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

4 **IN THE MATTER OF:**

5 **CLIMA-TECH CORPORATION, INC., A**
6 **FOREIGN CORPORATION**

7 **RESPONDENT**

)
) **AMENDED NOTICE OF PROPOSED**
) **ASSESSMENT OF A CIVIL PENALTY**
) **AND FINAL ORDER ON DEFAULT AND**
) **COLLECTION OF A PREVIOUSLY**
) **STAYED PENALTY**
)
)
)
) **CASE NO. 2010-0110**

FINAL ORDER
As of: Aug. 11, 2011

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10 Under ORS 455.895(1)(b) and OAR 918-001-0036, the Electrical and Elevator Board
11 (Board) proposes disciplinary action against Respondent in the form of civil penalties totaling
12 \$6,000, in addition to collecting \$1,500 stayed pursuant to a settlement agreement in BCD case
13 no. 2007-0319, because Respondent violated Building Codes Division (BCD) statutes and/or
14 rules as follows:

15 **FINDINGS OF FACT and CONCLUSIONS OF LAW**

16 (1) During or about May 2009, at the Lot Whitcomb Elementary School (Lot Whitcomb)
17 located 7400 SE Thompson Road, Milwaukie, Oregon, Respondent installed a 120 volt power
18 supply for an energy management control system, for the account of another without the proper
19 electrical contractor's license, in violation of OAR 918-282-0010(2).

20 (2) During or about May 2009, at the Lot Whitcomb Elementary School, Respondent
21 installed a 120 volt power supply for an energy management control system, for the account of
22 another without first obtaining a valid electrical permit, in violation of ORS 479.550(1).

23 (3) On April 25, 2008, in BCD case no. 2007-0319, a settlement agreement (Consent
24 Order) was executed between Respondent and the Oregon Board of Boiler Rules in which
25 Respondent was assessed civil penalties for violations of ORS 480.630(5) and ORS 480.630(1).
The Board of Boiler Rules stayed collection of \$1,500 of the total penalties for three years from
the date of the order provided Respondent did not violate *any* provision of Oregon Building
Codes statutes, administrative rules, specialty codes, or any Order issued by a Building Codes
advisory board. The violations outlined in Findings of Fact (1) and (2) occurred within three
years of the order and are violations of Oregon Building Codes statutes and administrative rules.

(4) Installing a 120 volt power supply, as outlined in Findings of Facts (1) and (2), is an
electrical installation as defined in ORS 479.530(10).

1 **APPLICABLE LAW**

2 (1) Under OAR 918-282-0010(2), an electrical contractor is not authorized to make,
3 direct, supervise or control the making of an electrical installation unless properly licensed.

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

6 **ORDER**

7 Under ORS 455.895(1)(b) and OAR 918-282-0036, the Electrical Board assesses the
8 following:

- 9 (1) a \$4,000 civil penalty for violating OAR 918-282-0010(2)
- 10 (2) a \$2,000 civil penalty for violating ORS 479.550(1)

11 Pursuant to the executed settlement agreement in BCD case no. 2007-0319, the Boiler
12 Board collects the stayed \$1,500.

13 The total amount to be collected is \$7,500.

14 **NOTICE OF RIGHT TO HEARING**

15 Respondent is entitled to a hearing as provided by the Administrative Procedures Act,
16 Oregon Revised Statutes, Chapter 183. If Respondent requests a hearing, the request must be in
17 writing and filed with the Division no later than 20 days from the service date. If this Notice was
18 served to Respondent in person, the service date is the date Respondent received this Notice. If
19 this Notice was served through the mail, the service date is the day the Notice was mailed, not
20 the day Respondent received it.

21 If a request for hearing is not received within 20 days, Respondent's right to a hearing is
22 considered waived unless the failure to request a hearing was beyond Respondent's reasonable
23 control. Mail hearing requests to Building Codes Division, Enforcement Section, P.O. Box
24 14470, Salem, Oregon, 97309.

25 Respondent has the right to be represented by legal counsel. ORS 183.457 provides that
a corporation may be represented by an authorized representative at the hearing. If Respondent
requests a hearing, Respondent will be notified of the time and place of the hearing and be given
information on procedures, right of representation and other rights of parties relating to the
hearing before it begins.

NOTICE OF FINAL ORDER

f Respondent does not request a hearing within 20 days, withdraws a hearing request,
notifies the Board or the administrative law judge that they will not appear, or fails to appear at a
scheduled hearing, the Board will issue a Final Order by Default. If the Board issues a Final

1 Order by Default, it designates the file, including any materials submitted by Respondent that
2 relate to this matter, as the record for purpose of proving a prima facie case.

3 Respondent is entitled to judicial review of any final order issued in the matter of this
4 Notice of a Proposed Civil Penalty. Judicial review may be obtained by filing a petition for
5 review with the Oregon Court of Appeals within 60 days after the Final Order is served. See
6 ORS 183.482. If the Order was served in person, the service date is the date Respondent
7 received the Order. If the Order was served through the mail, the service date is the day the
8 Order was mailed, not the day it was received by Respondent. If Respondent does not file a
9 petition for judicial review within 60 days, Respondent will lose the right to appeal. The
10 informational phone number for the Oregon Court of Appeals is (503) 986-5555.

11 Dated this 21st day of July, 2011

12 Elizabeth Browder for
13 Chairman
14 Electrical and Elevator Board
15 State of Oregon
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