



Oregon

**State Board of Examiners for
Engineering & Land Surveying**

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LAW ENFORCEMENT COMMITTEE

Minutes of Meeting

June 12, 2014

Members Present:

Carl Tappert, Chair

Steven Burger

Shelly Duquette

Ron Singh

Staff Present:

Mari Lopez, Administrator

Jenn Gilbert, Executive Assistant

Jason Abrams

Monika Peterson

James R. (JR) Wilkinson

Others Present:

Katharine Lozano, Assistant Attorney General

Timothy Wolden (respondent)

Davin Rhoten (Wolden's attorney)

A meeting of the Law Enforcement Committee was called to order at 8:10 a.m. in the OSBEELS Conference Room at 670 Hawthorne Avenue SE, Suite 220, Salem, OR 97301.

Public Comment

There was no public comment.

Contested Case Updates

There were no contested case updates.

Informal Conferences

2845 – Timothy Wolden

As a result of the February 13, 2014, LEC discussion and issuance of an NOI, Mr. Wolden and attorney, David Rhoten participated in an informal conference. Mr. Rhoten summarized their interactions with the Board and appreciated the opportunity to reach a mutual Settlement Agreement. He stated it was unfortunate that violations occurred during the suspension period in the Final Order Incorporating Settlement Agreement for case # 2781. However, Mr. Rhoten expressed concern relating to the permanent revocation of Mr. Wolden's registration contained in the NOI.

Discussing the current NOI, Mr. Tappert requested an explanation of the circumstances of the two violations. Mr. Wolden stated that he works with a company that installs helical piers to lift and level homes that have settled. A pier job was scheduled by the end of June 2013, and Mr. Wolden stated that he signed the special inspector form, claiming he incorrectly assumed the inspection would be completed prior to his suspension period. Mr. Tappert inquired as to why Mr. Wolden failed to arrange for another special inspector for the project in question. Mr. Wolden admitted it was an error in judgment made due to the pressures of finishing a project that he claimed displaced the homeowners until completed.

Mr. Tappert inquired about the second incident, relating to some calculations submitted on a project in Eugene. Mr. Wolden stated that the city requested calculations after the pre-suspension installation. However the designer he was working with couldn't respond to the request and the contractor needed an answer quickly. The contractor then called Mr. Wolden stating that he did not know how to figure out the connectors. Mr. Wolden responded to an email request from the contractor for calculations. He claimed that he did not realize this act was the practice of engineering.

Shelley Duquette inquired why the calculations weren't submitted when the project took place in May 2013. Mr. Wolden stated that the plan reviewer needed more clarification on the connectors, and that the building official needed to make sure everything was submitted properly.

Ron Singh inquired as to why Mr. Wolden had not contacted the Board to make sure what he needed to do was acceptable regarding the terms of the settlement agreement. He responded that he was just trying to get it done, and people at the worksite were ready to complete the job. Mr. Singh then inquired if Mr. Wolden had committed any other violations beyond the two in question, and Mr. Wolden stated that he was on vacation for most of the suspension period, and that he didn't even want to be available by phone to answer questions in case that could be construed as the practice of engineering.

The Committee exited its public meeting pursuant to ORS 192.690 (1) for private deliberation on a contested case. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was noted that no decisions were made and no votes were taken.

The Committee proposed a 180-day suspension, and that, as a condition of the suspension, Mr. Wolden would need to provide the Board with a list of all active projects and the names of the engineers that will be taking them over. In addition, he would need to refrain from taking on new clients or engineering projects during the suspension period. Further, a \$2,000 civil penalty would be assessed for the two acts of engineering while registration was suspended, and the \$8,000 of civil penalty previously abated from Mr. Wolden's prior enforcement case, would now be due and payable. Mr. Wolden accepted the offer. There was no further discussion.

2829 – Jack Watson

After receiving draft language for a Settlement Agreement as discussed during the February 13, 2014 meeting, Mr. Watson participated in a second informal conference by telephone. Mr. Watson stated he disagreed with the language that referenced three violations alleged in the NOI. Mr. Tappert clarified that the LEC issued the NOI alleging a lacking narrative and negligence and incompetence in setting two Public Land Survey System corners. However, during the February informal conference, the Committee determined to issue a letter of concern with regard

to the lacking narrative and as a result, the settlement agreement relates to the negligence and incompetent violations stemming from erroneously setting two Public Land Survey System corners. After discussion, the language in the settlement agreement, Paragraph 12, was clarified to reflect that the Committee and Mr. Watson agreed that he committed the violations as alleged in paragraphs 10 and 11 of the NOI, and agreed to the revised language proposed.

