

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
AGENCY CASE NO. 2014-0008-ELEC**

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION COMPLAINANT

v.

AGREED ORDER

WENDELL FORTNEY

RESPONDENT

* * * * *

1. The Department of Housing, Buildings and Construction (“DHBC”) is responsible for promulgating and administering the Uniform State Building Code, the statutes applicable to licensing electrical contractors and electricians, and the statutes applicable to certifying electrical inspectors. These charges can be found in KRS 198B.030(3), KRS 227A.040(1), KRS 227.489, and other applicable statutes, administrative regulations, and relevant interpretative authority.

2. Wendell Fortney (“Respondent”) was, at all relevant times herein, a Kentucky certified electrical inspector. Respondent’s electrical inspector certification number is INS0002070-C.

3. In May 2014, DHBC began an investigation of an electrical inspection performed by Respondent at 1341 Iven Godbey Road, Liberty, Kentucky. This investigation revealed that Respondent conducted an electrical inspection of a three-phase electrical service intended to power a lumber kiln facility at the above-referenced address. The electrical work was completed by Mr. Dennis Morgan, who is a Kentucky licensed electrical contractor (license #CE24754) and master electrician (license #ME24744). Respondent was not employed by, contracted for, or contracted with the local government having jurisdiction over the location of the electrical work and inspection at issue, specifically the government of Casey County, Kentucky. At the time

of Respondent's inspection, the government of Casey County had already provided certified electrical inspectors for the use of its citizens as required by KRS 198B.060(11). Respondent's conduct was in violation of KRS 227.491(2)(a), which prohibits an electrical inspector from attempting to supplant, overrule, or otherwise invalidate the judgment of another electrical inspector whose services have been solicited by the local government without first obtaining express written consent from the properly designated inspector.

4. A certified electrical inspector who violates KRS 227.491(2)(a) is subject to a suspension of his or her certification for up to one (1) year. KRS 227.491(3).

5. Respondent submitted his record of the inspection at issue to the DHBC by facsimile on May 15, 2014. Respondent's record did not include a copy of the required permit, or any information regarding the required permit. Further investigation by the DHBC revealed that no permit was taken out for the work inspected by Respondent. At the time the electrical work was performed, electrical permits in Casey County were issued by the certified inspectors under contract with the Casey County government. Respondent's failure to make and retain a complete record of the inspection, to include permit information, was in violation of 815 KAR 35:015, Section 8(8).

6. A certified electrical inspector who is negligent in recordkeeping or other requirements of inspectors is subject to a suspension or revocation of his or her certification under 815 KAR 35:015, Section 10.

7. In this case, the DHBC has decided to issue a written reprimand in lieu of suspension for Respondent's violation of KRS 227.491(2) and 815 KAR 35:015, Section 8(8).

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

- a. Respondent agrees to accept a written reprimand in lieu of suspension for the violations described herein; and
- b. Respondent shall devote the time and resources necessary to ensure continual and full compliance with all statutory and regulatory requirements set forth in KRS Chapters 227 and 227A, and all administrative regulations promulgated thereunder.

7. Respondent waives his right to demand a hearing at which he would be entitled to legal representation, to confront and cross-examine witnesses, and to present evidence on his own behalf, or to otherwise appeal or set aside this Order.

8. 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.

9. 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 arising out of or by reason of this investigation, this disciplinary action, this settlement or its administration.

Certificate of Service

I, John C. Allender, hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 8th day of July, 2014, by United States mail, to the following:



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Construction
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Frankfort, Kentucky 40601
502-573-0365 ext. 107 (phone)
502-573-1057 (facsimile)
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