

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
AGENCY CASE NO. 2015-0114-HVAC
(Division Case # KY-15-11-0003-CE)**

DEPARTMENT OF HOUSING,
BUILDINGS AND CONSTRUCTION, and
THE BOARD OF HEATING, VENTILATION,
AND AIR CONDITIONING CONTRACTORS

COMPLAINANT

v.

AGREED ORDER

TIMOTHY D. BURGOYNE,
D/B/A ADVANCED COMFORT TECH

RESPONDENT

1. The Department of Housing, Buildings and Construction, Division of Heating, Ventilation, and Air Conditioning ("DHBC") and the Board of Heating, Ventilation, and Air Conditioning Contractors ("HVAC Board") regulate and license heating, ventilation, and air conditioning ("HVAC") master contractors and journeyman mechanics pursuant to KRS 198B.650 through 198B.689. Additionally, the DHBC and HVAC Board enforce all statutes, regulations, and applicable code requirements related to HVAC work in the Commonwealth of Kentucky.

2. Timothy D. Burgoyne, d/b/a Advanced Comfort Tech, ("Respondent") was at all relevant times herein located at [REDACTED]

3. Respondent is the holder of a Kentucky Master HVAC Contractor License #HM05270, which was last renewed on November 12, 2015.

4. On November 9, 2015, the Department investigated Respondent's HVAC work performed on a rooftop HVAC unit at a commercial building located at 65 Broadway Street in Dry Ridge, Kentucky, 41063-9790. As a result of that investigation, the Department discovered that at the time Respondent performed the HVAC work, Respondent did not hold a valid Kentucky Master HVAC Contractor or Journeyman HVAC Mechanic license. Additionally, Mr. Robert Hartman, who was a co-owner of Advanced Comfort Tech, was also working on the rooftop HVAC unit without a valid Kentucky Master HVAC Contractor or Journeyman HVAC Mechanic license. Respondent failed to provide the persons performing HVAC work with supervision or direction from a licensed Kentucky Journeyman HVAC Mechanic and Master HVAC Contractor.

5. Respondent's failure to provide the required supervision for the persons performing HVAC work on Respondent's behalf violated 815 KAR 8:010, Section 1(2); and the 2013 Kentucky Residential Code, Section R101.6; which requires all persons performing HVAC work to operate under the general direction of a Master HVAC Contractor, and that all HVAC work be performed by licensed Journeyman HVAC Mechanics working under the supervision of a licensed Master HVAC Contractor.

6. The DHBC possesses a range of statutory and administrative authority to address violations of KRS 198B.650 through 198B.689, the regulations promulgated thereunder, and the Uniform State Building Code, including license revocation and suspension, and the imposition of fines in an amount up to \$1,000 per violation, with each day the violation continues constituting a separate offense. See KRS 198B.990(1).

7. In this case, the DHBC has imposed fines against Respondent for the above-referenced violations in the total amount of five hundred dollars (\$500.00).

8. In the interest of economically and efficiently resolving the violations described herein, the parties agree as follows:

- a. Respondent agrees to pay a total fine in the amount of **five hundred dollars (\$500.00)** for the violations described herein.
- b. Respondent agrees to and shall pay the total fine assessed herein in two (2) installment payments, the first of which shall be in the amount of two hundred and fifty dollars (\$250.00) and which shall be due and paid on the date Respondent signs the Agreed Order and returns it to the DHBC, but in no event later than **May 30, 2016**. The second and final payment shall be due on **June 30, 2016**. Each installment payment may be in the form of a certified check or a money order made payable to "Kentucky State Treasurer," and mailed to the Department of Housing, Buildings and Construction, Attn: Samuel Thorner, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky, 40601; or may be made by credit or debit card by calling the Division of HVAC directly at telephone number 502-573-0395.
- c. Respondent agrees to not engage in HVAC activity without the appropriate license and permit, and agrees to devote the time and resources reasonably necessary to ensure continual and full compliance with the Uniform State Building Code, and all statutory and regulatory requirements set forth in KRS 198B.650 to 198B.689 and 815 KAR Chapter 8; and

d. The DHBC agrees to pursue no further administrative action against the Respondent based upon the violations described herein.

9. Respondent waives his right to an administrative hearing or to otherwise appeal or set aside this Order.

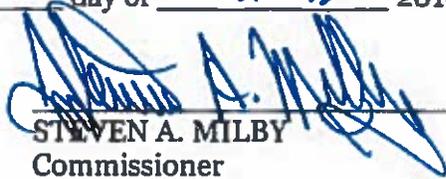
10. Respondent consents to and acknowledges the jurisdiction of the DHBC over this matter and that this Agreed Order is a matter of public record and may be disseminated as such.

11. In consideration of execution of this Agreed Order, Respondent for himself, and for his successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, the DHBC, Office of Legal Services, and each of their members, agents, and employees in their individual capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims, and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, or may have or claim to have against any or all of the persons or entities named in this paragraph or Agreed Order arising out of or by reason of this investigation, this disciplinary action, this settlement, or its administration.

12. By signing below, the parties acknowledge they have read the foregoing Agreed Order, know and fully understand its contents, and that they are authorized to enter into and execute this Agreed Order and legally bind their respective parties.

13. This Agreed Order shall constitute the Final Order in this matter.

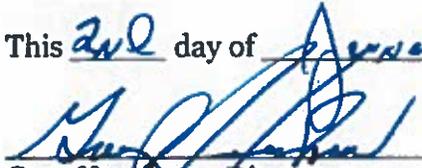
IT IS SO ORDERED on this the 3 day of JUNE 2016.



STEVEN A. MILBY
Commissioner
Department of Housing,
Buildings, and Construction;
Chairman of the Board of
HVAC Contractors

Agreed to:

This 2nd day of June 2016.



Greg Houchens, Director
Division of HVAC
Department of Housing, Buildings and Construction

Agreed to:

This 31st day of May 2016.

T. W. Burgoyne
Timothy D. Burgoyne

ACKNOWLEDGEMENT

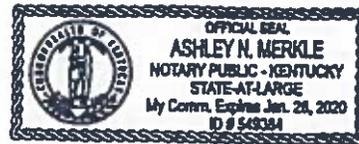
STATE/Commonwealth of Kentucky
COUNTY OF Kenton

On this the 31st day of May 2016, before me Ashley Merkle
the undersigned, TIMOTHY D. BURGoyNE, did personally appear and entered into
and executed the foregoing instrument for the purposes therein contained.

In witness whereof I hereunto set my hand.

My Commission Expires: 01/26/2020

Ashley N. Merkle
Notary Public



CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing *Agreed Order* was served via U.S. Postal Service, first class, postage prepaid on this the 3 day of June 2016, to the following:

Timothy D. Burgoyne
d/b/a Advanced Comfort Tech





Samuel Thorner
Assistant Counsel
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Department of Housing, Buildings and
Construction
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