2800 – Eric S. Kohl

Mr. Kohl's case was previously discussed during the February 13, 2014 Committee meeting. Mr. Kohl participated in his informal conference by telephone. Mr. Kohl explained that he was deployed to Afghanistan for the US military in November, 2010, which was during the audit period, and that he had received over 30 Professional Development Hours (PDH) during the audit period which he documented for the Illinois Board, so he decided to claim these units for Oregon instead of claiming the exemption for military deployment. Mr. Kohl claimed that, once requested to participate in the audit, he sent the CPD Organizational Form with the supporting documentation attached via email, but that somehow the attachments were not received. He said that once he was notified that the case was forwarded to the regulation department, he assumed that Oregon did not accept the PDH that Illinois had accepted, and then focused on claiming the military exemption, which confused the matter.

Mr. Tappert explained that at this point, the issue is that Mr. Kohl claimed to have sent an email on March 14, 2012, which contained the CPD Organizational form along with all supporting documentation, but that email could not be located by OSBEELS. Mr. Abrams explained that the copy of the email Mr. Kohl sent was addressed to the Accounts Specialist performing the audit, but the address used sent it to the receptionist. The Board did, however, have a copy of the supporting documentation on file.

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Mr. Tappert informed Mr. Kohl that during the deliberation, Board staff located the March 14, 2012 email in question. The Committee recommends withdrawal of the NOI. There was no further discussion.

2762 – Ramasurdial Premsingh

Mr. Premsingh's case was previously discussed during the December 12, 2013 Committee meeting. Mr. Premsingh participated in his informal conference by telephone. Mr. Premsingh explained that he hoped the Board would drop his case based on a fax he submitted on June 7, 2014. Mr. Premsingh felt that the CPD units considered invalid for his audit should be counted, as well as several other units deemed unacceptable due to taking place during his normal work. He asked the Board to dismiss this case due to his medical issues as well, and noted that rules provide for a grace period with regard to obtaining CPD units beyond a specific biennium.

Mr. Tappert explained that the rules specifically disallow the use of real estate classes toward CPD units for land surveyors. He stated that there is no exception to the CPD requirements based on the physical health issues of a registrant, although the Committee could potentially accept retirement in lieu of a civil penalty, and stated that the grace period in OAR 820-015-0026(2) did not apply to Mr. Premsingh's CPD audit as he would have to have made the request

prior to being selected to the audit. The rule also states that the requestor cannot be subject to Board investigation or discipline.

Mr. Preamsingh stated that he understood and requested leniency, noting that the civil penalty would be a financial hardship.

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After discussion, the Committee recommends a settlement agreement reducing the civil penalty to \$500 for the violation of OAR820-010-0635(1)(a), with ten monthly payments of \$50. There was no further discussion.

Staff update: Mr. Preamsingh requested a second informal conference in order to further modify the language in the Settlement Agreement. This is anticipated for the August 14, 2014 Committee meeting.

2846 – Nick Kerber

Mr. Kerber's case was previously discussed during the April 10, 2014 Committee meeting. Mr. Kerber participated in his informal conference by telephone. Mr. Kerber stated that he recently renewed his license with the Board and that he submitted the necessary PDH materials. Mr. Tappert pointed out that the Board did not recognize the PDH units he claimed to be in compliance with the OAR. Mr. Kerber pointed out that OAR 820-010-0635(5) states several potential sources of PDH, but qualifies the list of sources with the phrase "include but are not limited to." Mr. Kerber went on to state that, per OAR 820-010-0635, "The purpose of professional development requirements is to demonstrate a continuing level of competency of professional engineers," and that the activities he claimed as PDH, namely developing an invention, met this criteria as qualifying PDH. He stated that he understood that the Board deemed these activities as taking place during the course of his regular employment, in violation of OAR 820-010-0635(3)(a), and asked that the Committee make a judgment as to whether the activities he described would have been considered sufficient had they not taken place during his regular employment. Mr. Kerber further argued that his actions were not self-study as he was performing self-directed development and experimentation, and that most PDH units could be considered as such.

Mr. Tappert asked Mr. Kerber if he had an alternate proposal to the sanction listed in the NOI, and Mr. Kerber stated that he didn't think he was deficient with regard to his PDH units. Mr. Tappert reiterated the Committee's position with regard to OAR, and said that unless Mr. Kerber had an alternate suggestion for the amount to consider, the next step would be to schedule a hearing in this matter. Mr. Kerber decided to move forward with an administrative hearing. There was no further discussion.

Cases Subject to OAR 820-010-0617

2785 – Brian Bair / Scott Wright

A complaint was received from Mr. Wright, a PE, alleging the unlicensed practice of engineering by Brian Bair of Bair LLC. Bair LLC has entered into a contract with The Freshwater Trust (TFT), a Portland-based non-profit that is facilitating a watershed restoration

project on the Salmon River. Portions of the river are in protected wilderness area, some sections are in recreation areas and other sections run by private homes. The river also runs through lands managed by the Bureau of Land Management (BLM) and the U.S. Department of Agriculture – Forest Service (USDA-FS).

