL Electric, he was not continuously employed as defined by OAR 918-251-0090(8). By failing to continuously employ a general supervising electrician, JL Electric violated OAR 918-282-0010(1).³

Suspension of Electrical Contractor License

ORS 455.129 provides, in part:

(2) Subject to ORS chapter 183, a regulatory body listed in subsection (3) of this section may deny a license, certificate, registration or application or may suspend, revoke, condition or refuse to renew a license, certificate or registration if the regulatory body finds that the licensee, certificate holder, registrant or applicant:

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

* * * * *

(h) Has failed to meet any condition or requirement to obtain or maintain a license, certificate or registration.

* * * * *

(3) Subsection (2) of this section applies to:

* * * * *

(b) The Electrical and Elevator Board for purposes of licenses issued under ORS 479.510 to 479.945[.]

JL Electric failed to comply with the laws and rules governing electrical work and licensing requirements because it allowed an unlicensed individual to perform electrical installations and failed to continuously employ a general supervising electrician, in violation of OAR 918-282-0010(1) and OAR 918-282-0120(1). As of the date of the hearing, JL Electric

³ None of the exemptions listed in ORS 479.540 are applicable in this matter.

still does not continuously employ a general supervising electrician, a requirement of all electrical contractors as provided by OAR 918-282-0010(1). Pursuant to ORS 455.129(2)(a) and (h), the Board should suspend JL Electric's electrical contractor license number C1268 for its violations of the administrative rules and its failure to meet a requirement to maintain its license. The suspension shall continue until JL Electric meets the requirements of an electrical contractor license.

//

Assessment of Civil Penalties

ORS 455.895(1)(b) provides, in part:

The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036(6) provides:

The division may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

For the above-established violations, the Board seeks to assess a civil penalty against JL Electric in the amount of \$5,000. Pursuant to OAR 918-001-0036(6), the Division developed the Penalty Matrix, which provides that first-time violators must be assessed a \$2,000 civil penalty for allowing an individual to perform unlicensed activities and a \$3,000 civil penalty for other violations by contractors working in a trade that requires a specialty license. Because JL Electric allowed Mr. Lambert, an unlicensed individual, to perform an electrical installation, the Board should assess JL Electric a civil penalty of \$2,000 for its violation of OAR 918-282-0120(1). Because JL Electric, an electrical contractor, also violated OAR 918-282-0010(1), the Board should also assess it a civil penalty of \$3,000. Pursuant to ORS 455.895(6) and ORS 183.745(2), the civil penalties are due and payable 10 days after the final order imposing the civil penalty becomes final by operation of law or on appeal.

CERTIFICATE OF MAILING

On July 3, 2018, I mailed the foregoing ~~PROPOSED ORDER~~ issued on this date in OAH Case No. 2018-ABC-01293.

By: First Class Mail

Jordan Lambert
23110 S. Highway 99E
Canby, OR 97013

By: Electronic Mail

Shannon Flowers, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Ryan K Clark
Hearing Coordinator

Agenda Item III.B.

State of Oregon

Board memo

Building Codes Division

September 27, 2018

To: Electrical and Elevator Board

From: Sarah Blam-Linville, contested case representative, Enforcement Services

Subject: Approval of Amended Proposed Order for Case No. C2017-0346, In the matter of Jordan Lambert

Action requested:

To consider the adoption of an Amended Proposed Order and issue a Final Order.

Background:

On October 2, 2017, the Electrical and Elevator Board (Board) issued a Notice of Proposed Assessment of Civil Penalty and Notice of Final Order on Default (Notice) to Jordan Lambert (Respondent).

The Notice proposed to assess a total of \$2,000.00 in civil penalties for making electrical installations without a supervising or journeyman electrician license, in violation of ORS 479.620(3).

On October 18, 2017, Respondent requested a hearing.

On May 29, 2018, Administrative Law Judge (ALJ) Rebecca Lease conducted a telephone hearing. Respondent appeared and also testified. The Division appeared and was represented by Shannon Flowers. Tracey Weidner, a NECA contract investigator; Keith Anderson, Electrical Program Chief for the Division; and Andrea Simmons, Enforcement Manager for the Division, each testified on behalf of the Division.

On July 3, 2018, ALJ Lease issued a Proposed Order.

