



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

March 16, 2016

Indar Bhan, President
Island Fence & Window Guard, Inc.
93114 Highway 99 South
Junction City, OR 97448

Heidi Bhan-Register Agent
P.O. Box 397
Junction City, OR 97448

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860501-GB0164-16 / Docket No. NC 346

**PLEASE READ ALL DOCUMENTS CAREFULLY –
DIRECT ALL CORRESPONDENCE TO THE PUBLIC UTILITY COMMISSION OF OREGON**

On January 15, 2016, a representative from your company met with the Oregon Utility Notification Center (OUNC) Enforcement Committee to discuss an alleged rule violation. At that meeting, an agreement was reached regarding penalties for the violation.

Enclosed are two sets of documents that contain a Complaint and a Stipulation. The Complaint serves as a formal notice to you of the violation you were charged with and requires that you Answer the allegation. Because you already reached an agreement with the OUNC Committee, you do not need to submit an Answer. Instead, you need only sign and return the enclosed Stipulation in order to answer the Complaint. If you had not reached an agreement with the OUNC Committee, filing an Answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing.

The Stipulation sets forth the terms and conditions of the agreement you reached with the OUNC Committee. To finalize the settlement, **you must sign the original Stipulation and mail it within 20 days of the date of this letter to:**

**Public Utility Commission of Oregon
Administrative Hearings Division
201 High St. SE, Ste. 100
PO Box 1088
Salem OR 97308-1088**

Island Fence & Window Guard, Inc.

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You do not need to make payment, if any is due, until the Commission has approved the Stipulation. The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

If for some reason you no longer agree to the terms of the Stipulation, you **MUST FILE AN ANSWER TO THE COMPLAINT**, admitting or denying the allegation.

If there is a discrepancy between the formal Stipulation and the agreement reached at the meeting that causes you concern, please contact Kevin Hennessy at (503) 378-6115.

Sincerely,



Johanna M. Riemenschneider
Senior Assistant Attorney General
Business Activities Section

JMR:mxg/#7198308

Enclosures

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 NC 346

4 PUBLIC UTILITY COMMISSION OF
5 OREGON,

6 Complainant,

7 v.

8 ISLAND FENCE & WINDOW GUARD,
9 INC. (An Oregon corporation),

10 Defendant.

COMPLAINT

11 1.

12 This proceeding is initiated by the Public Utility Commission of Oregon (hereinafter
13 "Commission") to determine whether civil monetary penalties should be assessed as provided in
14 ORS 757.993. The Commission maintains its offices at:

15 201 High Street SE, P.O. Box 1088, Salem, Oregon, 97308-1088.

16 2.

17 At all times herein relevant, Defendant was doing business in this state.

18 3.

19 Under ORS 757.993, the Commission has discretion to seek penalties for violations of
20 rules adopted by the Oregon Utility Notification Center (OUNC).

21 4.

22 Under ORS 757.552, OUNC has adopted rules that prescribe requirements for
23 notification to OUNC of excavation activity and marking of underground facilities for the
24 purpose of preventing damage to such facilities. "Excavation" and other relevant definitions are
25 contained in OAR 952-001-0010.

26 ///

1 5.
2 OUNC adopted OAR 952-001-0050, which was in effect at all times herein relevant. The
3 rule provides in relevant part:

4 (1) * * * [A]t least two (2) business days, but not more than ten (10)
5 business days before commencing an excavation, the excavator shall notify the
6 Oregon Utility Notification Center of the date and location of the proposed
7 excavation, and the type of work to be performed.

7 6.
8 On or about November 3, 2015, Defendant violated OAR 952-001-0050 in that
9 Defendant failed to notify the Oregon Utility Notification Center of a proposed excavation
10 before commencing an excavation near Irving Rd. and NW Expressway, Eugene, Oregon.