This case was previously discussed during the April 10, 2014 Committee meeting. For this project, Mr. Bair is practicing engineering on federal land exempt from OSBEELS rules and statutes including the riverbed. The Committee recommended sending Mr. Bair a Letter of Concern. The Committee had a brief discussion regarding the Letter of Concern and AAG Lozano explained that an OSBEELS Letter of Concern is not a disciplinary action, however it helps educate individuals whose conduct is approaching a violation of OSBEELS's statutes or rules, and serves to provide background should the respondent violate OSBEELS rules and statutes in the future. There was no further discussion.

2789 – Jerry Wayne Alber / OSBEELS

OSBEELS received a signed renewal form from Mr. Alber, a PE, certifying that he had completed the required PDHs for the previous biennial renewal period of January 1, 2010 through December 31, 2011, which he claimed as a condition of the last biennial renewal period of January 1, 2012 through December 31, 2013. On January 26, 2012, Mr. Alber was sent a letter requesting his participation in an audit of his PDHs, but he did not respond. On March 5, 2012, a CPD Organizational Form was received that detailed 38 PDH units, but was not accompanied by supporting documentation. A follow-up request for the supporting documentation was sent on March 12, 2012 with no response from Mr. Alber. A respond to allegations letter was sent to Mr. Alber on September 28, 2012 and with several email exchanges and several opportunities for him to attain compliance. In March of 2014, compliance was finally met. After discussion, the Committee determined to issue a NOI to assess a \$500 civil penalty for violation of OAR 820-020-0015(8). There was no further discussion.

2810 – Cisco Meneses / Andrew Leichty

A complaint was received from Andrew Leichty, SE, regarding the unlicensed use of the term “engineer” by Cisco Meneses in his firm name, Fire Escape Engineers. The firm is not registered with the Secretary of State, Corporate Division. Mr. Meneses prepared a report that was done under the banner of Fire Escape Engineers, Inspections – Certifications – Load Test. The report informed building owner that his fire escape systems failed the “Fire Escape Confidence Test” and could not be load tested. The client also was informed of a discussion with City Official who conveyed that he was required to take two steps, including hiring an Engineer of Record and a Repair Vendor. Also done under the firm name Fire Escape Engineers was a report for a sorority in Corvallis, OR.

During the investigation, OSBEELS requested that Fire Escape Engineers submit a firm name change. They were given five weeks to comply, but did not provide a response. The Committee also discussed whether the work is the practice of engineering violating ORS 672.045(1). The Committee determined to issue a NOI for unlicensed use of the title of engineer on three occasions violating ORS 672.020, ORS 672.045(1), and OAR 820-010-0720 for a \$3,000 civil penalty, and to refer Mr. Meneses unregistered firm to the Secretary of State's office. There was no further discussion.

2819 – Scott T. Ogren / OSBEELS

A complaint was received from John W. Winslow, by OSBEELS on December 17, 2012 alleging that Scott T. Ogren, PE neglected to complete the items required through plan review by Marion County Public Works for the engineering design of an office building for Camp Dakota in Scotts Mills, Oregon. During the investigation it was found that Mr. Ogren failed to complete his application to renew his PE registration until July 16, 2013. As a result, his registration was in delinquent status from 1/1/13 to 7/16/13. Ogren failed to respond to Board investigators on numerous occasions to address issues pertaining to his delinquent registration. Furthermore, Ogren failed to provide accurate statements regarding the dates and scope of the engineering services that he provided on the Bjornson Winery during the time his registration was delinquent.

Mr. Ogren practiced engineering while his registration was in delinquent status. The investigator found that he obtained a new seal before completing the renewal process, and affixed his stamp to the Bjornson Winery project.

It was noted that additional records regarding projects for which Mr. Ogren failed to respond could be subpoenaed.

The Committee determined to issue an NOI for failure to cooperate with the Board on several occasions in violation of OAR 820-020-0015(8), failure to be truthful with the Board in violation of OAR 820-020-0025(1), practicing engineering while his registration was in delinquent status in violation of ORS 672.045(1) & (2) and ORS 672.020(1), and the unauthorized use of an engineering seal in violation of OAR 820-010-0620 and OAR 820-020-0025(1), ORS 672.045(1) & (2) and ORS 672.020(1), with a total civil penalty of \$5,750. There was no further discussion.

2826 – Commstructure / OSBEELS

An inquiry was received regarding Commstructure Consulting, LLC, potentially offering professional services. OSBEELS was contacted after OSBEELS registrants mistakenly received a “one-call utility notification” email and had exchanged email about the error with Erik Orton, who is the registered agent and manager for Commstructure. The registrants also had reviewed Commstructure’s Web site and expressed their concern to Orton about the advertised professional services and whether they employed a registrant. The registrants forwarded the email string for Board review. A case was opened because Commstructure offered what appeared to be professional services on their Web site and published an example work product for converting overhead services to underground services.