The Division amended the Proposed Order to correct errors and now presents that Amended Proposed Order for Board consideration and approval.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION
ELECTRICAL AND ELEVATOR BOARD**

IN THE MATTER OF:) **PROPOSED ORDER**
)
JORDAN LAMBERT) OAH Case No. 2018-ABC-01295
) Agency Case No. C2017-0346
)
)

HISTORY OF THE CASE

On October 2, 2017, the Electrical and Elevator Board of the State of Oregon (Board) issued a Notice of Proposed Assessment of Civil Penalty and Notice of Final Order on Default (Notice) to Jordan Lambert (Mr. Lambert) proposing to assess a civil penalty of \$2,000 against him for violations of the Building Codes Division (Division) statutes and rules. On October 18, 2017, Mr. Lambert requested a hearing. On February 1, 2018, the Division referred the matter to the Office of Administrative Hearings (OAH). On February 28, 2018, the OAH assigned Administrative Law Judge (ALJ) Joe Allen to preside at hearing

On March 1, 2018, the Division filed a request for change of ALJ. On March 8, 2018, the OAH issued a Ruling on Requests for Change of Administrative Law Judge, granting the request. On March 23, 2018, the OAH assigned ALJ Rebecca Lease to preside at hearing.

On May 29, 2018, ALJ Lease conducted a telephone hearing.¹ Mr. Lambert appeared for the hearing without counsel and testified. The Division appeared and was represented by Shannon Flowers. Tracey Weidner, a Division license enforcement investigator; Keith Anderson, Electrical Program Chief for the Division; and Andrea Simmons, Enforcement Manager for the Division, testified on behalf of the Division.

ISSUES

1. Whether Mr. Lambert performed electrical installations without a supervising or journeyman electrician's license. ORS 479.620(3).
2. Whether the Board should assess a civil penalty against Mr. Lambert. ORS 455.895(1) and OAR 918-001-0036.

¹ ALJ Lease consolidated this matter for purposes of hearing with three other matters involving the same or related parties, OAH Case Nos. 2018-ABC-01289, 2018-ABC-01291, and 2018-ABC-01293.

EVIDENTIARY RULINGS

Exhibits A1 through A9, offered by the Division, were admitted into the record without objection.

FINDINGS OF FACT

1. In or around June 2017, Mr. Lambert installed a new electrical panel, a new outlet in the garage and new electrical wiring at a residence located at 3151 NE 126th Court in Portland, Oregon (the residence). (Test. of Lambert and Weidner.)

2. At no relevant time did Mr. Lambert hold any active licenses, including a supervising or journeyman electrician license, issued by the Board. (Test. of Lambert and Anderson.)

3. The Division implemented a civil penalty matrix (Penalty Matrix) for electrical violations. The Penalty Matrix provides for civil penalties based upon the type of violation and “upon the number of violations committed within five years of the date of the present violation.” (Ex. A8 at 1.) For individuals without any prior violations, the Penalty Matrix provides for a civil penalty of \$2,000 for performing unlicensed activities. (*Id.*) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board’s behalf for purposes of settling cases prior to hearing.

(*Id.*) Mr. Lambert has no prior violations with the Division. (Test. of Simmons.)

Conclusions of Law

1. Mr. Lambert performed electrical installations without a supervising or journeyman electrician’s license.

2. The Board should assess a civil penalty against Mr. Lambert.

OPINION

The Division contends that Mr. Lambert made electrical installations without a supervising or journeyman electrician’s license, for which he should be assessed a civil penalty of \$2,000. The Division has the burden to show, by a preponderance of the evidence, that Mr. Lambert committed the alleged violation, and that the proposed civil penalty is appropriate. ORS 183.450(2), *Harris v. SAIF*, 292 Or 683, 690 (1982). Proof by a preponderance of the 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).

///

Electrical Installations

ORS 479.530 defines certain electrical terms. It provides, in part:

(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. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. “Electrical installation” does not include an oil module.

(11) “Electrical product” means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

(12) “Equipment” means any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation[.]

Pursuant to ORS 479.530, the installation of a new electrical panel, a new outlet in the garage and new electrical wiring at a residence are “electrical installations.” In June 2017, Mr. Lambert performed electrical installations at the residence.

ORS 479.620 provides, in part:

Subject to ORS 479.540, a person may not:

* * * * *

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician’s license.

* * * * *

(5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician’s license[.]

