



Oregon

**State Board of Examiners for
Engineering & Land Surveying**
670 Hawthorne Ave. SE, Suite 220
Salem, OR 97301
(503) 362-2666
Fax (503) 362-5454
E-mail: osbeels@osbeels.org

LAW ENFORCEMENT COMMITTEE
Minutes of Meeting
April 10, 2014

Members Present:

Steven Burger
Shelly Duquette
Ron Singh

Members Absent:

Carl Tappert (excused)

Staff Present:

Mari Lopez, Administrator
Jenn Gilbert, Executive Assistant
Jason Abrams
Joy Pariante
Monika Peterson
James R. (JR) Wilkinson

Others Present:

Joanna Tucker-Davis, Assistant Attorney General
Jason Kent (Observer)

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. Mr. Burger chaired the meeting due to Mr. Tappert's excused absence.

Public Comment

There was no public comment.

Contested Case Updates

There were no contested case updates.

Informal Conferences

2816 – Bryce Mochrie

Mr. Mochrie's case was previously discussed during the February 13, 2014 Committee meeting. He participated in his informal conference via telephone. Mr. Mochrie admitted that he didn't respond to requests from the Accounts Specialists to participate in the audit. He said he had decided to let his Oregon registration lapse because his company's objectives had changed and

working in Oregon was no longer a business focal point. When he discovered he needed active registration in Oregon for an upcoming project, he worked with the Regulation Department to show compliance with the audit. Mr. Burger asked Mr. Mochrie how he planned on maintaining compliance with Oregon Administrative Rules (OAR) in the future. Mr. Mochrie said his unresponsiveness was not due to a lack of professionalism or a deliberate violation of the rules, but rather he was reacting to business directives and believed he shouldn't be assessed a civil penalty.

The Committee exited its public meeting pursuant to ORS 192.690 (1) for private deliberation. 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.

Mr. Burger informed Mr. Mochrie that the Committee was not comfortable with eliminating the proposed civil penalty, as failing to respond to requests from the Board is a serious concern among the Board members and Staff. Mr. Mochrie reiterated that he saw a significant difference between ignoring the notices because he didn't want to comply and ignoring the notices because the company's licensure needs had changed. AAG Tucker-Davis explained to Mr. Mochrie that he had two options in this situation: he could withdraw his hearing request and pay the civil penalty or he could proceed to a hearing, which would be scheduled through the Office of Administrative Hearings (OAH). Mr. Mochrie asked if his OAH hearing could be conducted via telephone. AAG Tucker-Davis said the Committee could not make that determination. Mr. Mochrie then asked for clarification on his first option. AAG Tucker-Davis explained that he would need to withdraw his request for a hearing in writing and a Default Final Order would be issued and he would be responsible for paying the \$500 civil penalty. Mr. Mochrie asked how long the hearing process would take to complete. AAG Tucker-Davis said it is dependent on the schedules of all parties involved. Mr. Mochrie then asked if the OAH hearing would be similar to this informal conference where he had the opportunity to plead his case. AAG Tucker-Davis said she's not allowed to give him legal advice, but he is free to consult an attorney to discuss his contested case rights and contested case procedures. The Committee gave Mr. Mochrie time to consider his options and asked that he contact Ms. Peterson with his decision. There was no further discussion.

Staff Update: As a result of the options discussed through informal conference with the LEC, Mr. Mochrie withdrew his request for a hearing. Mr. Mochrie was informed that the civil penalty would be upheld and a Default Final Order issued by the Board.

2853 – Charter Construction

Charter Construction's case was previously discussed during the December 12, 2013 Committee meeting. Bob Marconi, an attorney for Charter Construction, Joe Stockton, an attorney for Charter Construction and Dawn Stevens, a representative of Charter Construction, participated in the informal conference via telephone. The primary office for Charter Construction is in Washington, but it has a satellite office in Oregon. Mr. Marconi explained that the title of "project engineer" is very common in the construction industry and those holding that title make no effort and have no intention of implying that they perform or offer engineering services. Charter Construction representatives requested that the Board accept that "project engineer" is an accepted title within the construction industry. They explained that it is common knowledge that

these individuals aren't involved in engineering, but serve as construction managers and assist project managers.

Mr. Marconi referenced a similar case in Pennsylvania, Daniel Garcia vs. the Bureau of Professional and Occupational Affairs (2002) and offered a summary of the case. However, AAG Tucker-Davis informed Mr. Marconi that the informal conference is not a platform for a legal debate, but rather serves as a venue for the respondents to suggest a settlement option for the Committee to deliberate upon.

The Committee exited its public meeting pursuant to ORS 192.690 (1) for private deliberation. 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.

Mr. Burger noted that it didn't seem as though Charter Construction was interested in offering a settlement option for the Committee's consideration. Mr. Marconi disagreed and said Charter Construction is willing to engage in settlement discussions. AAG Tucker-Davis informed Mr. Marconi that the informal conference is the time to begin those discussions or Charter Construction could choose to proceed to hearing instead. Mr. Marconi said he thought the informal conference was like mediation or other settlement discussions where there would be the opportunity to discuss the Committee's views on the respondents' actions and arguments. AAG Tucker-Davis said the Notice of Intent (NOI) regarding this title violation clearly explains the Board's stance on the issue. Mr. Marconi said the common usage of the term within the construction industry is a legitimate defense for Charter Construction's title violation. Mr. Burger reiterated that Charter Construction's practice of assigning the title "project engineer" to individuals who do not hold registration in Oregon is in violation of state statutes. Mr. Marconi asked for the opportunity to have a discussion with Mr. Stockton and Ms. Stevens.

Mr. Marconi returned from his deliberations and reiterated that Charter Construction had no intention to offer engineering services or insinuate that its project engineers are registered professional engineers. He offered the company changing the title to "project specialist" on all correspondence in exchange for no civil penalty.

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In response to the offer, the representatives from Charter Construction were reminded that the Committee only makes a recommendation to the Board regarding case actions and the Board has the final decision. AAG Tucker-Davis explained that, if Charter Construction could provide proof of title change on their website, business cards, correspondence and advertising by May 2, 2014, the Committee will recommend the Board close this case as compliance met. However, she reminded them that the final decision to withdraw the NOI and close the case is up to the Board. Mr. Marconi clarified that all individuals working in Oregon will have their titles changed to "project specialist" and those working in Washington will maintain the "project engineer" title, but the company will specify that these individuals work only in Washington. After discussion, **the Committee recommends the Board withdraw the NOI and close the case as compliance met, if the agreed upon terms are met by the May 2, 2014 deadline.** There was no further discussion.

Staff Update: Charter Construction submitted verification on April 23, 2014, of revisions made to staff titles on the company website. Staff titles were changed for Oregon staff from “Project Engineer” to “Project Specialist” and “WA” was added to staff based in the Washington office. Charter Construction also sent verification of the title change on business cards.

2782 – Chander P. Nangia

Mr. Nangia’s case was previously discussed during the December 12, 2013 and February 14, 2014 Committee meetings. Mr. Nangia participated in his second informal conference by telephone. He requested the reference to 22 violations and aiding in the unlicensed practice of engineering by sealing designs that were not created under his supervision and control be removed from the language contained in his Final Order.

The Committee exited its public meeting pursuant to ORS 192.690 (1) for private deliberation. 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 agreed to accept Mr. Nangia’s requested changes to the Final Order. Mr. Burger informed Mr. Nangia that a revised settlement agreement would be sent to him and it needed to be signed and returned prior to the May 2014 Board meeting. Mr. Nangia agreed. **The Committee recommends the Board approve Mr. Nangia’s revised settlement agreement.** There was no further discussion.

2790 – Kenneth Ward Cobb

Mr. Cobb’s case was previously discussed during the December 12, 2013 Committee meeting. He participated in his informal conference via telephone. AAG Tucker-Davis asked if Mr. Cobb had only failed to respond to one letter from the Accounts Specialists. Mr. Abrams said Mr. Cobb responded to the first letter and requested additional time to comply with the audit. An extension to March 16, 2012 was granted, but there was no further correspondence from Mr. Cobb. AAG Tucker-Davis said the Committee may want to consider Mr. Cobb’s penalty on the spectrum of failure to cooperate. Mr. Cobb said he didn’t feel that he was uncooperative with Board Staff. Mr. Burger asked about Mr. Cobb’s failure to comply with the audit by the extension deadline. Mr. Cobb said he didn’t respond in time, but when he did respond, he thought he had submitted all required documentation. He said he didn’t realize he had to submit evidence also. He said he was not intentionally uncooperative or noncompliant and he does keep up with his professional development hours (PDH), but he doesn’t keep up with his documentation of those PDHs as well as is required by the Board. Mr. Burger asked if Mr. Cobb has made any changes to his record keeping since this incident. Mr. Cobb said he has vastly improved his record keeping and could send documentation of all his recent PDHs to the Committee immediately. Mr. Burger asked Mr. Cobb for his suggestion regarding settlement options. Mr. Cobb said the civil penalty seems high, but he is willing to pay it without complaint because he doesn’t want to go on record as being uncooperative or noncompliant with the Board – whose purpose he understands and respects.

The Committee exited its public meeting pursuant to ORS 192.690 (1) for private deliberation. 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 offered Mr. Cobb a reduced civil penalty of \$200. Mr. Cobb accepted and apologized for allowing this situation to progress so far. He said he has no real defense, except that he put off submitting his supporting documentation and forgot. **The Committee recommends the Board approve Mr. Cobb's settlement agreement.** There was no further discussion.