Mr. Tappert discussed franchise utilities falling under the industrial exemption, explaining that once they perform services in the public right of way, the exemption doesn’t apply.

Mr. Burger mentioned that many cities, such as Portland, have standard plans that the contractor has to comply with which are engineered, but they are general and not specific to the project. Ms. Duquette pointed out that certain elements such as the design of the pipe would be project specific and therefore would be the practice of engineering.

However, AAG Lozano pointed out that Commstructure is not a utility themselves, subject to the exemption, but rather a private contractor hired by a utility such as PGE, providing services to the public (the utility company), and that the Committee needs to look at what Commstructure gave to the utility, not what the utility gave to the jurisdiction. Ms. Duquette acknowledged that, as Commstructure is not a utility, they would not fall under the industrial exemption.

After examining drawings Commstructure submitted to PGE, the Committee determined that it appeared as though Commstructure was engaging in the unlicensed practice of engineering and decided to issue a NOI to assess a civil penalty of \$250 for the violations of OAR 672.020 and ORS 672.045. There was no further discussion.

2830 – Mark Wegener / Randy Cleveland

Mr. Tappert recused himself from this discussion. A complaint was received from Randy Cleveland, SE, regarding “Engineer on Call,” a new engineering company advertised by registrant Mark Wegener, PE, who was delinquent from July 1, 2012 through March 22, 2013. Mr. Wegener reinstated his license once notified that he was delinquent. He worked on Medford and Portland projects that were permitted and constructed and were minor in nature. He also asserted that upon learning he was delinquent he telephoned to notify both project managers. He volunteered to allow the Board to review his work products and admitted it was negligent to not keep his registration current. When he renewed, he also updated his registrant contact information, including home and business addresses.

He established Engineer on Call in November of 2012. He also advertised structural engineering, potentially implying that he is qualified to provide services for significant structures.

The LEC discussed Mr. Wegener practicing engineering during a nine month period where his license was delinquent. Mr. Wegener claimed to have been working with a licensed engineer during his delinquency period. The Committee recommended Mr. Wilkinson confirm this claim by obtaining a document with the engineer stamp of said engineer, which would result in this case being closed with compliance met. There was no further discussion.

2832 – Matthew Steffen / OSBEELS

Ms. Duquette recused herself from this discussion. An investigation was opened on Matthew Steffan, PE, regarding the allegations that he was practicing geotechnical engineering without registration and that his employer, Adapt Engineering, was having a PE stamp his documents. What initiated the case was a complaint regarding Adapt Engineering (#2836) and the allegations of advertising and offering geotechnical engineering without a full time employee licensed to practice in that discipline. In addition, Mr. Steffan was found to have used on-line the titles of Geotechnical Engineer, Senior Staff Geotechnical Engineer, Civil Design Engineer, and Staff Geotechnical Engineer. Mr. Steffan submitted an application to take the April 2013 PE examination. He has been employed by Adapt Engineering since November 2012.

The Committee discussed pursuing the use of the title of engineer on social media, and decided against it unless there is a clear advertisement for services. AAG Lozano stated that in this case, the questions were – (1) was he in compliance with OSBEELS law rules and (2) was there evidence of plan stamping by Adapt Engineering to warrant opening an investigation on the company. The Committee determined that he had gained compliance and that there was no evidence of plan stamping. **The Committee recommends that the Board close this case as compliance met and allegations unfounded.** There was no further discussion.

2833 – Francisco Silva / OSBEELS

The case involving Francisco Silva, PE (delinquent) was previously discussed during the April 10, 2014, LEC meeting. An investigation was opened regarding the CPD audit of Mr. Silva from July 1, 2010 through June 30, 2012. Mr. Silva did not respond to the initial audit request. A second letter was sent to the same address on September 11, 2012, followed by a letter sent via certified mail to a second address on October 8, 2012. A fourth letter was sent via certified mail to the first address on October 29, 2012. Auditors attempted to reach Silva telephonically on November 16, 2012, but were unsuccessful. On January 7, 2013, a corrected

Registrant Information Update was received and subsequent Final Notices were sent on February 14 and by certified mail on March 20, 2013. Mr. Silva signed for the last audit notice.

Mr. Silva requested to relinquish his license as he has not been able to keep up with the PDH unit requirements due to working on a contract/part-time basis and being unable to afford to take time-off to fulfill the PDH requirements.

The LEC determined to issue Mr. Silva an NOI at the April 10, 2014, Committee meeting assessing a \$1,000 civil penalty and 60 day suspension of registration. However, this did not follow the recently adopted CPD penalty matrix. The Committee decided to issue a NOI to suspend registration for 60 days and assess a civil penalty of \$1,500, consistent with the matrix. There was no further discussion.

