

**State of New Hampshire
Office of Professional Licensure and Certification
Electricians' Board
Concord, New Hampshire 03301**

In the Matter of:
Mitchell Traina
Lic. #12340M
WESCO Energy Solutions
Lic. #0480C – Corporate

Docket #22-ELEC-003
Docket #22-ELEC-004

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public, the New Hampshire Electricians' Board (hereinafter "Board") and Mitchell Traina, a master electrician licensed by the Board, and WESCO Energy Solutions, an electrical corporation licensed by the Board, (hereinafter "Respondents") do hereby stipulate and agree to resolve certain allegations of misconduct now pending before the Board according to the following terms and conditions:

- 1) Pursuant to RSA 319-C:6-a, 319-C:4, 319-C:5, 319-C:12, 319-C:12-a, RSA 541-A, RSA 310-A:1, and the Electrician's Board Administrative Rules ("Elec") 105, 203, 207, and 405, the Board has jurisdiction to investigate and adjudicate allegations of misconduct committed by electricians. Pursuant to RSA 319-C:12, RSA 310-A:1-k, and Elec 207.07 the Board may, dispose of such allegations by settlement at any time prior to a decision on the merits.
- 2) The Board first granted Mitchell Traina a license to practice electrical installations in the State of New Hampshire as a master electrician on 06/09/2008 through reciprocity. Mitchell Traina currently holds master electrician license number 1234M. The Board first granted WESCO Energy Solutions an electrical corporation license on 05/20/2019. WESCO Energy Solutions holds electrical corporation license number 0480C.
- 3) On 11/23/2021, the Office of Professional Licensure and Certification, Division of Enforcement

("OPLC Enforcement") received a complaint from Building Official James Maxfield ("Complainant") of the City of Dover alleging that the Complainant observed and documented four (4) individuals making electrical installations without proper licensure at Hannaford Supermarket at 30 Grapevine Drive, Dover, NH 03820 ("Installation Site"). On 06/21/2022, the Board issued a *Notice of Adjudicative Hearing 07/21/22 @ 11:00 AM*.

- 4) Respondents stipulate that if a disciplinary hearing were to take place, Hearing Counsel would present evidence of the following facts, from which the Board could find that they engaged unprofessional conduct in violation of RSA 319-C:12, II(c):
 - A. WESCO Energy Solutions holds electrical corporation license number 0480C.
 - B. Mitchell Traina holds master electrician license number 12340M.
 - C. Mitchell Traina is the Master of Record for WESCO Energy Solutions.
 - D. The City of Dover issued a permit to Respondents to conduct electrical installations at Installation Site.
 - E. On 11/09/2021, Complainant conducted an on-site inspection of the Installation Site.
 - F. During the 11/09/2021 inspection, Complainant observed and identified four (4) unlicensed individuals performing electrical installations.
 - G. During the inspection, Complainant found no licensed master nor licensed journeyman present at the Installation Site.
 - H. Respondents committed unprofessional conduct in violation of RSA 319-C:12, II(c) by failing to properly supervise an electrical installation where four (4) unlicensed workers were found making electrical installations.
- 5) The Board finds that Respondents committed the acts as described above and concludes that, by engaging in such conduct, Respondents engaged in misconduct when they violated RSA 319-C:12, (II)(c).
- 6) Respondents acknowledge that the above-described conduct constitutes grounds for the Board to

take disciplinary action against the Respondents' licenses to practice as a master electrician and electrical corporation in the State of New Hampshire, as stated in Elec 405.02.

- 7) Respondents represent that they have taken steps to avoid any repetition of such conduct in the future. Respondents represent that they will ensure that all workers on all electrical installations are both properly licensed and supervised by the proper number and/or ratio of licensed master or journeyman electricians as required by RSA 319-C:2(a).
- 8) There is no current record of a similar violation on file at the Board's office as of the date of this *Settlement Agreement* for either Mitchell Traina or Wesco Energy Solutions.
- 9) The Respondents are willing to accept that these are first offenses as described in Elec 405.03(c)(1).