2749 – Software Technology Group

Representatives from Software Technology Group did not appear for the scheduled 3 p.m. meeting.

Case Disposition

The Regulation Department reported the following:

Options Form – Did not contest

2749 – Software Technology Group

2794 – Tomislav Z. Gajic

2812 – David Collier

The Committee recommends the Board approve the Default Final Orders for the cases listed above.

NOI sent – No response within 21 days

2770 – Eric Strickland

The Committee recommends the Board approve the Default Final Order for the case listed above.

NOI sent – Schedule informal conference at a later date

2697 – Dale La Forest

2762 – Ramasurdial Premsingh

2829 – Jack Watson

2845 – Timothy Wolden

NOI sent – Pending response

2800 – Eric S. Kohl

Staff Update – Scheduled for informal conference during June Committee meeting.

2804 – Randall David Raines

Staff Update – **Default final order; no response.**

2805 – Jae Hwal Shin

Staff Update - **Default final order; uncontested.**

2814 – Kenrick R. Luck

Staff Update – **Default final order; uncontested.**

2815 – James Miller

Staff Update – Due to his response, Mr. Miller's case will be addressed additionally during the June Committee meeting.

2859 – Douglas Ferguson

Staff Update – **Default final order, no response.**

The Regulation Department reported that there are currently no NOIs in the drafting process. There was no additional 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 Mr. 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 runs through lands managed by the Bureau of Land Management (BLM) and the U.S. Department of Agriculture – Forest Service (USDA-FS).

Bair LLC was contracted by TFT for three phases of designing and constructing fish habitat structures along the Salmon River, which started in 2012. Phase Three of the project is scheduled to start this year. According to the project documents submitted by Mr. Bair for Phase One of the project "...Structure designs are based on basic engineering principals and hydraulic constraints...Plan view placement of the structures relative to natural hydraulic frequencies and construction elevations of the structures association with maximum scour depths and flood-prone elevations are paramount to long term stability of the structures and overall achievement of the objectives..." Mr. Bair said he did not contract out the engineering services for Phase One, but contracted the services for Phase Two and is in the process of receiving bids for engineering services for Phase Three.

Ms. Peterson mentioned that AAG Lozano said it may not be possible to move forward because the project passes through different jurisdictions. Ms. Lopez added that the river passes through recreational areas and private property. Ms. Duquette said the private land is the area of concern for the Board, due to potential life/safety issues. Mr. Burger asked if investigators were sure of which areas Phase One of the project impacted. Ms. Peterson said she received contracts and plans for Phase One and the Committee requested to review these documents.

After review, Ms. Duquette said a number of the contracted activities are definitively the practice of engineering – for example, altering the stream falls under hydrology, which can cause flooding and other safety issues. Mr. Singh added that Mr. Bair already stated in his description of activities that he was erecting structures and performing design work. It's already clear that engineering work was conducted, but the Committee still needed to determine where this work occurred to determine proper jurisdiction. Mr. Singh asked if engineers licensed outside of Oregon could seal work for projects such as this if the project is on federal land. AAG Tucker-Davis explained that the federal government has the ultimate authority over federal lands and does not have to follow OSBEELS rules and statutes.

The Committee requested a larger map of the Phase One area to properly determine ownership of the lands impacted. The Committee also requested that Board member Jason Kent review the hydrology aspect and determine the potential upstream and downstream effects of these activities on the river. This case will be addressed again during the June Committee meeting. There was no further discussion.

2793 – Richard Drewelow/OSBEELS

OSBEELS received a signed renewal form from Mr. Drewelow, 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. Drewelow was sent a letter requesting his participation in an audit of his PDHs, but he did not respond. A second notice and a final notice were each sent to Mr. Drewelow's addresses on record with the Board office, but there was still no response. The final notice sent to his provided business address was returned as undeliverable. A respond to allegations letter was sent to Mr. Drewelow on October 1, 2012 and he responded on October 12, 2012 with his personal record of PDHs, but not the requested CPD Organizational Form or supporting documentation. The case became active on November 27, 2013 and Mr. Abrams asked Mr. Drewelow to submit the requested documentation, but he received nothing. Mr. Drewelow was asked again on February 10, 2014 to submit the requested information and said he would send all materials to Mr. Abrams by February 28, 2014. On March 3, 2014, after receiving none of the requested documentation, Mr. Abrams again contacted Mr. Drewelow and gave him a deadline of March 15, 2014. On March 30, 2014, Mr. Drewelow submitted the requested information and claimed 32 PDHs. However, only 27 of those PDHs were considered allowable. The Committee determined to issue a NOI to assess a \$750 civil penalty for violations of OAR 820-020-0015(8) and OAR 820-010-0635(1). There was no further discussion.

2796 – Sonia Anne Hennum/OSBEELS

OSBEELS received a signed renewal form from Ms. Hennum, a PE, certifying that she completed the required PDHs for the previous biennial renewal period of July 1, 2009 through June 30, 2011, which she claimed as a condition of the last biennial renewal period of July 1, 2011 through June 30, 2013. On January 26, 2012, a letter was sent to Ms. Hennum at the business address in Idaho that was on record with the Board office requesting her participation in an audit of her PDHs, but she did not respond. A second letter was sent to her firm's office in Portland and a final notice was sent to the Idaho office and signed for by a coworker, but Ms. Hennum did not respond. On October 8, 2012, a respond to allegations letter was sent and Ms. Hennum did not respond. When the case became active on December 2, 2013, Mr. Abrams emailed Ms. Hennum requesting the required documentation. On January 28, 2014, she submitted the required materials, her PDHs were deemed sufficient and compliance was met. The Committee determined to issue a NOI to assess a \$500 civil penalty for a violation of OAR 820-020-0015(8). There was no further discussion.

2797 – Kyu-Han Jung/OSBEELS

OSBEELS received a signed renewal form from Mr. Jung, a PE, certifying that he completed the required PDHs for the previous biennial renewal period of July 1, 2009 through June 30, 2011, which he claimed as a condition of the last biennial renewal period of July 1, 2011 through June 30, 2013. On January 26, 2012, a letter was sent requesting his participation in an audit of his PDHs, but he did not respond. A second letter and a final notice were sent, but Mr. Jung did not respond. On or around June 13, 2011, Mr. Jung signed the portion of his renewal stating "I certify that I have completed the required Professional Development Hour (PDH) units." On October 5, 2012, a respond to allegations letter was sent, but returned due to an insufficient address. On October 6, 2012, Mr. Wilkinson sent Mr. Jung an email with all previous correspondence attached, to which Mr. Jung replied that he requested to send all correspondence

to a different address – the same address at which he had received his renewal notice. Mr. Jung stated that the address on file is correct, but due to his firm employing more than 40,000 people, addressing materials using his English translated name is problematic. The new address goes directly to the engineering department where Mr. Jung is employed and his chance of receiving OSBEELS correspondence is much better. On October 9, 2012, Mr. Jung sent an email with the CPD Organizational Form and supporting documentation. His PDHs were deemed sufficient and compliance was met. **After discussion, the Committee recommends the Board close Mr. Jung’s case as compliance met, as Mr. Jung requested the use of an alternative address, but that address wasn’t used when mailing his audit notices.** There was no further discussion.

2799 – Leonard Charles Knapp/OSBEELS

OSBEELS received a signed renewal form from Mr. Knapp, a PE, certifying that he completed the required PDHs for the previous biennial renewal period of July 1, 2009 through June 30, 2011, which he claimed as a condition of the last biennial renewal period of July 1, 2011 through June 30, 2013. On January 26, 2012, a letter was sent requesting his participation in an audit of his PDHs, but he did not respond. A second letter was sent and Mr. Knapp responded with by email with his CPD Organizational Form detailing 48 PDHs, but lacking the required supporting documentation. On April 18, 2012, the Accounts Specialist sent a letter requesting the supporting documentation, but Mr. Knapp did not respond. On October 9, 2012, a respond to allegations letter was sent and Mr. Knapp responded on October 24, 2012 with supporting documentation for six of his 48 claimed PDHs. When the case became active on December 4, 2013, Mr. Abrams gave Mr. Knapp two additional weeks to submit any supporting documentation. Attorney Aric Davison of San Bernardino, CA, responded by email on January 2, 2014 and stated “Our client no longer practices engineering and land surveying in the state of Oregon and we just want to make sure that this file is no longer an issue or if anything further may need to be done on this.” Mr. Abrams contacted Mr. Davison and explained the nature of the CPD audit and the need for supporting documentation, regardless of Mr. Knapp’s current registration status. Mr. Davison said he understood and he would work with Mr. Knapp to submit the requested documentation in a timely manner. Since that time, Staff has not been contacted by Mr. Knapp or Mr. Davison and no supporting documentation has been submitted. The Committee determined to issue a NOI to assess a civil penalty of \$1,500 and a 30-day suspension for violations of OAR 820-020-0015(8) and OAR 820-015-0635. There was no further discussion.