At no relevant time has Mr. Lambert held an active license issued by the Board, including a supervising or journeyman electrician license. Therefore, Mr. Lambert violated ORS 479.620(3) by making electrical installations without the required electrician’s license.

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Assessment of Civil Penalties

ORS 455.895(1)(b) provides, in part:

The Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036(6) provides:

The division may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

For the above-established violation, the Board seeks to assess a civil penalty against Mr. Lambert in the amount of \$2,000. Pursuant to OAR 918-001-0036(6), the Division developed the Penalty Matrix, which provides that first-time violators must be assessed a \$2,000 civil penalty for performing unlicensed activities. The Board should assess a \$2,000 civil penalty against Mr. Lambert for his violation of ORS 479.620(3). Pursuant to ORS 455.895(6) and ORS 183.745(2), the civil penalties are due and payable 10 days after the final order imposing the civil penalty becomes final by operation of law or on appeal.

ORDER

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

Jordan Lambert is assessed a \$2,000 civil penalty for violating ORS 479.620(3). Pursuant to ORS 455.895(6) and ORS 183.745(2), the civil penalties are due and payable 10 days after the final order imposing the civil penalty becomes final by operation of law or on appeal.

Rebecca Lease

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

CERTIFICATE OF MAILING

On July 3, 2018, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2018-ABC-01295.

By: First Class Mail

Jordan Lambert
23110 S. Highway 99E
Canby, OR 97013

By: Electronic Mail

Shannon Flowers, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Ryan K Clark
Hearing Coordinator

~~BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS~~
~~STATE OF OREGON~~
for the
~~BUILDING CODES DIVISION~~
ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

IN THE MATTER OF:) AMENDED PROPOSED ORDER
)
JORDAN LAMBERT) OAH Case No. 2018-ABC-01295
) Agency Case No. C2017-0346
)
)

HISTORY OF THE CASE

On October 2, 2017, the Electrical and Elevator Board of the State of Oregon (Board) issued a Notice of Proposed Assessment of Civil Penalty and Notice of Final Order on Default (Notice) to Jordan Lambert (Mr. Lambert) proposing to assess a civil penalty of \$2,000 against him for violations of the Building Codes Division (Division) statutes and rules. On October 18, 2017, Mr. Lambert requested a hearing. On February 1, 2018, the Division referred the matter to the Office of Administrative Hearings (OAH). On February 28, 2018, the OAH assigned Administrative Law Judge (ALJ) Joe Allen to preside at hearing

On March 1, 2018, the Division filed a request for change of ALJ. On March 8, 2018, the OAH issued a Ruling on Requests for Change of Administrative Law Judge, granting the request. On March 23, 2018, the OAH assigned ALJ Rebecca Lease to preside at hearing.

On May 29, 2018, ALJ Lease conducted a telephone hearing.¹ Mr. Lambert appeared for the hearing without counsel and testified. The Division appeared and was represented by Shannon Flowers. Tracey Weidner, a Division license enforcement investigator; Keith Anderson, Electrical Program Chief for the Division; and Andrea Simmons, Enforcement Manager for the Division, testified on behalf of the Division.

On July 3, 2018, ALJ Lease issued a Proposed Order affirming the Notice. Further amendments to the Proposed Order are submitted to the Board for consideration.²

ISSUES

1. Whether Mr. Lambert performed electrical installations without a supervising or journeyman electrician's license. ORS 479.620(3).

¹ ALJ Lease consolidated this matter for purposes of hearing with three other matters involving the same or related parties, OAH Case Nos. 2018-ABC-01289, 2018-ABC-01291, and 2018-ABC-01293.

² **Additions are in bold typeface and underlined; deletions are stricken through.**

2. Whether the Board should assess a civil penalty against Mr. Lambert. ORS 455.895(1) and OAR 918-001-0036.

EVIDENTIARY RULINGS

Exhibits A1 through A9, offered by the Division, were admitted into the record without objection.

FINDINGS OF FACT

1. In or around June 2017, Mr. Lambert installed a new electrical panel, a new outlet in the garage and new electrical wiring at a residence located at 3151 NE 126th Court in Portland, Oregon (the residence). (Test. of Lambert and Weidner.)

2. At no relevant time did Mr. Lambert hold any active licenses, including a supervising or journeyman electrician license, issued by the Board. (Test. of Lambert and Anderson.)