2834 – Timothy Hagedorn / OSBEELS

OSBEELS received a signed renewal form from Timothy Hagedorn, PLS, certifying that he had completed the required PDHs for the previous biennial renewal period of July 1, 2011 through June 30, 2013, which he claimed as a condition of the last biennial renewal period of July 1, 2013 through June 30, 2015. On January 29, 2013, Mr. Hagedorn was sent a letter requesting his participation in an audit of his PDHs, but he did not respond. A subsequent audit letter was sent on March 18, 2013. Once the matter was referred to the Regulation Department on April 12, 2013, respond to allegations letters were sent on April 26, 2013, and May 14, 2013. Mr. Hagedorn had updated his registrant information on September 5, 2013, so revised respond to allegation letters were sent to the updated physical addresses and to the provided email addresses on April 1, 2014. Mr. Hagedorn responded stating that he had moved three times in 2.5 years and had not been diligent in keeping the Board updated with his new addresses. In April of 2014, compliance was finally met. After discussion, the Committee determined to issue a NOI to assess a \$250 civil penalty for failing to update his address in violation of OAR 820-010-0605. There was no further discussion.

2835 – Donald Marx Jr. / Kanne, Tim & Susan

A complaint was received from Tim Kanne and Susan Lind-Kanne regarding Donald E. Marx, Jr. falsely representing himself as a licensed Professional Land Surveyor. Mr. Marx stated that he was a land surveyor on a voice message left with the Kannes, and stated that he has been a land surveyor for over 40 years to Mr. Abrams.

The Committee discussed civil penalty factors described in OAR 820-010-0617 regarding the two separate instances in question and determined to issue Mr. Marx a NOI to assess a civil penalty of \$2,000 for the violations of ORS 672.025(1) and ORS 672.045(1) and (2). There was no further discussion.

2837 – Richard Locke / OSBEELS

A complaint was received from Ged E. Hill regarding the use of the term engineering by Richard Locke of Mid Valley Metals on his firm's website - midvalleymetals.com; the term is also used on the automated message played while on hold when calling the firm. The complaint implied that there was not a registrant on staff at Mid Valley Metals. As evidence of Mr. Locke's firm offering engineering services, Mr. Hill submitted a quote sheet he received from Mid Valley Metals for the fabrication of a Gator Cart California Deep Fry food cart, dated March 26, 2013, with a charge of \$260 for "layout and engineering." After working with a Board investigator, Mr. Locke altered the verbiage on his website and bid sheets. **The Committee**

recommends that the Board close the case as compliance met. There was no further discussion.

2838 – Bradley T. Stiles / OSBEELS

OSBEELS received a signed renewal form from Mr. Stiles, a PE, certifying that he had completed the required PDHs for the previous biennial renewal period of July 1, 2010 through June 30, 2012, which he claimed as a condition of the last biennial renewal period of July 1, 2012 through June 30, 2014. On January 29, 2013, Mr. Stiles was sent a letter requesting his participation in an audit of his PDHs, and submitted a CPD Organizational form but did not submit the supporting documentation described in OAR 820-010-0635(1)(c). On March 4, 2013, an Accounts Specialist requested this supporting documentation by email; Mr. Stiles did not reply. On June 11, 2013, a law enforcement case file was opened and a respond to allegations letter was sent. Mr. Stiles did not respond. An attempt to contact Mr. Stiles was made by email on July 12, 2013, and Mr. Stiles responded on January 5, 2014, submitting a CPD Organizational form along with supporting documentation for 26 PDH units. After several email exchanges, in April of 2014, Mr. Stiles provided an updated CPD Organizational form and supporting documentation by email; compliance was finally met. After discussion, the Committee determined to issue a NOI to assess a \$500 civil penalty for violation of OAR 820-020-0015(8). There was no further discussion.

2842 – Marshall R. Pihl / OSBEELS

OSBEELS received a signed renewal form from Mr. Pihl, a PE, certifying that he had completed the required PDHs for the previous biennial renewal period of January 1, 2011 through December 31, 2012, which he claimed as a condition of the last biennial renewal period of January 1, 2013 through December 31, 2014. On January 29, 2013, Mr. Pihl was sent a letter requesting his participation in an audit of his PDHs, but he did not respond. A second notification was sent to his business address on March 13, 2013 and a final notification was sent on April 5, 2014 to both listed addresses via certified mail, neither of which was responded to. A respond to allegations letter was sent to Mr. Pihl on July 1, 2013 and Mr. Pihl responded on August 7, 2013 with a CPD Organizational Form and insufficient supporting documentation. After an email exchange, in April of 2014, compliance was finally met. After discussion, the Committee determined to issue a NOI to assess a \$500 civil penalty for violation of OAR 820-020-0015(8). There was no further discussion.