2801 – David W. Kreighbaum/OSBEELS

OSBEELS received a signed renewal form from Mr. Kreighbaum, a RPP, certifying that he completed the required PDHs for the previous biennial renewal period of July 1, 2009 through June 30, 2011, which he claimed as a condition of the last biennial renewal period of July 1, 2011 through June 30, 2013. On January 26, 2012, a letter was sent to Mr. Kreighbaum requesting his participation in an audit of his PDHs, but he did not respond. A second letter and a final notice were sent, but Mr. Kreighbaum did not respond. On October 9, 2012, a respond to allegations letter was sent and Mr. Kreighbaum responded by fax on October 22, 2012, explaining that he was deployed with the National Geospatial-Intelligence Agency voluntary deployment team. He included his CPD supporting documentation. No CPD Organizational Form was included. Ms. Lopez explained that a CPD waiver is available for service members deployed overseas upon request, but it does not apply to civilians deployed as part of their

employment. AAG Tucker-Davis said, in this situation, Mr. Kreighbaum was no different than any other civilian personnel working overseas. When the case became active on December 30, 2013, Mr. Abrams requested the CPD Organizational Form again from Mr. Kreighbaum. Mr. Kreighbaum submitted the completed CPD Organizational Form, his PDHs were deemed sufficient and compliance was met. The Committee determined to issue a NOI to assess a \$500 civil penalty for a violation of OAR 820-020-0015(8). There was no further discussion.

2807 – David Charles Weiss/OSBEELS

OSBEELS received a signed renewal form from Mr. Weiss, a PE, certifying that he completed the required PDHs for the previous biennial renewal period of July 1, 2008 through June 30, 2010, which he claimed as a condition of the last biennial renewal period of July 1, 2010 through June 30, 2012. On January 26, 2012, a letter was sent to Mr. Weiss requesting his participation in an audit of his PDHs, but he did not respond. A second letter and a final notice were sent, but Mr. Weiss did not respond. On October 15, 2012, a respond to allegations letter was sent and Mr. Weiss did not respond. When the case became active on December 2, 2013, Mr. Abrams sent Mr. Weiss an email requesting all CPD materials and on February 17, 2014, after a series of emails and phone calls to Mr. Weiss' assistant, a CPD Organizational Form claiming 20 PDHs and supporting documentation were received. Mr. Abrams explained that self-study could provide Mr. Weiss with six additional PDHs, but Mr. Weiss' assistant said his desk had been cleaned out and the information provided is all that was available. The 10 lacking PDHs meant his audit file was deemed insufficient. The Committee determined to issue a NOI to assess a \$1,000 civil penalty for violations of OAR 820-020-0015(8) and OAR 820-010-0635(1). There was no further discussion.

2808 – Gerald Zadikoff/OSBEELS

OSBEELS received a signed renewal form from Mr. Zadikoff, a PE, certifying that he completed the required PDHs for the previous biennial renewal period of July 1, 2008 through June 30, 2010, which he claimed as a condition of the last biennial renewal period of July 1, 2010 through June 30, 2012. On January 26, 2012, a letter was sent to Mr. Zadikoff requesting his participation in an audit of his PDHs, but he did not respond. A second letter and a final notice were sent, but Mr. Zadikoff did not respond. On October 15, 2012, a respond to allegations letter was sent and Mr. Zadikoff did not respond. When the case became active on January 7, 2014, Mr. Abrams emailed Mr. Zadikoff requesting the required documentation. On February 6, 2014, Mr. Zadikoff's assistant submitted the required materials, Mr. Zadikoff's PDHs were deemed sufficient and compliance was met with regards to the audit. The Committee determined to issue a NOI to assess a \$500 civil penalty for a violation of OAR 820-020-0015(8). There was no further discussion.

2821 – David George Sanders/OSBEELS

OSBEELS received a signed renewal form from Mr. Sanders, a PE, certifying that he completed the required PDHs for the previous biennial renewal, which he claimed as a condition of the last biennial renewal period of July 1, 2010 through June 30, 2012. On July 20, 2012, a letter was sent requesting Mr. Sanders' participation in an audit of his PDHs, but he did not respond. A second letter and a final notice were sent. On January 10, 2013, a respond to allegations letter was sent and Mr. Sanders responded on January 14, 2013 and apologized for his failure to respond and expressed regret in not explaining the circumstances behind his prior

unresponsiveness. He said he was retiring in March 2013 after 32 years working for Clark County in Washington. He explained that he never had the occasion to use his engineering seal, but he always coveted his Oregon registration because of the effort required to achieve it and the peer acknowledgement associated with the registration. Mr. Sanders requested his registration be retired. Ms. Peterson explained the situation to Mr. Sanders and expressed the need for his requested documentation. Mr. Sanders submitted the requested documentation on January 17, 2013 and claimed 40 PDHs. His PDHs were deemed sufficient and compliance was met. The Committee determined to issue a NOI to assess a \$500 civil penalty for a violation of OAR 820-020-0015(8). There was no further discussion.

2822 – John Robert Marks/OSBEELS

OSBEELS received a signed renewal form from Mr. Marks, a PE, certifying that he completed the required PDHs for the previous biennial renewal period, which he claimed as a condition of the last biennial renewal period of January 1, 2009 through December 31, 2010. On July 20, 2012, a letter was sent to Mr. Marks requesting his participation in an audit of his PDHs, but he did not respond. A second letter was sent, but Mr. Marks did not respond. Mr. Marks signed the registered mail receipt for the third and final notice, but did not respond. On January 11, 2013, a respond to allegations letter was sent and Mr. Marks did not respond. A second letter was sent on February 1, 2013, but Mr. Marks still did not respond. On February 3, 2014, a certified letter was sent to Mr. Marks offering an additional two weeks to respond to the audit request, but he did not accept the letter. A final letter was sent to Mr. Marks on February 27, 2014 informing this that, due to his lack of response, the Committee would evaluate his file base on the information currently available. The Committee determined to issue a NOI to assess a \$1,500 civil penalty and a 60-day suspension for 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.

2823 – Stephen Leo Steiner/OSBEELS

OSBEELS received a signed renewal form from Mr. Steiner, a PLS, certifying that he completed the required PDHs for the previous biennial renewal period, which he claimed as a condition of the last biennial renewal period of July 1, 2010 through June 30, 2012. On July 20, 2012, a letter was sent to Mr. Steiner requesting his participation in an audit of his PDHs, but he did not respond. A second letter was sent, but Mr. Steiner did not respond. Mr. Steiner signed the registered mail receipt for the third and final notice, but did not respond. On January 14, 2013, a respond to allegations letter was sent and Mr. Steiner responded on January 22, 2013. He apologized for his slow response and said he lived in Massachusetts and did not maintain continuing education records. He also stated that, as he was reaching retirement age, it made sense to retire his registration in Oregon. He said he had no intention of renewing his registration in Oregon. Ms. Peterson sent Mr. Steiner a letter on January 23, 2013, encouraging his response to the audit request. Mr. Steiner responded on January 26, 2013, stating that he did not have the 30 PDHs and offered the option of either collecting these hours in the future or relinquishing his license. Ms. Peterson offered him an extension to try and locate proof of at least 30 PDHs to come into compliance with the audit request. Mr. Steiner responded on January 30, 2013 with an incomplete CPD Organizational Form and no supporting documentation. Despite continued correspondence with Mr. Steiner, he was unable to demonstrate compliance with the audit. On February 4, 2013, Staff received a Request for Retirement Status from Mr. Steiner. Ms. Peterson informed him that he was still required to respond to the audit, regardless

of his request for retirement. Mr. Steiner did not respond. On February 3, 2014, the case became active and Ms. Peterson offered Mr. Steiner one more opportunity to respond. Mr. Steiner called Ms. Peterson and explained that he would not be able to comply with the audit request. The Committee determined to issue a NOI to assess a \$1,500 civil penalty and a 60-day suspension for 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.

2824 – Daejoong Kim/OSBEELS

OSBEELS received a signed renewal form from Mr. Kim, a PE, certifying that he completed the required PDHs for the previous biennial renewal period, which he claimed as a condition of the last biennial renewal period of July 1, 2009 through June 31, 2011. A letter was sent to Mr. Kim requesting his participation in an audit of his PDHs, but he did not respond. A second letter and a final notice were sent, but Mr. Kim did not respond. Respond to allegations letters were sent on January 14, 2013 and February 1, 2013, but Mr. Kim still did not respond. When the case became active, Mr. Wilkinson noted that Mr. Kim had updated his mailing addresses when he renewed in 2013. Letters requesting his response to the audit were sent to both new addresses on file and to his email address. Mr. Kim responded on March 15, 2014, claiming 71 PDHs with a completed CPD Organizational Form and supporting documentation. After review, Accounts Specialists determined that Mr. Kim claimed 30 PDHs for self-study, but the maximum is six. Therefore, Mr. Kim earned 47 PDHs for that biennium. At this point, compliance was met. Mr. Kim wrote in his response that he did not receive the letters initially sent by OSBEELS. He was delinquent when he renewed on July 30, 2013 and at the time of renewal, he updated both his home and work addresses and provided email contact information. Due to the length of time between the first mailing of audit letters and his renewal in July 2013, it appears that Mr. Kim did not update his address with the Board within the 30 days required. Mr. Kim added that he didn't know why his mail wasn't forwarded from his previous addresses, but thought the English mailing information may have confused the mailman or the mail to his business may have been lost in the internal delivery service because of the large amount of people who work at his company.

Mr. Burger asked if Staff had participated in any sort of outreach to solve foreign mailing issues. Staff said a majority of mail sent overseas reaches its intended destination. Mr. Singh asked when Staff resort to using email to contact individuals. Mr. Wilkinson said it is one of the first forms of contact attempted by the Regulation Department and Ms. Gilbert said making contact by email is now part of the audit notification procedures for the Accounts Department. Ms. Lopez explained that the NOIs are now mailed and emailed at the same time, but a copy must still be delivered via certified mail to be considered official notification. Mr. Singh asked if all Board correspondence, such as renewal notices, could be mailed and emailed via an automated system. Ms. Lopez said there is currently no automated system in place to facilitate this process. She explained that Staff recently mailed 4,500 renewal notices and his suggestion would require the Accounts Department to then send 4,500 emails individually. The Committee determined to issue Mr. Kim a NOI to assess a \$250 civil penalty for a violation of OAR 820-010-0605. There was no further discussion.