3. The Division implemented a civil penalty matrix (Penalty Matrix) for electrical violations. The Penalty Matrix provides for civil penalties based upon the type of violation and “upon the number of violations committed within five years of the date of the present violation.” (Ex. A8 at 1.) For individuals without any prior violations, the Penalty Matrix provides for a civil penalty of \$2,000 for performing unlicensed activities. (*Id.*) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board’s behalf for purposes of settling cases prior to hearing.

(*Id.*) Mr. Lambert has no prior violations with the Division. (Test. of Simmons.)

CONCLUSIONS OF LAW

1. Mr. Lambert performed electrical installations without a supervising or journeyman electrician’s license.

2. The Board should assess a civil penalty against Mr. Lambert.

OPINION

The Division contends that Mr. Lambert made electrical installations without a supervising or journeyman electrician’s license, for which he should be assessed a civil penalty of \$2,000. The Division has the burden to show, by a preponderance of the evidence, that Mr. Lambert committed the alleged violation, and that the proposed civil penalty is appropriate. ORS 183.450(2), *Harris v. SAIF*, 292 Or 683, 690 (1982). Proof by a preponderance of the

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).

++

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ORS 479.530 defines certain electrical terms. It provides, in part:

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(11) “Electrical product” means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

(12) “Equipment” means any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation[.]

Pursuant to ORS 479.530, the installation of a new electrical panel, a new outlet in the garage and new electrical wiring at a residence are “electrical installations.” In June 2017, Mr. Lambert performed electrical installations at the residence.

ORS 479.620 provides, in part:

Subject to ORS 479.540, a person may not:

* * * * *

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician’s license.

* * * * *

(5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician’s license[.]

At no relevant time has Mr. Lambert held an active license issued by the Board, including a supervising or journeyman electrician license. Therefore, Mr. Lambert violated ORS 479.620(3) by making electrical installations without the required electrician’s license.

~~Rebecca Lease~~

~~Administrative Law Judge~~
~~Office of Administrative Hearings~~

APPEAL PROCEDURE

This is the ~~Administrative Law Judge's~~ **Division's Amended Proposed Order**. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650, **OAR 137-003-0655 and OAR 137-003-0665**. Your exceptions and argument must be received within 20 calendar days after the service date of this **Amended** Proposed Order. Send them to:

Building Codes Division
Attn: Manager
PO Box 14470
Salem, OR 97309-0404

CERTIFICATE OF MAILING

On July 3, 2018, I mailed the foregoing ~~PROPOSED ORDER~~ issued on this date in OAH Case No. 2018-ABC-01295.

By: First Class Mail

Jordan Lambert
23110 S. Highway 99E
Canby, OR 97013

By: Electronic Mail

Shannon Flowers, Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309

Ryan K Clark
Hearing Coordinator

State of Oregon

Board memo

Building Codes Division

September 27, 2018

To: Electrical and Elevator Board

From: Sarah Blam-Linville, contested case representative, Enforcement Services

Subject: Consent orders for cases proposed for resolution

Action requested:

To consider the adoption of recent consent orders and issue final orders.

Background:

The board, through division staff, implemented a civil penalty matrix (Penalty Matrix) for electrical violations. The Penalty Matrix establishes civil penalties based upon the type and number of violations committed within five years of the date of the present violation. The Penalty Matrix further provides that a stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board's behalf for purposes of settling cases prior to hearing.

The Enforcement Section, acting on behalf of the board, is proposing the following consent agreements tentatively resolved since the board's July 26, 2018, meeting. A summary of those consent orders are included for your review.

Each consent order contains the following conditions, any additions or exceptions to these conditions is noted with the individual case information:

- Respondent agrees to fully cooperate with the division's enforcement efforts.
- Respondent understands that further enforcement action may be taken for any other violations.
- Respondent understands that failure to comply with the Consent Order, including paying the civil penalty, may be used as a basis for the denial, suspension, revocation, or conditioning of a license, certificate, or registration.

In each of the cases the penalty amounts assessed, amounts suspended, and amounts due and payable are consistent with the board's past practices and the penalty matrix.

