

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

CONSENT ORDER

IN THE MATTER OF:

BURKHART DENTAL SUPPLY CO, A FOREIGN CORPORATION, AND PERRY N BURKHART JR, PRESIDENT

CASE NO. 2006-0199

RESPONDENT

8 WHEREAS the ELECTRICAL AND ELEVATOR BOARD of the State of Oregon, acting pursuant to its authority as set forth in Oregon Revised Statutes Chapter 455, has conducted an investigation of the Respondent and has determined that the Respondent violated certain provisions of the Oregon Building Codes statutes, administrative rules, and specialty codes:

10 WHEREAS the Board and Respondent wish to settle this matter informally. Respondent agrees to conduct all future business in compliance with the applicable statutes, administrative rules, and specialty codes:

NOW THEREFORE, as evidenced by the authorized signature subscribed on this Order, Respondent hereby consents to the entry of this Order:

14 **FINDINGS OF FACT**

- 16 1. On or about April 27, 2006 at 11160 Highway 62, Eagle Point, Oregon, Respondent installed or arranged for the installation of electrical power wiring to an X-Ray machine, for the account of another, without first obtaining a valid electrical permit.
- 18 2. On or about April 27, 2006 at 11160 Highway 62, Eagle Point, Oregon, Respondent engaged in the business of installing electrical power wiring to an X-Ray machine for the account of another, without an Oregon electrical contractor's license.
- 19 3. On or about April 27, 2006 at 11160 Highway 62, Eagle Point, Oregon, Respondent allowed Frank Yarbrow to make an electrical installation for which he was not licensed. Mr. Yarbrow, on behalf of Respondent, installed wiring to an X-Ray machine. At the time, Mr. Yarbrow did not have an Oregon supervising or journeyman electrician's license as required by ORS 479.620(6).
- 20 4. On or about April 27, 2006 at 11160 Highway 62, Eagle Point, Oregon, Respondent made an electrical installation that did not meet minimum safety standards by leaving the X-Ray machine ungrounded. See National Electric Code (NEC) 517.78, NEC 517.13 and NEC 250.118 as adopted by OAR 918-305-0100.

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CONCLUSIONS OF LAW

1. The installation of electrical wiring, as outlined in the Findings of Fact above, is an electrical installation under ORS 479.530(10).
2. By making an electrical installation without first obtaining a valid electrical permit, as outlined in Finding of Fact(1), Respondent violated ORS 479.550(1).
3. By engaging in the business of making an electrical installation without a valid Oregon electrical contractor's license, as set forth in Finding of Fact(2), Respondent violated ORS 479.620(1).
4. By allowing Frank Yarbrow to make an electrical installation without an Oregon supervising or journeyman electrician's license, as outlined in Finding of Fact (3), Respondent violated OAR 918-282-0120(1).
5. By making an electrical installation you supervised or directed the making of an electrical installation, which does not meet minimum safety standards, as outlined in Finding of Fact(4), Respondent violated ORS 479.710(1).

ORDER

The Board, acting pursuant to ORS 455.775(2) hereby ORDERS that the Respondent shall: CEASE AND DESIST from further violations of the Oregon Building Codes, statutes, administrative rules, specialty codes, or any Order issued by a State Building Codes Advisory Board.

Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, Respondent is assessed a \$1000 civil penalty for violation of ORS 479.550(1).

Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, Respondent is assessed a \$1000 civil penalty for violation of OAR 918-282-0120(1).

Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, Respondent is assessed a \$1000 civil penalty for violation of ORS 479.710(1).

Pursuant to ORS 455.895(1)(b) and OAR 918-001-0036, Respondent is assessed a \$1000 civil penalty for violation of ORS 479.620(1).

The Board further ORDERS the imposition of \$750.00 of the \$4,000.00 total civil penalty be stayed for the period of three years from the date of this Order, under the following terms and conditions:

The Respondent shall not violate any provision of Oregon Building Codes Statutes, administrative rules, specialty codes, or any Order issued by a State Building Codes Advisory Board.

The remaining \$3,250 civil penalty is due and payable on or before 5:00 P.M. July 31, 2006. Failure to submit payment by the due date indicated will result in your account being forwarded to the Department's Business Administration Division for collection. The Department will pursue collection of unpaid civil penalties by filing a lien against your real estate holdings, by tax refund offsets through the Department of Revenue, or through an outside collection agent.

If Respondent fully complies with all conditions imposed herein, the \$750.00 stayed civil penalty shall be waived at the end of the three-year period and shall no longer be imposed. If the Board finds that the Respondent has violated any of the terms and conditions stated herein during the three-year period from the date of this Order, the Board by and through Director of the Department of Consumer and Business Services may impose the \$750.00 stayed civil penalty. Further, this Order does not limit the Board from other actions to enforce other violations of the Oregon Building Codes statute, administrative rules, and specialty codes.

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Dated this _____ day of _____, _____.

ELECTRICAL AND ELEVATOR BOARD

by Tony Guidone, Enforcement Officer for the Board

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CONSENT TO ENTRY OF ORDER

I, PERRY N BURKHART JR on behalf of BURKHART DENTAL SUPPLY CO, state that I am, or represent the Respondent herein; that I have read the foregoing Order, and that I know and fully understand its contents; that I consent to the entry of this Order, and admit the allegations contained in the Findings of Fact therein; that I have been advised of my right to a contested case hearing, and to be represented by legal counsel in this matter; that I freely and voluntarily consent to the entry of this Order without further hearing and without any force or duress, expressly waiving all rights to a contested case hearing, judicial review or any further appeal in this matter. I understand that the Board may take further actions to enforce this Order or upon discovery of other conduct in violation of the Oregon Building Codes statutes, administrative rules, and specialty codes. I further state that I will fully comply with the terms and conditions stated therein. I further assure the Board that I will not perform work or conduct business in Oregon unless such activities are in full compliance with Oregon Building Codes statutes, administrative rules, and specialty codes. I understand that this Consent Order is a public document.

DATED this _____ day of _____,

Signature of Respondent

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