2825 – Naoki Niwa/OSBEELS

OSBEELS received a signed renewal form from Mr. Niwa, a PE, certifying that he completed the required PDHs for the previous biennial renewal period, which he claimed as a condition of

the last biennial renewal period of January 1, 2009 through December 31, 2011. On July 20, 2012, a letter was sent to Mr. Niwa requesting his participation in an audit of his PDHs, but he did not respond. A second letter and final notice were sent, but Mr. Niwa did not respond. Respond to allegations letters were sent on January 14, 2013 and July 12, 2013, but Mr. Niwa did not respond. On September 18, 2013, letters were sent to the home and business addresses on record with the Board. Letters were also sent to the home and branch offices of his employer requesting their assistance in contacting Mr. Niwa. Mr. Niwa responded on September 26, 2013, apologizing for his late reply and stating that he could not provide his PDH documentation because he did not keep any CPD records. Ms. Peterson emailed Mr. Niwa to inform him that he was required to comply with Oregon rules governing registration, including cooperation with PDH audits. She also noted that his registration was in delinquent status and in order to renew his registration, he would have to comply with the CPD requirements. Mr. Niwa did not respond.

When the case became active, Mr. Wilkinson emailed Mr. Niwa at the address previously used and reminded him of his comment regarding lack of PDH records. Mr. Wilkinson explained that the case summary would show that statement and if Mr. Niwa's circumstances had changed, he should contact the Board office. Mr. Wilkinson also noted that translation assistance was available, if needed. Mr. Niwa did not respond. The Committee noted that Mr. Niwa's registration has been delinquent since December 31, 2012. Mr. Singh asked if Mr. Niwa's registration was considered retired after a certain amount of time without renewing. Ms. Lopez explained that retirement must be requested and approved by the Board office. Conversely, a delinquent registration becomes lapsed after a period of five years, as per ORS 672.170. Once a registration has lapsed, the individual must reapply for registration. The Committee determined to issue a NOI to assess a \$1,500 civil penalty and a 60-day suspension for 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.

2826 – Commstructure Consulting, LLC/OSBEELS

OSBEELS received an inquiry about the offering of professional services by Commstructure Consulting, LLC. OSBEELS registrants mistakenly received a utility notification email and contacted Commstructure to inform the company of the mistake. Upon reviewing the website, these registrants had concerns with the services being offered by Commstructure. The registrants asked Mr. Orton about the advertised professional services and if he employed a registered professional. Mr. Orton informed the registrants that he didn't "have the time or resources to spend defending our position in the industry and area of expertise." The registrants forwarded their communications with Mr. Orton to the Board for review. A case was opened by OSBEELS because of the services offered on the Commstructure website.

In response to a Company Questionnaire sent by Mr. Wilkinson, Mr. Orton explained that his firm specializes in Communications Outside Plant infrastructure design and project management. He also said that his firm doesn't advertise professional services and only registered professionals are contracted, if needed. Mr. Orton also said the firm has removed any references to surveying or mapping from their website, LinkedIn and Facebook to eliminate any potential confusion.

However, the website still features a Building Entrance Plan, which shows the design for converting overhead utility services to underground services. It maps the route of the utilities, placement of vaults and power feeds and provides construction notes. Mr. Wilkinson contacted

Oregon City to determine if this design was submitted for permitting. The City of Oregon City Public Works Department said all utilities submit drawings for review and approval before issuing rights-of-way work permits. An “approved for construction” stamp is affixed on plans provided by the utility. The design under review shows the Portland General Electric (PGE) title block with the approval stamp from Oregon City. Additional documents showed the design and other drawings along with a cover letter showing the PGE logo.

Consistent with prior correspondence, the PGE engineering work falls within the exception provided by ORS 672.060(6). However, the engineering work of the third-party contractor, in this case, Commstructure, does not fall within the exception because their engineering is offered to the public. Complicating this is the PGE cover letter that conveyed the Commstructure plans to the City of Oregon City.

Mr. Burger noted that the line between public services, rights-of-way and getting utility service into structures isn’t very clear. AAG Tucker-Davis asked for clarification regarding Commstructure’s role – it isn’t a utility company, but a contractor offering design services to utility companies? Mr. Burger said Commstructure is designing a route from the utility into the site similar to plumbing or electrical plans. The Committee engaged in additional discussion regarding whether this should be considered the practice of engineering or a prescriptive process. Ms. Lopez asked if the offering of “private property easement coordination” was the practice of land surveying. Ms. Duquette said that service seems more like easement negotiation services rather than determining easements. The Committee determined to seek review of the plans to determine size of lines, location of work and types of utilities involved before moving forward. Staff was directed to find a subject matter expert on this topic to review the design and determine if it should be considered the practice of engineering. Ms. Lopez asked if the expert should be licensed by the Construction Contractors Board (CCB). AAG Tucker-Davis said if the expert is only reviewing from a design standpoint, they must be licensed through OSBEELS, but if the actual construction is part of the review, CCB licensure is preferable. Staff was also directed to change the respondent in this case from Mr. Orton to Commstructure. This case will be discussed again during the June Committee meeting. There was no further discussion.

2831 – Andrew Sztymelski/OSBEELS

A Better Business Bureau (BBB) representative called OSBEELS to inquire about the registration status of Mr. Sztymelski, of ABC Tool & Die Co. Engineering, Manufacturing, LLC. It was determined that Mr. Sztymelski was not registered and did not have a registrant employed at his company. The company’s website also used “engineering” to describe their services of providing “tools, parts, molds and dies from conception through the fabrication process. Following the mailing of a Company Questionnaire, a company representative called to state the company was undergoing some changes. She said Mr. Sztymelski was trained as an engineer in Poland and wanted to become registered. Mr. Wilkinson explained that submission of Mr. Sztymelski’s registration application was a separate matter and obtaining registration, hiring a registered engineer or removing “engineering” from his company name and advertisements were required to achieve compliance. Mr. Sztymelski later submitted an Articles of Amendment showing that he changed the name of his company to remove the reference to engineering with the Secretary of State’s office. All references to engineering were removed from the website, with the exception of a photograph with “engineering” on a banner in the background, which Mr. Sztymelski said he would remove. After discussion, **the Committee recommends the Board close this case as compliance met.** There was no further discussion.

2832 – Matthew Joseph Steffan/OSBEELS

Ms. Duquette disclosed a conflict of interest with this case, as the supervisory engineer identified is a coworker. Without Ms. Duquette, the Committee did not have a quorum. Discussion of this case was deferred to the June Committee meeting. There was no additional discussion.

2833 – Francisco J. Silva/OSBEELS

OSBEELS received a signed renewal form from Mr. Silva, a PE, certifying that he completed the required PDHs for the previous biennial renewal period, which he claimed as a condition of the last biennial renewal period of July 1, 2010 through June 30, 2012. On July 20, 2012, a letter was sent to Mr. Silva requesting his participation in an audit of his PDHs, but he did not respond. Two additional letters were sent, but Mr. Silva still did not respond. On October 8, 2012, a fourth letter was sent via certified mail to a second address provided to the Board and Mr. Silva still did not respond. Auditors attempted to reach him by telephone on November 16, 2012, but were unsuccessful. On January 7, 2013, a Registrant Information Update form was received and final notices were sent by standard mail on February 14, 2013 and by certified mail on March 20, 2013. Mr. Silva signed for the last audit notice.

Mr. Silva responded on March 27, 2013 with a CPD Organizational Form showing 2.10 PDHs and explained that he wanted to resign his PE registration in Oregon because he was not able to keep up with the PDH requirements due to reduced workload and the inability to afford to take time off to complete any professional development. He said he had discussed this situation via telephone with an OSBEELS representative in 2012. Mr. Wilkinson informed Mr. Silva that retiring his registration is an option he can offer the Board when settlement options are discussed, but the failure to comply with the audit request would need to be resolved prior to retirement being granted. Mr. Silva did not respond to Mr. Wilkinson's correspondence and did not submit any additional information. Mr. Singh asked if Mr. Silva's registration was retired as requested. Ms. Lopez explained that an individual's registration can't be retired if they are the respondent in an active law enforcement case. The Committee determined to issue a NOI to assess a civil penalty of \$1,000 and a 60-day suspension for violations of the former OAR 820-010-0635(1), the former OAR 820-015-0026 and OAR 820-020-0015(7). There was no further discussion.

2846 – Nick Martin Kerber/OSBEELS

OSBEELS received a signed renewal form from Mr. Kerber, a PE, certifying that he completed the required PDHs for the previous biennial renewal period. On January 29, 2013, a letter was sent to Mr. Kerber requesting his participation in an audit of his PDHs. Mr. Kerber responded with a CPD Organizational Form claiming 243 PDHs. He explained that he was a mechanical engineer and inventor and, because his work is on the leading edge of technology, his professional development requires him to do a lot of self-directed research and experimentation. The Accounts Specialist sent a second letter on April 12, 2013 and explained the six PDH limit for self-study and gave Mr. Kerber until April 30, 2013 to submit verification for the remaining 24 PDHs. Mr. Kerber responded on May 14, 2013 and said that the most effective education for him was research and development, explaining that "...Massive 'self-study' of leading edge work should qualify as sufficient continuing education. I request that the board take another look at this case and grant an exception to the credit allowed."