This shall be considered as a disciplinary action until seven years after the execution of this *Settlement Agreement* as described in Elec 405.03(i).
- 10) For the purposes of determining disciplinary action, multiple offenses that occur on one job site or in one incident shall be considered separate offenses as described in Elec 405.03 (g).
- 11) The Respondents consent to the Board imposing the following discipline, pursuant to RSA 319-C:12, Elec 405.01, Elec 405.02, Elec 405.03(c)(1), Elec 405.03(j):

- a) Respondent WESCO's license is **SUSPENDED** for a period of two (2) years. The suspension will be deferred for a four (4) year period provided the Respondent does not violate the provisions of RSA 319-C, (specifically, RSA 319-C:2-a), or the Board's administrative rules, and the Respondent advises the Board on a monthly basis in a written report by completing the *Probation Reporting Form* of the location of any current and projected jobs and subcontracted jobs in NH as required under Elec 405.02 (b). The reports shall include jobs and subcontracted jobs (completed or projected) from the first day of the month to the first day of the following month. The report form, supplied by the Board, shall be received in the Board's office by the first day of the month, with the first report due on the first day of the month following the execution of this *Settlement Agreement* and the last

report due forty eight (48) months after the execution of this Settlement Agreement. A report shall be filed each month even if no work is performed in NH.

b) Respondent Mitchell Traina's license is VOLUNTARILY SURRENDERED as a condition of this Settlement Agreement. Documents reflecting such surrender, should this Settlement Agreement be accepted by the Board, are attached. Traina shall not seek reinstatement during the period of deferred suspension.

12) Pursuant to Elec 404.02, in light of Respondent Traina's license surrender, Respondent WESCO hereby notifies, and the Board hereby approves, Master Electrician Charles L'Ecuyer, license #15100, as master of record for Respondent WESCO, effective on the effective date of this *Settlement Agreement*. L'Ecuyer's license shall not be impacted by this Settlement Agreement, which applies solely to Traina and WESCO. The responsibility to file monthly reports remains with WESCO, and any consequences for failure to do so shall be limited to WESCO.

13) The Board may consider Respondent WESCO's compliance or non-compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondent's license.

14) Respondent WESCO's breach of any terms or conditions of this *Settlement Agreement* shall constitute misconduct pursuant to RSA 319-C:12, and a separate and sufficient basis for further disciplinary action by the Board. The deferred suspension may then be brought forward in addition to any further disciplinary action. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against the Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this *Settlement Agreement* as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

- 15) This *Settlement Agreement* shall become a permanent part of the Respondents' file, which is maintained by the Board as a public document.
- 16) The Respondents voluntarily enter into and sign this *Settlement Agreement* and state that no promises or representations have been made to them other than those terms and conditions expressly stated herein.
- 17) The Board agrees that in return for the Respondents executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
- 18) The Respondents understand that their action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
- 19) The Respondents have had the opportunity to seek and obtain the advice of an attorney of their choosing in connection with their decision to enter into this *Settlement Agreement*.
- 20) The Respondents understand that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void and Respondents' admissions herein shall be of no effect and inadmissible in any proceeding or matter. The Respondents specifically waive any claims that any disclosures made to the Board during its review of this agreement have prejudiced their right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
- 21) The Respondents are not under the influence of any drugs or alcohol and are otherwise of sound mind at the time they sign this *Settlement Agreement*.
- 22) The Respondents certify that they have read this *Settlement Agreement*. The Respondents understand that they have the right to a formal adjudicatory hearing concerning this matter and that at said hearing they would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on their own behalf, to contest the allegations, to present oral argument, and to appeal to the Building Code Review Board, pursuant to RSA 155-A:11-a. Further, the Respondents fully understand the nature, qualities, and dimensions of these rights. The

Respondents understand that by signing this *Settlement Agreement*, they waive these rights as they pertain to the misconduct described herein.

23) This agreement shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR RESPONDENTS

Date: _____

Vito Latini

(Signature)

Vito Latini - Sr. Director of Operations

(Print)

WESCO Energy Solutions

Date: 03/17/2023

Mitchell P. Traina

(Signature)

Mitchell P. Traina

(Print)

Mitchell Traina

FOR THE BOARD

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 4/4/23

[Signature]

(Signature)

Authorized Representative of the NH
Electricians Board

*Mark C. Connor, Chairman
State of NH Electric Board*