Electrical and Elevator Board Enforcement Report for September 27, 2018

This item was amended during the meeting adding additional cases

Summary Report						
Case #	Name	Violation	Location of Violation	Date of Violation	Civil Penalty	Other Consent Terms
C2018-0048 Tracey/Sarah	Three Rocks Electric	Installation of junction boxes, light fixtures and electrical wiring. ●Allowing an unlicensed person perform electrical work	Lincoln City	January 2018	Assessed: \$2,000 ●Due: \$750 ●Suspended: \$1,250	Respondent's electrical contractor license is conditioned for 6 months with the following conditions: ● Quarterly reports shall be submitted to the Division outlining work performed, payroll information, and employee license information
C2018-0049 Tracey/Sarah	Henderson, Craig	Installation of junction boxes, light fixtures and electrical wiring. ●No journeyman or supervisors license ●Respondent is an apprentice	Lincoln City	January 2018	Assessed: \$2,000 ●Due: \$500 ●Suspended: \$1,500	Respondent agrees to only work while under direct supervision at all times until he obtains a license for indirect supervision.
C2018-0221 Tracey/Nick	Johnson, Joshua R	Installation of electrical wire to new electric panel ●No journeyman or supervisors license ●Respondent is an apprentice	Portland	June 2018	Assessed: \$2,000 ●Due: \$750 ●Suspended: \$1,250	Respondent agrees to only work while under direct supervision at all times until he obtains a license for indirect supervision.
C2018-0222 Tracey/Nick	Johnson, James A	Installation of electrical wire to new electric panel ●Supervisor fails to ensure electricians are properly licensed	Portland	June 2018	Assessed: \$3,000 ●Due: \$750 ●Suspended: \$2,250	Respondent agrees to comply with all requirements of his general supervising electrician license.
C2018-0223 Tracey/Nick	Electech Lighting & Electric, Inc	Installation of electrical wire to new electric panel ●Allowing an unlicensed person to perform electrical work	Portland	June 2018	Assessed: \$2,000 ●Due: \$750 ●Suspended: \$1,250	Respondent agrees to comply with all electrical licensing requirements and other regulations.
C2018-0185 Randy/Nick	Harris, William W., IV dba Buttermilk Creek Construction	Installation of electrical wire, outlets, and switches ●No journeyman or supervisors license ●No electrical contractor licesne ●No electrical permit	Depoe Bay	May 2018	Assessed: \$12,000* ● Due: \$4,000 ● Suspended: \$8,000	Respondent agrees to not violate licensing laws in the future.
C2018-0060 Chris/Sarah	Nix, Glen	Installation of junction boxes, light fixtures and electrical wiring. ●Supervisor fails to ensure electricians are properly licensed	Lincoln City	January 2018	Assessed: \$3,000 ●Due: \$750 ●Suspended: \$2,250	Respondent's supervising electrician license is conditioned for 6 months with the following conditions: ● Quarterly reports shall be submitted to the Division outlining work performed, payroll information, and employee license information

*Total civil penalty assessed for more than one program

Electrical and Elevator Board Enforcement Report for September 27, 2018

Summary Report						
Case #	Name	Violation	Location of Violation	Date of Violation	Civil Penalty	Other Consent Terms
C2016-0396 Russ/Shannon	Well Done Construction, LLC	Installation of meter bases and completion of finish electrical work. <ul style="list-style-type: none"> ● Contractor fails to continually employ a full time supervising electrician ● Allowing an unlicensed individual to perform electrical work 	West Linn	2014 to 2017	Assessed: \$11,000 <ul style="list-style-type: none"> ● Due: \$4,000 ● Suspended: \$7,000 	Respondent's electrical contractor license will be suspended for 30 days, upon completion of suspension license will be conditioned for 12 months as follows: <ul style="list-style-type: none"> ● Quarterly reports shall be submitted to the Division outlining work performed, payroll information, copies of all invoices, copies of all permits and employee license information
C2018-0167 Chris/Sarah	Austin, David M.	Installation of electrical wiring. <ul style="list-style-type: none"> ● No journeyman or supervisors license 	Portland	October 2017	Assessed: \$2,000 <ul style="list-style-type: none"> ● Due: \$750 ● Suspended: \$1,250 	Respondent agrees to cease the practice of obtaining permits without an electrical contractors license, attempting to work under another person or firm's electrical permits or providing false or incorrect information to obtain an electrical permit.
C2017-0433 Chris/Sarah	INFT LLC	Installation of electrical wiring. <ul style="list-style-type: none"> ● No electrical contractor license ● No electrical permit 	Portland	October 2017	Assessed: \$4,000 <ul style="list-style-type: none"> ● Due: \$1,500 ● Suspended: \$2,500 	Respondent agrees to cease the practice of obtaining permits without an electrical contractors license, attempting to work under another person or firm's electrical permits or providing false or incorrect information to obtain an electrical permit.
C2018-0056 Andrea/Sarah	Dickens, Mark S.	Respondent misrepresented education level and work history on application for limited residential electrician and general journeyman electrician.	Oregon	2017 and 2018		Respondent's limited residential electrician's license is revoked. Respondent's application for general journeyman electrician license is denied and he is disqualified from obtaining any electrical license from the state of Oregon for 12 months.