The Examinations and Qualifications Committee reviewed the file and determined to send the file to the Regulation Department because the PDHs claimed were deemed as non-qualifying activities related to regular employment, per OAR 820-010-0635(3)(a). A respond to allegations letter was sent on July 29, 2013, but Mr. Kerber did not respond. Ms. Peterson called Mr. Kerber and he said he was of the opinion that the “Board was going to do what the board was going to do” and that they had “misdirected educational requirements.” Mr. Kerber said he believed he could just give up his license and the rules would no longer apply to him if he wasn’t actively practicing. Ms. Peterson explained that the rules still applied to him during the audit period while he was active and recommended he submit a response to the allegations.

Mr. Kerber submitted a response on August 29, 2013 and included a description of the projects claimed on his CPD Organizational Form along with the skills he used and information he learned while completing those projects. He said “...This project speaks directly to expanding my skills and knowledge relevant to my field of practice and also to expanding engineering technology and knowledge. To call this self study and limit its use, ignores its value and the fact that it is expanding engineering technology. Since the rules for continuing professional development fail to include this important aspect of the evolution of science and engineering, I ask the board to grant an exception that recognizes this process.” Ms. Peterson offered Mr. Kerber a final opportunity to provide the documentation requested to comply with the audit and asked for an explanation regarding his delinquent registration. Mr. Kerber called Ms. Peterson and said he did not have any information to add.

While Mr. Kerber has no previous law enforcement cases, Case No. 2872 was opened for the allegation of the unlicensed practice of engineering. As revealed during investigation into his audit noncompliance, he is still using the title “engineer” and advertising his business, “Quicksilver Engineering,” despite his license being in delinquent status. The Committee determined to issue a NOI to assess a \$1,000 civil penalty and a 60-day suspension for violations of the former OAR 820-010-0635(1) and (5) and OAR 820-020-0015(7). There was no further discussion.

2850 – John Daniel Howorth/OSBEELS

OSBEELS received information through the investigation of Case No. 2728 (Maria Cahill) that raised concerns of a possible violation of OAR 820-010-0621(1) by Mr. Howorth, a PE. Ms. Cahill contracted with Mr. Howorth to provide supervision of the designs for the “5,000 Acres Initiative” project at the Portland Community College’s Sylvania Campus. Through the investigation of Ms. Cahill’s case, it was found that the project plans submitted to the City of Portland and that were completed under Mr. Howorth’s supervision did not contain his stamp and signature. A respond to allegations letter was sent on August 12, 2013 and Mr. Howorth called on August 14, 2013 to discuss the allegations with Ms. Peterson. Ms. Peterson referred him to OAR 820-010-0621(1) and Mr. Howorth said he thought he didn’t need to seal the plans because the City of Portland did not require the plans to have an engineer’s stamp and signature. He further explained that he was involved with the design throughout the process and supervised the plans so they would meet the City of Portland’s permitting codes. He said the permit process through the city was a Development Review Permit for a Stormwater Retrofit Project – Commercial and did not require a traditional building permit. After reviewing OAR 820-010-0621(1), Mr. Howorth stamped and signed the plans and said he would be more diligent about sealing his documents in the future.

Mr. Burger mentioned that the work in question seems more like plumbing than engineering. Ms. Peterson explained that the issue isn't the scope of the work, but rather that a professional engineer did not stamp or seal final plans submitted for permitting, as required under OAR 820-010-0621(1). Ms. Duquette mentioned that she knows a number of engineers who, for liability purposes, won't seal plans if it's not expressly required. However, she also pointed out that Mr. Howorth now seems to be aware of the rules and has educated himself on maintaining compliance with rules and statutes. The Committee discussed the possibility of issuing a Letter of Concern to Mr. Howorth, but Ms. Duquette pointed out that a Letter of Concern is usually only issued if there is a concern that the individual will reoffend – which she didn't think was a concern with Mr. Howorth. After discussion, **the Committee recommends the Board close this case as compliance met.** There was no further discussion.

2852 – Shane Michael Sweet/OSBEELS

OSBEELS received an application to take the PE examination from Mr. Sweet. He stated in his application that he was the only engineer on staff with Harney Electrical Cooperative, Inc. The Registration Department forwarded the file to the Regulation Department and a response to allegations letter was sent on August 16, 2013. Mr. Sweet responded on August 29, 2013 and asked for an extension in order to involve his supervisor in this matter. His request was granted. Mr. Sweet responded via email on September 9, 2013 and said he respectfully disagreed with the allegation and it was never his intent to practice engineering without a license. He said he was employed by Harney Electric full-time and does no other work as an “engineer” in Oregon, nor does he claim to be an engineer. He said he works only on equipment from the Bonneville switchyard to the Harney member's meter and he had been informed that his work is no different than the Bonneville Power Administration, PP&L or the Oregon Trail Electric Consumer Cooperative. Mr. Sweet also stated that he was given his title by his employer. He then referred to ORS 672.060 and said he believes his work meets the definition of the industrial exemption. He also stated that any jobs that require engineering work are contracted out to consulting firms and that he is supervised by Randall Whitaker, a PE registered in Washington.

Ms. Peterson responded to Mr. Sweet's email and provided him with the Oregon statutes and rules that were applicable to his situation. He was given another opportunity to respond with corrections. Mr. Sweet responded to Ms. Peterson the same day and they further discussed the rules and statutes. Mr. Sweet said his supervisor would also be contacting Ms. Peterson. Mr. Whitaker called Ms. Peterson and said she was extorting him and not correctly interpreting the law. He said he believed Mr. Sweet's title should be exempt under ORS 672.060 and was reluctant to change it. He said he felt strongly that this title was necessary so members of the co-op knew who to call for certain issues. Mr. Whitaker requested an extension so he could consult his attorney. His request was granted.

Ms. Peterson later received a written response from Mr. Sweet stating that he had requested his employer to change his business card and the title on the company website so there was no misrepresentation regarding his registration status. Ms. Peterson informed the Committee that, while there was an initial resistance to change by the employer, Mr. Sweet's title was changed until he was recently granted professional registration. After discussion, **the Committee recommends the Board close this case as compliance met.** There was no further discussion.

2870 – Richard Carl Skinner/Steven Bruce

OSBEELS received a complaint from Steven and Barbara Bruce alleging that Mr. Skinner, a PLS, entered upon the Bruces' property where he surveyed and then placed a metal rod. The Bruces said they did not have knowledge of the survey or provide consent for Mr. Skinner's entry upon their property. They also expressed concern that their neighbor, Samuel Decker, had started constructing a fence that was on their property. A respond to allegations letter was sent on January 14, 2014 and Mr. Skinner responded on January 30, 2014, stating that he would submit a written response including the survey in question. Mr. Skinner disclosed that he may have gone a few feet onto the Bruces' property to tie the monument. He also said he attended the OSBEELS presentation at the Professional Land Surveyors of Oregon (PLSO) conference and believed he now had a greater understanding of ORS 672.047 and right of entry notice. Mr. Skinner's written response and a copy of the survey were received by the Board office on February 18, 2014. He explained that he did not set monuments on the Bruces' property. The survey showed the monuments that he set were on the northeast and southeast corners of his client's property, which were opposite the Bruces' property. Mr. Skinner said he used the existing monument on the Bruces' northeast corner, which was his client's northwest corner, in order to take a measurement. Ms. Peterson called Mr. Skinner on February 21, 2014 to clarify his statement regarding his entry onto the Bruces' property. Mr. Skinner said he wasn't going to lie and he probably placed one foot on his client's property and the other foot on the Bruces' property to take a measurement. Mr. Skinner was also notified that there was a violation regarding the design of his PLS stamp and he corrected the violation and submitted verification of compliance to Staff.

The Committee discussed the fact that Mr. Skinner should have known that any time a monument or post is set, it's on a point shared by all properties. Therefore, when setting a monument or post, the surveyor is technically on all properties. Mr. Singh said usually, when complaints are submitted, there's no actual damage and there is some other factor at play, for example, a boundary dispute. However, Mr. Singh agreed with the Committee that the surveyor should know the rules and statutes and follow them completely when conducting surveys. Mr. Burger added that acceptance of the surveyor's notice or permission to enter the property isn't required – only notice that entry onto the property will be occurring for the purpose of conducting a survey. The Committee noted that Mr. Skinner has taken steps to educate himself on right of entry issues and there was no property damage caused by his actions. The Committee determined to issue a NOI to assess a civil penalty of \$300 for a violation of ORS 672.047. There was no further discussion.

Preliminary Evaluations

Prem Singh & Associates Corp.

On August 5, 2009, Prem Singh & Associates Corporation filed an Amended Annual Report with the Oregon Secretary of State Corporation Division. This report claimed that Prem Singh & Associates Corporation was an "Engineering and Construction" business. OSBEELS became aware of this report during an investigation into Ramasurdial Prem Singh, PLS, for noncompliance with a CPD audit. In August 2013, Mr. Abrams brought this document to Mr. Prem Singh's attention and inquired if his firm employed a registered professional engineer. Mr. Prem Singh said the firm did not. On February 10, 2014, a respond to allegations letter and a Company Questionnaire were sent and Mr. Prem Singh responded by fax on March 1, 2014. His fax did not include the completed Company Questionnaire, as requested and he wrote on the

original letter from Mr. Abrams “You have been using your official capacity to harass me on this subject without cause.”