2843 – Won-jin Sung / OSBEELS

OSBEELS received a signed renewal form from Mr. Sung, a PE, certifying that he had completed the required PDHs for the previous biennial renewal period of July 1, 2010 through June 30, 2012, which he claimed as a condition of the last biennial renewal period of July 1, 2012 through June 30, 2014. On January 29, 2013, Mr. Sung was sent a letter requesting his participation in an audit of his PDHs, but he did not respond. A second notification was sent to Mr. Sung's second listed address on March 13, 2013, and a final notification was sent to both addresses by first class mail and FedEx on April 5, 2013. Sung did not respond. On May 2, 2013, an Accounts Specialist attempted to contact Sung by email, still Sung did not respond. A respond to allegations letter was sent to Mr. Sung on July 1, 2013 and Mr. Sung explained that he did not receive any of the prior correspondence due to having moved to Vietnam for a project, and that he would prepare and send a filled out CPD Organizational form with supporting

documentation in the future, which he did on April 10, 2014, and compliance was met. After discussion, the Committee determined to issue a NOI to assess a \$250 civil penalty for violation of OAR 820-010-0605. There was no further discussion.

2844 – David G. Dickoff / Gary Linkous

A complaint was received from Gary Linkous on May 23, 2013, regarding exhibits and testimony provided by David Gregory Dickoff in his client's Clackamas County court case. The complaint alleged that Mr. Dickoff, engaged in the unregistered practice of land surveying by drawing a diagram that established the location and dimension of a variety of lines including water lines and property lines. Mr. Linkous further alleged that Mr. Dickoff stated that he was a registered professional mechanical engineer in a court declaration.

Mr. Dickoff stated he had been asked by his daughter's attorney to help in her defense of an Adverse Possession lawsuit by the complainant's clients. Mr. Dickoff stated that his assistance included a sketch of his daughter's north property line based on a prior survey done by Statewide Land Surveying. Mr. Dickoff located all items on either side of the property line including both houses and the pump house; he stated he made this sketch available for use for all verbal depositions.

The Committee discussed whether the map in question indicated that Mr. Dickoff was practicing land surveying, and came to the conclusion that he was not, although his claim of being an engineer lent credence to the map. The Committee then focused on Mr. Dickoff's proclamation that he has been a mechanical engineer for over 40 years in court testimony, without stating that his registration was in retirement status, thereby holding himself out to the public as a PE. The Committee determined to issue Mr. Dickoff a NOI to assess a civil penalty of \$500 for the violations of ORS 672.045(2) and 672.020(1). There was no further discussion.

2861 – Richard A. Brown / OSBEELS

OSBEELS received a signed renewal form from Richard Alan Brown, PE certifying that he completed the required PDH's for the previous biennial renewal period (1/1/10 to 12/31/11). On 7/25/13, a letter was sent to Mr. Brown requesting his participation in an audit of his PDH's. Brown did not respond. A second notification letter was sent on September 6, 2013, to an address in Denver, Colorado. Brown did not respond. Final notification was sent on October 2, 2013, to the same address in Colorado. The final notification letter was returned on October 22, 2013, by the US Postal Service as "unable to forward" and "no such number."

The file was referred to the Regulation Department and a law enforcement case was opened on December 5, 2013. A respond to allegations letter was sent December 6, 2013. Brown faxed a response on December 19, 2013, explaining that he had retired from Houston METRO on November 14, 2012, and began working for Valley Metro in Phoenix, AZ as their Chief Engineer. Brown stated that when he arrived in Phoenix he began the process of changing his address for his professional registrations but when he reviewed his records after being contacted by the Regulation Department, he discovered he had neglected to change his contact information with the State of Oregon. Brown followed up on February 20, 2014, by submitting a CPD Organizational Form and supporting documentation for 34.5 qualifying PDH. Compliance was met. The Committee determined to issue Mr. Brown a NOI to assess a civil penalty of \$250 for the violation of OAR 820-010-0605 for failure to report an address change within the time period required. There was no further discussion.

2866 – Alex Nikolakopoulos / OSBEELS

OSBEELS received a signed renewal form from Alex Nikolakopoulos, PE certifying that he completed the required PDH's for the previous biennial renewal period (1/1/11 to 12/31/12). On 7/25/13, a letter was sent to Mr. Nikolakopoulos requesting his participation in an audit of his PDH's. Mr. Nikolakopoulos did not respond. A second notification was sent on September 6, 2013. Mr. Nikolakopoulos did not respond. Final notification was sent on October 2, 2013. Mr. Nikolakopoulos did not respond. The file was referred to the Regulation Department and a law enforcement case was opened on December 17, 2013. A respond to allegations letter was sent on December 17, 2013, to the address on record as well as another address found on PeopleSmart. Nikolakopoulos did not respond. A second letter was sent to Mr. Nikolakopoulos on January 9, 2014. Nikolakopoulos did not respond. On January 28, 2014, an email was sent to the email address for Nikolakopoulos & Associates, Inc. The respondent's son called Ms. Peterson, but provided no CPD information,, o response was received from Nikolakopoulos himself. The Committee determined to issue Mr. Nikolakopoulos a NOI to suspend registration for 60 days and assess a civil penalty of \$1,500 for the violations of OAR 820-020-0015(8), the former OAR 820-010-0635(1) and (5), and OAR 820-020-0015(7). There was no further discussion.