Electrical and Elevator Board Enforcement Report for September 27, 2018

Summary Report						
Case #	Name	Violation	Location of Violation	Date of Violation	Civil Penalty	Other Consent Terms
C2017-0360 Sarah	Edwin L. Wilson	Failure to comply with all amended consent order terms.	Oregon	2016	Outstanding unpaid civil penalties: \$53,262.61 <ul style="list-style-type: none"> ●Suspended: \$38,262.61 ●Imposed: \$15,000 	Respondent's supervising electrician license will be suspended for 30 months. After the 30 month, as long as all terms of consent order are met, respondent will be issued a conditional journeyman electrician license for 30 months. The conditions will be: Respondent shall provide quarterly reports for 30 months to include; name, contractor license number and address of each employer; the full name of each employer's general signing supervising electrician or equivalent; a list of all jobs worked during the quarter to include name, address of each customer; copies of all invoices from each job, copies of Respondent's payroll records for each quarter and a list of all permit numbers issued for each job. Respondent agrees to report any changes in employer, work description, position or employment status within 3 business days. When reporting, Respondent will provide the employers name, contractor license numbers, name of supervising electrician or its equivalent and work schedule.
C2018-0249 Mike/Sarah	Thomas, Gary M. dba Solar Man	Installation of commercial roof mounted 40 KW solar energy system to included: installation of modules, inverter, transformer, solar monitoring system, grounding system, and safety disconnects. <ul style="list-style-type: none"> ●No journeyman or supervisors license ●No electrical contractor licesne ●No electrical permit 	Winston	April 2018 to July 2018	Assessed: \$6,000 <ul style="list-style-type: none"> ●Due: \$2,250 ●Suspended: \$3,750 	Respondent agrees to comply with all electrical licensing requirements and other regulations.

Electrical and Elevator Board Enforcement Report for September 27, 2018

Agenda Item III.D.

Summary Report - Cases Previously Resolved by Division							
Case #	Name	Violation	Location of Violation	Date of Violation	Penalty Assessed	Penalty to Pay	Other Comments
C2017-0477 Mike/Nick	Tait, Timothy	Installation of electrical sign and electrical wire <ul style="list-style-type: none"> ●No journeyman or supervisors license ●No electrical contractor license ●No electrical permit 	Medford	December 2017	\$6,000	\$6,000	Default Order Complaint submitted by license enforcement person
C2018-0226 Tracey/Shannon	Gaddy, Cameron	Installation of electrical cabling in IDF cabinets and installation of electrical wiring. <ul style="list-style-type: none"> ●No journeyman or supervisors license 	Troutdale	June 2018	\$2,000	\$2,000	Default Order Complaint submitted by license enforcement person
C2018-0225 Tracey/Shannon	Progressive Telephone Systems and Communications, Inc.	Installation of electrical cabling in IDF cabinets and installation of electrical wiring. <ul style="list-style-type: none"> ●Allowing unlicensed individual to perform electrical work 	Troutdale	June 2018	\$2,000	\$2,000	Default Order Complaint submitted by license enforcement person

*Total civil penalty assessed for more than one program

State of Oregon

Board memo

Building Codes Division

September 27, 2018

To: The Electrical and Elevator Board

From: Todd Smith, policy analyst, Policy and Technical Services

Subject: Continuing Education Applications

Action requested:

Electrical and Elevator Board consideration of the Continuing Education Committee's recommendations regarding continuing education courses and instructors.