Mr. Burger asked who would read this type of report and AAG Tucker-Davis agreed that it did not seem to be a situation where the firm is publicly advertising the offering of engineering services. Ms. Lopez said the bigger issue is a registrant who is being uncooperative. AAG Tucker-Davis said that would be a different allegation than addressed in this preliminary evaluation. Ms. Lopez said AAG Katharine Lozano had previously suggested issuing a subpoena for documentation from uncooperative individuals. AAG Tucker-Davis suggested sending one more letter to Mr. Premsingh regarding the requested information and including language explaining that failure to provide that information may be in violation of OAR 820-020-0015(8).

Mr. Abrams noted that, based on conversations with Mr. Premsingh, this firm seems to be mostly involved with real estate and construction. Ms. Duquette said the firm is listed online as performing single-family residential construction. AAG Tucker-Davis explained that any engineering work performed on single-family residences is exempt and does not require the involvement of a registered professional engineer. Staff was directed to send another letter requesting the Company Questionnaire and reminding Mr. Premsingh that failure to provide this documentation may be a professional conduct violation. There was no further discussion.

Staff Update: Mr. Abrams spoke with Mr. Premsingh via telephone and informed him of the Committee discussion. The preliminary evaluation was updated with additional information obtained from Mr. Premsingh, who said he would complete and submit the Company Questionnaire, as requested.

Ian Lawson

OSBEELS received an FE application from Mr. Lawson who works for Lucidyne Technologies, Inc. On this application, Mr. Lawson marked “yes” when asked if he was currently providing professional engineering or land surveying services. Registration Specialist Brianna Weekly requested clarification regarding Mr. Lawson’s activities at Lucidyne. Mr. Lawson responded with a letter that included the title “Mechanical Engineer” in his signature block. Additionally, he stated in the letter that he works as a mechanical engineer. The EQC directed Staff to forward the application to the Regulation Department for a preliminary evaluation into potential unlicensed practice of engineering, as defined in ORS 672.020 and ORS 672.045.

Mr. Abrams contacted Mr. Lawson and explained the potential violations being investigated. Mr. Lawson said he thought his degree in mechanical engineering made him eligible to use the title “Mechanical Engineer.” Mr. Abrams explained the statutes to Mr. Lawson and assisted him in navigating the OSBEELS website for additional information. Mr. Lawson said he now better understood the requirements of the statutes and said he would cease using the title of “Mechanical Engineer” until he is registered through OSBEELS.

Ms. Duquette asked if OSBEELS is setting applicants up for admitting to violations by asking these questions. AAG Tucker-Davis said some applicants, if working under the industrial exemption, can be legally practicing engineering without registration. Mr. Singh asked Staff for clarification on the purpose of this specific application question. Ms. Lopez said questions of this type are not unusual and many states include similar questions on their applications for professional registration. Ms. Gilbert added that many of the applicants who answer “yes” to this question were performing engineering work legally because they were under professional supervision. Ms. Lopez also noted that there are very few cases involving individuals engaging

in the practice engineering or land surveying without registration, industrial exemption or appropriate professional supervision – only a few out of hundreds of applications. Mr. Wilkinson said the question is also effective in gauging an applicant’s experience. Ms. Duquette said she believes there is a significant difference between asking an applicant to describe their experience and asking if they are practicing engineering or land surveying. After discussion, the Committee determined to not open a case against Mr. Lawson. There was no further discussion.

Lucidyne Tech Inc.

OSBEELS received an FE application from Ian Lawson who works for Lucidyne Technologies, Inc. On this application, Mr. Lawson marked “yes” when asked if he was currently providing professional engineering or land surveying services. Registration Specialist Brianna Weekly requested clarification regarding Mr. Lawson’s activities at Lucidyne. Mr. Lawson said “I work at Lucidyne Technologies, Inc. as a mechanical engineer. My supervisor, Chad Gibson, is not a PE. No one at my work who is a mechanical engineer has a PE.” If true, this statement clearly states that this firm employs several unlicensed individuals practicing engineering, in violation of ORS 672.020 and ORS 672.045.

According to the website for Lucidyne, the president and founder of the company is George M. Carman, an unlicensed individual. The Amended Annual Report filed with the Oregon Secretary of State Corporation Division lists George M. Carman as the Registered Agent, President and Secretary. Mr. Abrams spoke to Ofer Heyman, director of Business Development at Lucidyne after he requested clarification regarding the respond to allegations letter and Company Questionnaire sent to the firm. Mr. Abrams explained the issues with Mr. Lawson’s correspondence with the Board and informed Mr. Heyman that having employees putting the term “engineer” in their signature block is in violation of ORS 672.045(2), unless they were registered with the Board. Additionally, Mr. Abrams mentioned that there was an issue with “William J. Briskey, P.E.” on the Lucidyne website because Mr. Briskey is not registered in Oregon. Mr. Abrams suggested adding the state of registration behind Mr. Briskey’s “P.E.” or removing the term from his name. Mr. Heyman said he understood the requirements and the firm would correct that issue immediately. He also said he would return the Company Questionnaire.

The returned questionnaire and subsequent conversations with the firm’s controller unearthed an additional potential violation. The firm specializes in designing and building scanning systems for the wood products industry, according to the questionnaire. This may be a violation of ORS 672.020, unless exempted under ORS 672.060. However, the firm confirmed that staff is now aware of the prohibition regarding the use of the title “engineer” and staff titles are now compliant with ORS 672.045(2).

The Committee discussed whether or not Lucidyne’s services were exempt under ORS 672.060. AAG Tucker-Davis said the firm may be exempt because their design work is used to make a product (sensors), which are then offered to the public. The designs are not independently available for public purchase or use. Ms. Duquette asked how this situation differs from the Charter Construction case. AAG Tucker-Davis said Charter was offering services including design work rather than just offering a final product. Ms. Gilbert asked if there was an issue with the firm offering flexible design options based on customer needs. AAG Tucker-Davis said the Committee would need to determine if offering customization constitutes conducting design work outside of that required to create the product. Mr. Burger noted that it isn’t plausible that any product used in a manufacturing process could be sold and implemented without some level

of customization relating to size or fit and he didn't believe those customizations constituted engineering services. Ms. Duquette agreed and said she saw this as offering equipment options rather than engineering. After discussion, the Committee determined to not open a case against Lucidyne Technologies, Inc. There was no further discussion.

David Klimas

Mr. Klimas, PE, notified the Board of disciplinary action in Oklahoma. Mr. Klimas' firm, EN Engineering, LLC, did not have a Certificate of Authorization to offer and/or practice engineering in Oklahoma at the time the services were offered and/or provided. Mr. Klimas entered into a Consent Agreement on November 21, 2013 for a \$2,000 administrative penalty. Oregon does not require that firms are certified with the Board or that firms obtain a Certificate of Authorization. However, Oregon rules do require registration with the Board prior to offering and/or practicing engineering. Mr. Klimas' Consent Agreement was signed nine days after he was issued his Oregon registration. He did not report the disciplinary action to the Board until February 10, 2014. Ms. Peterson noted that, while Mr. Klimas was late in reporting the action, he did ultimately report it to OSBEELS. After discussion, the Committee determined not to open a case against Mr. Klimas. There was no further discussion.

Leroy Slemmer

Mr. Slemmer is actively registered as a professional engineer in Washington. He submitted a comity application in Oregon that indicated he was currently engaged in the practice of engineering in Oregon. The project was identified as a Water Quality Facility for the City of Amity. Ms. Peterson spoke with Mr. Slemmer to request clarification regarding his role in this project. He said the firm he worked for (Exeltech) has Oregon PE Greg Reid, on staff and Mr. Reid was the engineer of record for the project. However, Mr. Reid left the firm when the project was nearly complete and Mr. Slemmer inherited the project. Mr. Slemmer said he is presently working on the project with another individual, but he only manages the submittals to the City of Amity. Mr. Slemmer also said that the owner of Exeltech is an Oregon PE and could take responsible charge of the project, if necessary. Mr. Slemmer was previously registered in Oregon.

Mr. Slemmer was granted a temporary license to practice in Oregon on January 17, 2014 and his comity application was approved on March 11, 2014. The city engineer for the City of Amity forwarded project documents to Ms. Peterson from the time between Mr. Reid's departure and the granting of Mr. Slemmer's temporary license. Plans for that time period were stamped by the firm's owner. After discussion, the Committee determined not to open a case against Mr. Slemmer. There was no further discussion.

Justin Olson

OSBEELS received an FE application from Mr. Olson who works for Bonneville Power Administration (BPA) as a system protection and control engineer. On this application, Mr. Olson marked "yes" when asked if he was currently providing professional engineering or land surveying services. Ms. Peterson sent a respond to allegations letter to Mr. Olson and he called back to explain that most of the individuals on his team were given the "engineer" title by BPA. Mr. Olson added that most of them are not registered with the Board. He further explained that he only performs engineering work on federal infrastructure for the BPA, which is a federal agency. The federal government's requirement to qualify for work as an engineer is graduation

from an ABET-accredited engineering program. AAG Tucker-Davis informed the Committee that OSBEELS does not have jurisdiction over the actions of a federal agency. Due to this lack of jurisdiction, the Committee determined to not open a case against Mr. Olson. There was no further discussion.

RediPour Wall Systems

OSBEELS received a complaint from Robert Lennox, PLS, alleging that Redi Pour was in violation of ORS Chapter 672 by practicing land surveying when they perform robotic site topography. Review of the Redi Pour website also indicated a potential violation of OAR 820-010-0715 for the advertisement of engineering services without the identification of a registered professional engineer. Redi Pour is actively registered by the CCB. A respond to allegations letter was sent to Redi Pour and Robby Boydston, Jr. responded with a copy of the language that was changed on the Redi Pour website. However, the revisions did not address the potential violation. A Company Questionnaire was returned and identified the professional engineer who is responsible for the company's engineering services. Redi Pour added the registrant's name to the website and compliance was met.

