COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
AGENCY CASE NO. 2015-0027-ELEC
(Division Case# KY-14-10-0008-CE)

DEPARTMENT OF HOUSING,
BUILDINGS AND CONSTRUCTION — COMPLAINANT

v. **AGREED ORDER**

JAMES S. DARNELL, JR. d/b/a
GEMINI ELECTRIC COMPANY, LLC — RESPONDENT

* * * * * * * * * *

1. The Department of Housing, Buildings and Construction ("DHBC"), Electrical Division with the assistance of the Electrical Advisory Committee regulates and licenses master electricians, electrical contractors, and electricians under KRS Chapter 227A, and enforces all statutes, regulations, and applicable code requirements related to electrical work in the Commonwealth of Kentucky.

2. James S. Darnell, Jr., d/b/a Gemini Electric Company ("Respondent") was, at all relevant times herein, a Kentucky resident located at 3228 W. Jefferson Street, Louisville, KY 40212.

3. Respondent was at all relevant times herein a Kentucky Master Electrician (license #ME10757) and a Kentucky Electrical Contractor (license #CE10758). Respondent's licenses expire on June 30, 2015.

4. The DHBC investigated electrical work performed by an unlicensed individual and his company, Bill Smith and Bill Smith Electric, at a residence located at 1763 Pope Dale Road, Louisville, Kentucky, in October 2013, for which a permit was

obtained by Respondent and under Respondent's Electrical Contractor license number. According to the property owner, Respondent was never hired to perform electrical work at that address, and the invoice the homeowner paid for the work performed was to Bill Smith and Bill Smith Electric. Mr. Smith was not a licensed electrician of any kind, and was not authorized to perform any electrical work without the supervision of a licensed electrician.

5. By failing to provide supervision for an unlicensed worker performing electrical work, Respondent violated KRS 227A.020(4), and the 2013 Kentucky Residential Code R101.8, which require electrical work to be performed by a licensed electrician and prohibit an unlicensed person from doing electrical work unless directly supervised by an on-site licensed electrician or master electrician. Respondent may also be guilty of a misdemeanor, as provided by KRS 227A.130, and may be held criminally liable to the extent that Respondent aided Mr. Bill Smith in his violations of the provisions of KRS 227A.020.

6. Respondent violated the Kentucky Electrical Ethics Code, 815 KAR 35:080(7) and (8), when Respondent allowed the use of his Electrical Contractor license by an unlicensed person and engaged in conduct intended to defraud or deceive the public by obtaining an electrical permit for an unlicensed person.

7. The DHBC possesses a range of statutory and administrative authority to address violations of the statutes, regulations, and applicable code requirements related to electrical work in the Commonwealth, including license revocation, restriction, and suspension, and the imposition of fines in an amount up to $1,000.00 per violation under KRS 198B.990, with each day the violation continues constituting a separate

offense. The DHBC also has authority to assess additional administrative fines under KRS 227A.040(6) for violations of the Code of Ethics in 815 KAR 35:080.

8. In this case, based on Respondent's violations of Kentucky law recited above, the DHBC has determined that Respondent be ineligible to apply for renewal of his licenses for a period of six (6) months, beginning on July 1, 2015, and ending on January 1, 2016.

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

a. Respondent agrees that he shall be **ineligible** to renew his Kentucky Electrical Contractor license #CE10758 for a period of **six (6) months, beginning on July 1, 2015, and ending on January 1, 2016** ("Ineligibility Period").

b. Respondent may renew and retain his Kentucky Master Electrician license #ME10757.

c. Respondent shall not engage in electrical contracting or other activity that violates Kentucky law during the Ineligibility Period; and

d. Provided that Respondent complies with the terms of this Agreed Order, and does not otherwise breach the terms of this Agreed Order, the DHBC agrees to pursue no further administrative action against the Respondent based upon the violations described herein.

e. Should the Respondent be found in violation of the terms of this order or other provisions of Kentucky law regarding electrical work and electrical contracting during the Ineligibility Period, the DHBC

may impose such additional administrative penalties as it deems appropriate, up to and including license revocation and maximum fines.

f. Respondent may apply for renewal of his Electrical Contractor license on or after the first business day after the end of the Ineligibility Period, and is responsible for all fees associated with his license application(s), including late fees, as applicable.

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, 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 29th day of July 2015.

GARY A. PECK
Commissioner
Department of Housing, Buildings
and Construction

Agreed to:

This 29th day of July 2015.

Jack Coleman,
Deputy Commissioner
Acting Director, Electrical Division
Department of Housing, Buildings and Construction

Agreed to:

This 13 day of July 2015.

x _____

JAMES S. DARNELL, JR.

ACKNOWLEDGEMENT

STATE/COMMONWEALTH OF Kentucky)

COUNTY OF Jefferson)

On this the 13 day of July 2015, before me James Darnell Jr, the undersigned, JAMES S. DARNELL, JR., 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: 8-7-2017

_____

Notary Public

ROBIN SHAW
Notary Public
State at Large
Kentucky
My Commission Expires Aug 7, 2017

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 29th day of July 2015, to the following:

James S. Darnell, Jr.
Gemini Electric Company, LLC
3228 W. Jefferson Street,
Louisville, KY 40212

Victoria Kadreva Holmes

Victoria M. Kadreva Holmes
Assistant Counsel
Office of Legal Services
Department of Housing, Buildings and Construction
101 Sea Hero Road, Ste. 100
Frankfort, KY 40601
(502) 573-0365 ext. 107
(502) 573-1057 facsimile
Victoria.Holmes@ky.gov
Counsel for Complainant