Background:

The Electrical and Elevator Board establishes continuing education requirements for all electrical licensees in order to ensure licensees possess up-to-date knowledge of the code and administrative requirements. They set standards for approval of courses and instructors in order to have a sufficient number and variety of continuing education courses available to licensees. The board's continuing education committee has been meeting to evaluate courses and instructors on the board's behalf. The committee met on August 14, 2018, to review continuing education course and instructor applications. Cindy Regier and Warren Jackson attended this meeting. The committee reviewed 39 applications from 11 organizations:

- 16 courses were recommended for approval.
- 5 courses were recommended for denial.
- 12 instructors were recommended for approval.
- 6 instructors were recommended for denial.

See attached summary for more information.

In addition to the Oregon Rule and Law criteria, the committee is using the following when reviewing applications:

- NFPA 70E courses are eligible for a maximum of eight hours code-related credits.
- OSHA 10 courses are eligible for a maximum of four hours code-related credits.
- OSHA 30 courses are eligible for a maximum of sixteen hours code-related credits.

- First Aid/CPR courses are eligible for a maximum of four hours code-related credits (two hours for each course).
- For correspondence courses – Provider must submit complete course.
- For online courses – Provider must submit a log-on or screen shots of course content.

Options:

- Approve the committee's recommendations for approval or denial of courses or instructors.
- Amend and approve the committee's recommendation for approval or denial of courses or instructors.
- Disapprove the committee's recommendation for approval or denial of courses or instructors.

Electrical and Elevator Board
Committee on Continuing Education Course and Instructor Review
09/27/18

Courses

	Applicant	Course Name	Committee Recommendation	Board Action
1	BlueVolt	Captain Code Analysis (6 hours CC)	Approve – 2017 code cycle	
2	cdcmello Consulting	Electrical Installations Over 1000 Volts (8 hours CR)	Approve – 2017 code cycle	
3	cdcmello Consulting	Soares 8-Hour Grounding and Bonding Basics (8 hours CR)	Approve – 2017 code cycle	
4	cdcmello Consulting	Soares 12-Hour Grounding and Bonding Basics (12 hours CR)	Approve – 2017 code cycle	
5	cdcmello Consulting	Soares 16-Hour Grounding and Bonding Basics (16 hours CR)	Approve – 2017 code cycle	
6	Electrical Reliability Services	Electrical Safety for OSHA 1910 and 70E (8 hours CR)	Deny, no approved instructor	
7	Elite CEU	2017 NEC Wiring Methods & Materials (2 hours CR)	Approve – 2017 code cycle	
8	IAEI	2017 Soares Grounding and Bonding (8 hours CR)	Approve – 2017 code cycle	
9	IAEI	2017 Soares Grounding and Bonding (12 hours CR)	Approve – 2017 code cycle	
10	IAEI	2017 Soares Grounding and Bonding (16 hours CR)	Approve – 2017 code cycle	
11	IAEI	Solar Permitting Plan Review (8 hours CR)	Approve – 2017 code cycle	
12	Intertek Testing NA	Analysis of Changes NFPA 70 NEC 2017 ed. (12 hours CC)	Approve – 2017 code cycle	
13	Jade Learning LLC	Installing Services (2017 NEC) (4 hours CR)	Approve – 2017 code cycle	
14	Jade Learning LLC	Overcurrent Protection (2017 NEC) (4 hours CR)	Approve – 2017 code cycle	
15	KARM Safety Solutions	Aerial Certification Training (4 hours ORL)	Deny, not code related	
16	KARM Safety Solutions	Forklift Certification Training (4 hours ORL)	Deny, not code related	
17	KARM Safety Solutions	Silica Competent Person Training (4 hours ORL)	Deny, not code related	
18	KARM Safety Solutions	Trench and Excavation Competent Person Training	Deny, not code related	
19	Mike Holt Enterprises	2017 Limited Energy & Communications Systems (8 hours CR)	Approve – 2017 code cycle	

20	Mike Holt Enterprises	2017 Understanding NEC Requirements for Solar PV Systems (8 hours CR)	Approve – 2017 code cycle	
21	Mike Holt Enterprises	2017 Wiring Methods & Materials (8 hours CR)	Approve – 2017 code cycle	