Regarding the alleged violation of ORS 672.045, Ms. Peterson spoke to Robert Boydston, Sr. who said he felt that the company was not engaging in the practice of land surveying. He explained that they use Trimble equipment; much like a cabinet maker uses the same equipment to obtain the measurements they need. He said their registered professional engineer is not responsible for the robotic site topography and is only involved if engineering services are required, as with retaining walls more than four feet tall. During the February 13, 2014 Committee meeting, Staff was directed to collect additional information regarding what the company creates based on the surveys conducted. Mr. Boydston said the topography is used to create layout guides for the company's concrete forms and elevations to create rendered drawings for customers. He added that the information from the robot is transferred into the company's design program and staff drafts their designs over the top of that information. Mr. Singh said it seems that the robot's operator doesn't need to be licensed, but they should be working under the supervision of a registered engineer or land surveyor. Mr. Burger asked if the individuals were using a level to collect the same information and creating a map from it if that would also be the practice of engineering or land surveying. Mr. Singh said the determination of practice shouldn't be made based on the tool used, but on whether or not the individual is determining topography. Ms. Duquette asked if the situation is considered any differently if they're only using the measurements internally, as the same information can be acquired by shooting elevations. Mr. Burger noted that it seems like the issue is that the data from the robots is producing documentation that appears professional. Mr. Singh said, regardless of appearance, establishing elevations for a structure of any sort falls under the practice of engineering or land surveying. Additionally, he noted that gathering information to be used by a professional engineer to design something should be gathered by a PE or PLS or under the responsible charge of one of those registrants.

Mr. Burger asked if that standard would still apply to gathering information for the design of a wall that doesn't require engineering. Ms. Duquette pointed out that all walls require engineering, but only those higher than four feet need a permit. AAG Tucker-Davis said an engineer is not required for most work on single-family residences, but the standards are different for land surveyors who perform much of their work on those types of properties. Ms. Duquette said a 12-foot retaining wall would require a professional engineer, regardless of the

property upon which it is built. AAG Tucker-Davis clarified that the engineering work needs to be completed by a registered professional because of permitting requirements. Mr. Singh said he would like more information about private property exemptions, specifically, if a person needs a permit and has an unlicensed individual draw up the plans for submission, does OSBEELS get involved? AAG Tucker-Davis said OSBEELS would only get involved if the work on the single-family residence was performed by a registrant. Ms. Duquette said that situation would fall under the purview of the building officials because of permitting rules. Mr. Wilkinson asked about a hypothetical situation where an out-of-state PE does work on a single-family residence and seals the documents. AAG Tucker-Davis said there would still be no action on the part of OSBEELS because it is an exempt structure. However, she added, single-family residences are not exempt regarding the practice of land surveying, which is why it is important to determine what happens with the topographic maps created because the company could be producing and distributing a land surveying product.

Mr. Burger reiterated that he felt the data from the robots should be viewed no differently than a spreadsheet or any other design tool if the data is only being used internally. He added that he felt like the robotic system is just a tool performing activities commonly attributed to surveying and the confusion is stemming from the generation of a map. Mr. Singh said he thought a case should be opened to look into the company's activities further.

The Committee specifically requested Ms. Peterson to conduct further investigation into what the company's engineer does and does not supervise and if the topographic maps generated are only used internally or if they are given to customers upon request. Additionally, the Committee requested a company organizational chart for reference. Ms. Peterson will also work with AAG Lozano regarding additional questions for this case. There was no further discussion.

Staff Update: Staff has invited Mr. Boydston to attend the next Committee meeting to better address outstanding questions regarding his company. Staff is awaiting his response.

Jerry Estabrook & Russ Dodge

A Question Form was received at the Board office from Diane and Dorothy Irvin citing a number of allegations that involved two surveyors – Jerry Lee Estabrook and Russ Dodge. Mr. Estabrook was hired by the Irvins' neighbor to complete a boundary survey in 2009. The Irvins stated that the southeastern corner of their lot seemed to move about a foot over, which put some of their hedges planted in the 1960s on the neighbors' property. The neighbors then cut down the intruding hedges. The Irvins alleged that Mr. Estabrook completed the survey without having found three monuments and, therefore, was in error. The Irvins also alleged that when Mr. Estabrook was performing the survey, he did not provide notification for right of entry and dug a large hole on their property.

The Irvins then hired Mr. Dodge who located two of the three monuments. Mr. Dodge wrote a letter to Mr. Estabrook and said the difference in the bearing of the line between Lots 17 and 16 were the only differences in their surveying methods. The Irvins said once Mr. Dodge communicated with Mr. Estabrook, Mr. Dodge would not monument the corner in dispute. They also said Mr. Dodge did not complete the survey or set monuments. Mr. Dodge told investigators that this property survey was never finalized by his firm and no monuments were set. He said his survey resulted in the property line shifting slightly, but it still did not relocate to the location recalled by his clients. He added that there were confrontations between the neighbors and the final result was to be a Property Line Adjustment and the removal of an

encroaching fence. Mr. Dodge said he was under the impression that Mr. Estabrook assisted with the Property Line Adjustment and the neighbors had moved the offending fence from the Irvins' property. According to Mr. Estabrook, Mr. Dodge's agreement with him regarding how to resolve the boundary issue led to Mr. Dodge being fired by the Irvins. The Irvins held that Mr. Estabrook's failure to find the two monuments noted by Mr. Dodge resulted in the survey error that led to the property line dispute.

Regarding the right of entry notification, Mr. Estabrook told investigators that he knocked on the Irvins' door and there was no answer so he left notification in the form of a door hanger. He added that Diane Irvin came outside and spoke to him during his survey. Mr. Estabrook provided a copy of an Affidavit of Fact signed by his wife and notarized explaining that she was a witness and participant to the placement of a door hanger at the Irvin residence. He also said he replaced any soil he dug up to locate monuments after he tied the pins.

Investigators requested an explanation from Mr. Estabrook regarding the differences between the 2013 boundary adjustment survey and his previous survey, as his survey narrative did not detail the process, as required. Mr. Estabrook explained his process.

The Committee had three potential violations involving Mr. Estabrook to consider. The Committee determined that the allegations against Mr. Dodge are contractual in nature and relate to the Irvins feeling unjustly invoiced. This is outside the purview of the Board. Regarding the right of entry notification, there is no evidence to support the Irvins' allegation of entry without notice, as Mr. Estabrook provided an affidavit testifying of the placement and his client later called the Board office to confirm that he was also present when the door hanger was placed at the Irvin residence. Investigators also informed Mr. Estabrook that his stamp was noncompliant and he was given 30 days to provide proof of a corrected and compliant stamp. He responded with evidence of a compliant seal.

Ultimately, the Committee only needed to determine whether Mr. Estabrook's narrative complied with the requirements set in ORS 209.250(2). Ms. Gilbert pointed out that the law requires the surveyor to detail how he determined the boundary line. Mr. Estabrook's narrative said he used a previous point from an existing survey from 1959. All of the involved parties had agreed to the accuracy of the points depicted on this survey. While this narrative information could be more detailed, Mr. Estabrook still showed minimum competency in identifying how he determined the boundary lines. The Committee determined to not open a case against Mr. Estabrook or Mr. Dodge. There was no further discussion.

Charles H. Moss

The Board office received written notice from Mr. Moss regarding discipline by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors. The Consent Order stated that Mr. Moss stamped and signed structural calculations and design drawings for the mechanical, electrical and plumbing components and prepared Envelop Compliance Certificates for two Murphy Express buildings in Oklahoma. The Order also noted that Mr. Moss reported his primary discipline as civil engineering with a secondary discipline of structural engineering. Mr. Moss informed the Oklahoma Board that the buildings are complete packages that are site delivered as a "piece of equipment." He added that the designs were shop drawings used to manufacture the units. Mr. Moss has worked under a general consulting agreement with Frey-Moss Structures since 1994.

In his letter to OSBEELS, Mr. Moss explained that the designs were for a 1,200 sq. ft. modular building. He said he has designed these types of buildings for 25 years and felt the submission

of these plans were permissible because he was qualified through prior practice. The Oklahoma Board found that Frey-Moss Structures did not have a Certificate of Authorization to offer and/or practice engineering in Oklahoma and that Mr. Moss was performing engineering services outside his areas of competence. As a result, Frey-Moss Structures was assessed a \$1,500 civil penalty and was ordered to cease and desist from practicing and/or offering to practice engineering in Oklahoma until it was issued a Certificate of Authorization. Mr. Moss was assessed a \$1,500 civil penalty, was reprimanded and was ordered to cease and desist from offering and/or practicing engineering outside his areas of competence.

Mr. Singh asked what criteria needed to be met to open a case against Mr. Moss. Mr. Wilkinson explained that the evaluation is two-prong – does OSBEELS regulate that area and was there a suspension or revocation in another jurisdiction – and both prongs must be met to open a case. The disciplinary action taken in Oklahoma did not result in a suspension or revocation. Additionally, the 1,200 sq. ft. modular building also falls within the exception provided by ORS 672.060(11). After discussion, the Committee determined to not open a case against Mr. Moss. There was no further discussion.