2867 – George Sening / OSBEELS

OSBEELS received a signed renewal form from George Sening, PE certifying that he completed the required PDH's for the previous biennial renewal period (7/1/10 to 6/30/12). On 7/25/13, a letter was sent to Mr. Sening requesting his participation in an audit of his PDH's. Mr. Sening did not respond. A second notification was sent on September 6, 2013. A response was received from Mr. Sening on September 9, 2013, with a CPD Organizational Form claiming 40.5 PDH of which 15 were carried over PDH from the previous Biennial Renewal Schedule. The Account Specialist sent a letter to Mr. Sening on October 22, 2013, requesting supporting documentation for the PDH claimed. Mr. Sening responded by email on November 6, 2013, stating in part that he does not work for the Board, that the Board works for the public, and that the Board can either come to his office and search through his receipts or he can do the work if the Board pays him for three hours of time at \$284 per hour in advance. The file was referred to the registration department and a law enforcement case was opened on 1/28/14. Sening responded on 2/10/14 with a letter to the Board Administrator. Sening did not comply with the request to cooperate with the audit, including failing to provide supporting documentation for any PDH claimed.

The Committee determined to issue Mr. Sening a NOI to suspend registration for 60 days and assess a civil penalty of \$1,500 for the violations of OAR 820-020-0015(8), the former OAR 820-010-0635(1) and (5), and OAR 820-020-0015(7). There was no further discussion.

2878 – Mitchell J. Duryea / OSBEELS

During the investigation of case no. 2786 for Millman Surveying, Inc. (an Ohio based company), concerns were raised regarding Millman's Oregon registered land surveyor, Mitchell J. Duryea, PLS, and whether the services he performed for Millman met the requirements for Responsible charge. Duryea was the only Oregon registered professional land surveyor directly employed by Millman and he claimed Responsible charge for all Millman's projects completed in Oregon. In response to the investigation of case no. 2786, Vincent Macaуда, President and General Counsel for Millman Surveying, stated on January 13, 2014, that the supervision provided by Mr. Duryea is done through a combination of e-mails, telephone conversations, and

personal interaction. He also stated that on occasion, depending on workload and schedules, Millman will engage the services of a Professional Land Surveyor to perform the field work. Mr. Duryea will coordinate with this consultant and provide direction for the mapping portion of the project. An explanation of Mr. Duryea's method of supervision was requested from Mr. Macaуда as well as copies of correspondence and documentation to support the survey review process. Mr. Macaуда's response included a copy of Mr. Duryea's procedures as the surveyor in Responsible charge, which indicated that Mr. Duryea is notified when field work is scheduled for Oregon surveys and field staff contact Mr. Duryea if there are any questions, concerns or challenges during the process of the field work. Mr. Duryea reviews the work for completeness and accuracy. Mr. Macaуда explained that other Millman staff members review drawings for drafting standards, title report documentation, and client specifications before submitting to Mr. Duryea. Mr. Macaуда also stated that copies of correspondence are not kept after a survey project is completed. He stated that all drafts, title, plats, and other information used in connection with the preparation of the survey were kept on the server in digital format. Mr. Macaуда did not send any documentation that was requested.

Kerry Albright, a registered land surveyor in Idaho, appears to be performing survey work in Oregon for Millman as well.

Duryea failed to meet Board response deadlines on three occasions. Furthermore, documentation that was submitted by Duryea indicated possible violations of ORS 209.250. The Committee determined to continue investigations into potential violations of ORS 209.250, OAR 820-020-0045(5), and OAR 820-020-0020(2). The Committee determined to issue Mr. Duryea a NOI assessing a civil penalty in the amount of \$1,000 for the violation of OAR 820-020-0015(8). The Committee determined to open a separate case with Mr. Albright as the respondent. There was no further discussion.