Instructors

	Applicant	Committee Recommendation	Board Action
1	Thomas Degnan (CC) Blue Volt	Deny, qualifications not provided	
2	Chuck Mello (CR) cdcmello Consulting	Approve – 2017 code cycle	
3	Ross Bender (OSHA CR) Electrical Reliability Services	Deny, no qualifications provided	
4	John Hagstrom (OSHA CR) Electrical Reliability Services	Deny, no qualifications provided	
5	Resty Mascardo (OSHA CR) Electrical Reliability Services	Deny, no qualifications provided	
6	Larry Evers (CR) Elite CEU	Approve – 2017 code cycle	
7	Chuck Mello (CR) IAEI	Approve – 2017 code cycle	
8	Sean Bagsby (CC, CR) IBEW Local 46	Approve – 2017 code cycle	
9	Jerry Berndt (CC, CR) IBEW Local 46	Approve – 2017 code cycle	
10	Nick Genton (CC, CR) IBEW Local 46	Approve – 2017 code cycle (limited to classes within scope of license)	
11	Bryan Johnson (CC, CR) IBEW Local 46	Approve – 2017 code cycle	

12	Curtis Orlovski (CC, CR) IBEW Local 46	Approve – 2017 code cycle	
13	Charles Schroeder (CC, CR) IBEW Local 46	Approve – 2017 code cycle	
14	James Tosh (CC, CR) IBEW Local 46	Approve – 2017 code cycle (limited to classes within scope of license)	
15	Robert Will (CC, CR) IBEW Local 46	Approve – 2017 code cycle	
16	Dennis Bordeuax (CC, CR) Jade Learning LLC	Deny, no qualifications provided	
17	Perry Parkin (CC, CR) Joan P. Albert	Approve	
18	Robert Miller KARM Safety Solutions	Deny, no approved courses	

Christopher Jensen

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435-760-4675 Christopher.jensen@UL.com

**Agenda
Item
VII.B.**

7/31/2018

Electrical Board

State of Oregon

1535 Edgewater Street NW Salem, OR 97304

Dear Electrical Board,

My name is Christopher Jensen and I am the Education Chairman for the Northwest Section of the International Association of Electrical Inspectors. We are holding our annual seminar in St George Ut September 9th through the 12th. At this seminar we conduct 16 hours of electrical training. This year we are providing 8 hours of solar permitting and plan review training that has been created by the Solar Training and Education for Professionals organization in conjunction with the US Department of Energy and the IAEI among others. This training was designed to address the solar industry to try to standardize the permitting, plan review and inspecting process to help the inspectors and installers work together to achieve a code compliant solar installation. The course was submitted to the Oregon Electrical Board with an older version of the presentation which was based on the 2014 NEC and 2015 IFC, IBC and IRC and was rejected. I have re-submitted the course with updated material that will be used during the presentation which shows that it has been updated to the 2017 NEC and the 2018 I-codes. Pete Jackson will be the Instructor and is a Nationally recognized expert on solar installations, permitting and plan review. Since we will be holding the seminar before the next Electrical Board meeting I am requesting this class be approved retroactively. We will provide a list of attendees and their license numbers at the end of the seminar.

Sincerely,

Christopher Jensen

**Agenda
Item
VII.C.**

Dear Electrical and Elevator Board,

I would like to address the Board to seek an exception to OAR 918-282-0140 (2)(i). Regarding a Supervising electrician able to sign for only one employer.

I have been the only electrician employed at the Oregon Zoo since 2009, like my predecessor (for over 20 years) and, the electrician before him. I am a working supervisor and the only electrician on staff who competes the work required for the master permit program. We occasionally hire an outside licensed electrical contractor to complete larger jobs or to fill in when I have been deployed for my military obligations.

I would also like to start a small single man business for working weekends and my time off to do all the work that would fall under a residential specialty contractor mostly for realtor friend, small remodel contractor friends, and my church. As a single man shop, I would be the only one permitting and performing the work.

I understand the concept behind the OAR requiring a supervising electrician to only sign for one employer. The scenario describe above, I believe, honors the spirit of that rule as I would be the only supervisor and the only electrician doing work at any one given time in those locations. I am respectfully requesting that the board grant an exception and allow me to operate as the signing supervisor for the Zoo's Master electrical permit program and as a self employed single man shop. I would like to point out that the "Signing supervisor change notice" form requires a CCB and electrical contractors license number, which the zoo is not required to have because the work is "maintenance electrician based" and not as a commercial contractor doing work for customers. Thank you for your time and consideration into this matter.

Very Respectfully,

Daniel Swehosky
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(503) 686-0831