Paul Harlan

OSBEELS received an application from Mr. Harlan for examination as a professional engineer. During review by the EQC, a potential practice violation was pointed out. Ms. Lopez noted that Mr. Harlan's experience record says he oversaw licensed individuals as an unlicensed individual. Mr. Kent noted that Mr. Harlan couldn't find enough PE references, but yet he states in his application that he supervises PEs. Mr. Harlan's application was put on hold pending the results of a preliminary evaluation. The Committee reviewed his experience record and references provided with his application. It was noted that the information provided by Mr. Harlan shows engagement in activities that meet the statutory definition of engineering and land surveying. His references confirm that assertion. However, none of his references who were in a supervisory capacity were qualified to provide compliant responsible charge. A letter was received from attorney C. Andrew Gibson, who represents Mr. Harlan's employer, Collins Pine. Mr. Gibson's letter clarified certain aspects of Mr. Harlan's experience record, but it still appears that Mr. Harlan engaged in the unlicensed practice of engineering and land surveying on numerous occasions. However, these activities were undertaken early in Mr. Harlan's career, with the bulk of the work in question occurring between 1986 and 1995, and he is now in a management position. The Committee voiced concerns regarding continued unlicensed practice within the company. Ms. Duquette pointed out that, while Mr. Harlan is no longer practicing without a license, his company may still be allowing these practices. AAG Tucker-Davis asked if these potential violations were occurring within Oregon. Mr. Wilkinson said the company branch in question operates out of Klamath Falls. While much of the work occurs on private land owned by Collins Pine, Ms. Duquette said a number of the tasks performed present life/safety issues – for examples, bridges on the property failing during daily operations. Ms. Duquette also noted that Mr. Gibson's letter says the company hires and engineer when needed, but she's not confident the company is fully aware of when a professional engineer is required.

Mr. Wilkinson reminded the Committee that they're considering two separate issues – Mr. Harlan as an individual and Collins Pine as a company. Ms. Duquette said Mr. Harlan's offenses were more than 20 years ago and his situation may be best addressed through a Letter of Concern. Mr. Singh was concerned about not addressing Mr. Harlan's previous wrongs if the

practices are still occurring. Ms. Duquette said if Mr. Harlan, as a supervisor, is continuing to allow unlicensed practice, it would be a company issue.

After discussion, the Committee determined to not open a case against Mr. Harlan. The Committee wanted to send a Letter of Concern explaining Oregon's rules and statutes, but AAG Tucker-Davis said that could be construed as disciplinary action. Ms. Lopez suggested including references to the pertinent rules and statutes in the closure letter sent following preliminary evaluations that don't result in a law enforcement case. Additionally, the Committee determined to conduct a preliminary evaluation into Collins Pine and request the completion of a Company Questionnaire. There was no further discussion.

Brian Unger

OSBEELS received an application from Mr. Unger for examination as a professional engineer. In subsequent correspondence with the Registration Department regarding his application, Mr. Unger referred to himself as a "design engineer." The EQC determined to put his application on hold pending the results of a preliminary evaluation. Mr. Unger listed four years and one month of experience as a "design engineer" for Gerber Legendary Blades. Gerber Gear is a manufacturer of knives, tools, lights and other gear sold for personal, industrial, tactical and military use. He also listed experience gained while working with Daimler Trucks North America as a "manufacturing engineer." The Committee reviewed Mr. Unger's experience record and references. Mr. Burger pointed out that the titles Mr. Unger uses were bestowed upon him by the company. However, Mr. Wilkinson pointed out that he used those titles outside of the company; potentially giving the impression that he is a registered professional to those unfamiliar with the company's titling policies. Ultimately, the Committee determined that both of Mr. Unger's workplaces qualify for exemption under ORS 672.060(6) and, therefore, he may use the aforementioned titles and perform engineering services within the exempted companies. The Committee determined to not open a case against Mr. Unger. There was no further discussion.

Carl Thompson

Ms. Lopez informed the Committee that this preliminary evaluation was placed on the wrong agenda. Mr. Thompson's situation should instead be reviewed by the EQC on April 11, 2014. There was no additional discussion.

Stephan Dorau

OSBEELS received an anonymous complaint regarding Mr. Dorau and Structural Components, LLC, from Boulder, CO. The complainant alleged, "Structural Components (and Mr. Dorau) are providing structural engineering without a structural engineering license as required by Oregon administrative rules." The requested remedy was to have, "Structural Components refrain from offering structural engineering services without a valid structural engineering license." Mr. Dorau is especially qualified as a mechanical engineer.

Structural Components, LLC, asserts on their website that they can provide construction management, engineering, field services, and manufacturing and fabrication for cell towers. Under the engineering tab, it lists structural analysis, structural testing and wind tunnel testing. Regarding Mr. Dorau, the complainant submitted a 16-page structural analysis report for a 120-foot, self-supporting cell tower in Corvallis. The cover sheet was stamped and signed by Mr. Dorau under the title block for Structural Components, LLC. Inside were 11 pages of

preliminary design calculations, data provided for analysis and preliminary modification drawings all featuring the stamp and signature of Mr. Dorau. On the title sheet for the drawings, Wesley Culver, PE, is listed as a consultant, but he is not registered in Oregon. He is also listed elsewhere in the submission without the “PE” designation.

The Corvallis tower site was visited by employees of NorthWest Tower Engineering from Everett, WA. Steven Diamond prepared a report that was checked by Harvey Carlisle, SE. The report noted their concern that the tower is “not structurally stable” due to a number of problems, including deformation of the diagonal members. Overall, they deemed the tower “potentially dangerous and a hazard to the public” and recommended replacing it with a new tower. The report appears to be the practice of engineering that was “checked” by Mr. Carlisle, but he did not stamp and sign the report.

Lastly, a geotechnical engineering evaluation conducted by Adapt Engineering, Inc. was reviewed. Adapt Engineering in Seattle is listed as the tower owner, but the geotechnical evaluation featured the Portland office’s address. The report cover letter was stamped and signed by Daniel Watkins, PE, GE, and also signed by Nicolas Sturdivant, Staff Geologist and by K.V. Lew, P. Eng. Senior Geotechnical Engineer, Senior Reviewer.

While the complainant’s allegation was regarding structural engineering requirements, ORS 672.107 only requires a structural engineer to perform services on significant structures, of which a cell tower is not. Therefore, the Committee determined to not open a case against Mr. Dorau.

However, a number of other issues arising from this complaint were discussed by the Committee. First, Mr. Culver is listed on the drawing title sheet as a PE, but he is not registered in Oregon or in the company’s home state of Colorado. The Committee determined to open a case against Mr. Culver regarding the unlicensed practice of engineering.

Second, Mr. Carlisle “checked” a report offering engineering opinions, but did not stamp and sign it. The Committee discussed whether or not his actions were considered supervision and control. Ms. Duquette and Mr. Burger agreed that quality control functions are not considered to be part of responsible charge or supervision and control. However, Ms. Duquette said the report should be stamped and signed by a representative of NorthWest Tower Engineering. The Committee determined to open a case against NorthWest Tower Engineering.

Finally, Mr. Lew used the title of “Senior Geotechnical Engineer” for Adapt Engineering, Inc. alongside the Portland address on an engineering report for an Oregon project, but he is not registered in Oregon. The Committee noted that neither Mr. Lew nor Mr. Sturdivant actually signed the document themselves; they had someone else sign for them in their absence.

Additionally, the website explains that Mr. Lew is assigned to the Seattle office and only the Seattle office offers geotechnical engineering services. Mr. Watkins is not listed on the website at all. Ms. Peterson updated the Committee and informed them that Mr. Watkins is no longer employed by Adapt Engineering, Inc. and the office said it had stopped offering geotechnical services until a replacement was hired. The Committee determined to not open a case against Mr. Lew. There was no further discussion.

Unfinished Business

2817 – Jeffrey Scott Payne – withdraw NOI

On February 13, 2014, the Committee reviewed the file for Mr. Payne regarding failure to provide documentation of compliance with CPD requirements. The Committee determined to issue a NOI to assess a civil penalty for \$500 for a violation of OAR 820-020-0015(8). Mr.

Payne responded to the NOI with the Response Options Form and requested an informal conference. He indicated in his response that he did not agree with the violation because he had responded to the Account Specialist and requested an extension. After further research, Ms. Peterson verified Mr. Payne's statement. Although Mr. Payne was not prompt in responding to contact from the Board office, he provided an explanation of mitigating circumstances and eventually met compliance with the CPD audit. The Committee agreed that Mr. Payne would not have been assessed a civil penalty had this information been available during the initial review of his file. **The Committee recommends the Board withdraw the NOI issued to Mr. Payne.** There was no additional discussion.

Case Status Report

The LEC offered no comments on total cases open (74), cases subject to collections (10), or on cases subject to monitoring (17).

2791 – Lynn M. Colebank

During the June 15, 2012 EQC meeting, Mr. Colebank's file was referred to the Regulation Department for not responding to the requests for participation in the January 2012 PDH audit. When the case became active for investigation, it was discovered that Mr. Colebank's registration was not in active status at the time she was selected for the audit. Therefore, Mr. Colebank should not have been selected for participation, as only active licenses are eligible for audit. The Committee determined that Mr. Colebank was incorrectly selected for audit and **recommends the Board close this case as allegations unfounded.** There was no further discussion.

2798 – Soo Jong Kim

During the June 15, 2012 EQC meeting, Mr. Kim's file was referred to the Regulation Department for not responding to the requests for participation in the January 2012 PDH audit. When the case became active for investigation, it was discovered that Mr. Kim's registration was not in active status at the time he was selected for the audit. Therefore, Mr. Kim should not have been selected for participation, as only active licenses are eligible for audit. The Committee determined that Mr. Kim was incorrectly selected for audit and **recommends the Board close this case as allegations unfounded.** There was no further discussion.

The meeting adjourned at 3:40 p.m.