Case Disposition

The Regulation Department reported the following:

Options Form, Did Not Contest: Recommend Approval of Default Final Order

2799 – Leonard Charles Knapp
2821 – David George Sanders
2823 – Stephen Leo Steiner
2870 – Richard Carl Skinner

NOI Sent, No Response within 21-days: Recommend Approval of Default Final Order

2796 – Sonia Anne Hennem (Daleiden)

NOI Sent, Informal Conference Scheduled for 6/12/14 LEC

2762 – Ramasurdial Premsingh
2800 – Eric S. Kohl
2829 – Jack Watson
2845 – Timothy Wolden
2846 – Nick Kerber

NOI Sent, Schedule Informal Conference Later Date

2697 – Dale La Forest
2793 – Richard Drewelow
2801 – David W. Kreighbaum

2807 – David Charles Weiss
2808 – Gerald Zadikoff
2822 – John Robert Marks
2824 – Daejoong Kim
2857 – First United Engineering (Jaime Lim)

NOI Work in Progress

2825 – Naoki Niwa
2833 – Francisco Silva

Preliminary Evaluations

Chair Tappert took the Committee into Executive Session as provided by Oregon Revised Statute (ORS) 192.660(2)(f) to consider information or records that are exempt by law from public inspection. Upon returning to open session, it was noted that no action was taken during Executive Session.

Jordan V. Marlia

The Committee determined to treat this preliminary evaluation as a case subject to OAR 820-010-0617. The Committee agreed to dismiss this case as allegations unfounded. There was no further discussion.

Kristin M. LaLonde

The Committee determined to treat this preliminary evaluation as a case subject to OAR 820-010-0617. The Committee agreed to dismiss this case as allegations unfounded. There was no further discussion.

Abraham Taylor, PLS

A complaint was received from attorney Brooks F. Cooper regarding Abraham Taylor, PLS. Mr. Cooper represented his Portland clients in a boundary line dispute involving a conflict with a neighbor and described how his client hired Mr. Taylor to locate the common boundary so that a fence could be constructed. Mr. Cooper wrote that his client determined to erect a fence based on Mr. Taylor's representation of the boundary line. When his client began to erect the fence, the police were called and construction was halted. Mr. Cooper was hired as legal counsel and wanted Mr. Taylor to testify as to the boundary location. He tried to contact Mr. Taylor who did not return his telephone calls or answer letters. He then engaged Robert Lennox, PLS, to do a full survey of the property. Mr. Lennox completed his survey and prepared a preliminary map dated March 14, 2014.

In prior case #2480, Mr. Taylor conducted a "corner search" for client Doug King on August 25, 2007. The prior case is remarkably similar to the current situation because King's neighbor was constructing a fence during a contentious property line dispute. To resolve case #2480, Mr. Taylor met with the Committee and Board on several occasions. Mr. Taylor signed a settlement agreement where he had failed in his professional duties to properly monument property corners in violation of ORS 672.200(2) and OAR 820-020-0015(1) and (2), and was assessed a \$500 civil penalty. The #2480 settlement agreement was for work done in August 2007 and was signed by Board President Grant Davis on January 12, 2010. Therefore, the work that Taylor did on behalf of Cooper's client occurred prior to the settlement agreement. The Committee

determined to not open a case in this matter due to Mr. Taylor already having been sanctioned. There was no further discussion.

Board update: During the July 8, 2014 Board meeting, it was the consensus of the Board to return the matter back to the LEC for further investigation.

Richard Shaver, PLS

An anonymous complaint was received regarding Wallowa County Surveyor Richard Shaver, PLS, alleging that he has an employee working under the table and that the Wallowa County Board of Commissioners sent Mr. Shaver a letter about the matter; however, the letter could not be found. Mr. Shaver is in private practice as Timberline Survey as well and it was unclear whether the employment relationship was in regards to Shaver's public office or private practice. The caller provided no written complaint or evidence to document the claim as required by Oregon Administrative Rule (OAR) 820-015-0015(1). In addition, the allegation regards a business and employment practice, which the Board has no authority to investigate. The only rule the Board has regarding business practices is found in OAR 820-020-0015(4). Shaver has never registered his business, Timberline Survey, with the Oregon Secretary of State. The Committee determined to not open a case in this matter. There was no further discussion.

RediPour Wall Systems

This preliminary investigation was previously discussed at the April 10, 2014 Committee meeting. The Committee directed Ms. Peterson to further investigate this firm potentially offering land surveying when they perform Robotic Site Topography, in violation of ORS 672. Ms. Peterson attempted to obtain more information from RediPour Wall Systems president Rob Boydston. Mr. Boydston did not reply to Ms. Peterson's requests. The Committee discussed whether the complainant, Robert Lennox, PLS, submitted enough evidence to warrant opening an investigation. The Committee determined to open a case in this matter in order to obtain more information regarding the potential violation of ORS 672. There was no further discussion.

Unfinished Business

None

Case Status Report

The LEC offered no comments on total cases open (64), cases subject to collections (10), or on cases subject to monitoring (20).

New Business

Draft CPD Matrix

The meeting adjourned at 2:50 p.m.