11 7.
12 ORS 757.993 provides, in relevant part, that:
13 “* * * every person who violates or who procures, aids or abets in the violation of
14 any rule of the Oregon Utility Notification Center shall incur a penalty of not
15 more than \$1,000 for the first violation and not more than \$5,000 for each
16 subsequent violation.”

16 8.
17 Defendant has not violated OUNC rules in the past.

18 9.
19 WHEREFORE, the Commission directs Defendant to file a verified answer to this
20 Complaint within twenty (20) days from the date this Complaint is mailed to Defendant.
21 If no verified answer or other written appearance raising a question of fact or law is filed
22 with the Commission at its office in Salem, Oregon, within the 20-day period, the
23 allegations of the Complaint are deemed admitted, and a penalty will be imposed in the

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26 ///

1 amount of \$1,000 for each violation alleged, for a total of \$1,000.

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DATED this 16th day of March, 2016.

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Respectfully submitted,

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ELLEN F. ROSENBLUM

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Attorney General

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Johanna M. Riemenschneider, #990083

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Senior Assistant Attorney General

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Of Attorneys for the Public Utility Commission
of Oregon

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 346

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

ISLAND FENCE & WINDOW GUARD,
INC. (An Oregon corporation),

Defendant.

STIPULATION FOR ENTRY
OF FINAL ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Assistant Attorney General, and Island Fence & Window Guard, Inc. the Defendant herein, hereby stipulate as follows:

1.

A Complaint in this case is pending before the Commission charging the Defendant with one violation of law, OAR 952-001-0050.

2.

Both parties to this proceeding are willing to forego further processing of that Complaint and further are willing to resolve this matter on the basis of this Stipulation.

3.

The Defendant admits that the violation was committed as alleged in the Complaint and is willing for the Commission to enter an order finding that the violation was committed as alleged in the Complaint.

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1 4.

2 The parties further agree that the Commission may enter an order assessing civil
3 monetary penalties against Defendant in the amount of \$1,000 under the following terms and
4 conditions:

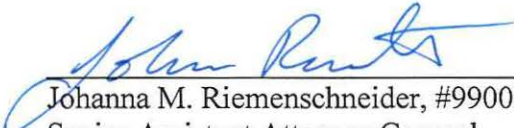
- 5 A. Defendant must sign and return this Stipulation within 20 days of the date it was
6 served upon (mailed to) Defendant.
- 7 B. Payment of the penalties (\$1000) will be suspended and no further penalties will be
8 imposed for the violation alleged in the Complaint unless Defendant fails to comply
9 with all of the terms of this Stipulation and all of the rules adopted by the Oregon
10 Utility Notification Center (OUNC) under ORS 757.552 for a one-year period
11 following the date of the Commission's entry of an order.
- 12 C. Defendant must contact the OUNC Speakers Bureau online at
13 www.digsafelyoregon.com or by calling **(503) 232-1987** to arrange for and attend a
14 training session on Oregon excavation laws within 45 days following the entry of the
15 Commission's order.
- 16 D. In the event that Complainant contends that Defendant has not complied with all of
17 the terms of this Stipulation and all OUNC rules for that one-year period,
18 Complainant may reopen this proceeding and petition for imposition of all or a
19 portion of the suspended penalties. In such case, Defendant is entitled to a hearing
20 and to be notified of the basis upon which Complainant contends that compliance has
21 not occurred.
- 22 E. Complainant's failure to enforce any provision of this Stipulation, or decision to
23 waive any violation or nonperformance of this Stipulation in one instance, will not
24 constitute a waiver by the Complainant of that provision, any other provision, or any
25 other violation or nonperformance in another instance.
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This Stipulation is conditioned upon final approval of its terms by the Commission. If the Stipulation is not accepted in its entirety, it is deemed withdrawn.

DATED this 16 day of March, 2016.



Johanna M. Riemenschneider, #990083
Senior Assistant Attorney General
Of Attorneys for the Public Utility Commission
of Oregon

DATED this _____ day of March, 2016.

Defendant / Representative (signature)

(Print Name)