



# Oregon

STATE BOARD OF EXAMINERS  
FOR ENGINEERING &  
LAND SURVEYING

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## LAW ENFORCEMENT COMMITTEE

Minutes of Meeting  
February 12, 2015

### Members present:

William Boyd, Chair  
Jason Kent  
Ron Singh  
Dave Van Dyke

### Staff present:

Mari Lopez, Board Administrator  
Jenn Gilbert, Executive Assistant  
Adaira Floyd, Social and Communications Media Specialist  
James R. (JR) Wilkinson, Investigator  
Monika Peterson, Investigator

### Others present:

Katharine Lozano, Assistant Attorney General  
Sue Newstetter (observer)  
Gary Anderson (Professional Land Surveyors of Oregon)  
J. Kevin Shuba, attorney for John D. Rasberry  
Jaime Lim  
Mitchell J. Duryea  
Shaun Martin  
Shawna R. Meyer, attorney for Shaun Martin

The 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. Lim, Duryea, Martin and Meyer participated by teleconference; all others participated in-person.

### **Public Comment**

There was no public comment.

### **Case Disposition**

#### 2896 – Stephen Waring / OSBEELS

Stephen T. Waring, PE contacted the Board office on June 26, 2014, in order to resolve the status of his professional engineering registration when he discovered it was delinquent. As a result of Waring's disclosure to the Board, and along with his ownership of *Emagineered Solutions*, and

his use of the P.E. title, a law enforcement case was opened on July 17, 2014. The Committee discussed the case previously in the October and December meetings. During the December 11, 2014 meeting, the Committee determined to issue Waring a NOI to assess a \$350 civil penalty for violations of OAR 820-010-0605, ORS 672.020(1) and ORS 672.045(2). Staff reported that Waring returned the options form and submitted payment; he did not contest.

**Staff update:** A vote was not taken during the LEC meeting to proceed; as a result, the Board will be required to make a decision whether to approve a default final order during the next Board Meeting in March.

#### 2897 – Robert Stimson / OSBEELS

On June 18, 2012, the Board received a signed renewal form from Robert Wayne Stimson certifying that he completed the required Professional Development Hour (PDH) units. Stimson, 17703PE (delinquent), is a non-resident Oregon registrant and was selected to participate in an audit of his PDH units for the registration period of July 1, 2010 through June 30, 2012. The Committee found that Stimson failed to provide sufficient supporting documentation to verify all but eight of his claimed PDH units. During the December 11, 2014 meeting, the Committee determined to issue Stimson a NOI to assess a \$1,000 civil penalty and 30-day suspension of Stimson's professional registration. Staff reported that Stimson's NOI is pending a response. There was no further discussion.

#### **Informal Conferences**

##### 2898 – Jaime Lim

On October 25, 2013, the Board received a telephone call from an individual who wanted to verify the engineering registration of Jaime Lim. Staff informed the caller that Lim had signed an agreement to settle case #2579 on September 3, 2010. The terms included permanent retirement of his professional engineer registrations in lieu of revocation and a \$5,000 civil penalty. Emails indicated that Lim corresponded with a client stating that "we" could provide "their" builder with "foundation information, steel reinforcing, beam and joist sizes, hold down, etc." which falls within the definition of the practice of engineering in ORS 672.007(1)(c). Lim claimed the engineering work was done by an OSBEELS registrant; however, investigation found this registrant to be a 1099 contractor and does not meet the definition of a "full-time partner, manager, officer or employee" as required by OAR 820-010-0720(3)(b).

In addition, the investigation found that Lim has had three separate Business Registries for "First United Engineering." All three are inactive, yet Mr. Lim is offering engineering services under their names. Last, Mr. Lim's website identifies him as a PE/PLS, which is not in compliance with OAR 820-010-0730.

As discussed during the February 13, 2014 meeting, AAG Lozano noted that, as an individual, Mr. Lim is committing a title violation by using the PE without the required state designation following the title to indicate that he is not licensed in Oregon; however, AAG Lozano pointed out, while this conduct is a violation of OSBEELS statutes and rules, it is not also in violation of Mr. Lim's original settlement agreement. He was prohibited from personally performing engineering work, not from running an engineering company or "engaging in the practice of engineering," which would have included using the PE title. Therefore, on February 13, 2014, the Committee determined to issue Lim a NOI to assess a \$1,000 civil penalty for a violation of OAR 820-010-0730, but found no violation of his settlement agreement.

Lim attended the informal conference on February 12, 2015 by teleconference. Lim claimed that he never retired his Environmental PE license and stated that he holds an active PE in other states. The Committee then reviewed his settlement agreement and found that his registration as a professional engineer is retired. Lim disagreed. AAG Lozano reminded Lim that the Board proposes a \$1,000 civil penalty for the violations of ORS 672.045(2) and OAR 820-010-0730, and asked if he had a counter-offer to make to the committee. In response, Lim asked the board to withdraw the \$1,000 civil penalty. **The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on case #2898. 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. It was moved seconded (Boyd/Van Dyke) to proceed with hearing on case #2898 – Jaime Lim and case #2857 – Lim, First United Engineering and United Engineering, Inc.** For discussion, AAG Lozano suggested the Committee consolidate case #2898 and case #2857 into one hearing for administrative ease. The motion passed unanimously. It was moved and seconded (Boyd/Kent) to consolidate case #2898 and case #2857 into one hearing. There was no additional discussion. The motion passed unanimously.

#### 2903 – Mitchell J. Duryea

Duryea was issued a Notice of Intent on June 24, 2014, for the violation of OAR 820-010-0015(8) for failing to cooperate with the Board on several occasions. Mitchell James Duryea met with the Committee on August 14, 2014, in an Informal Conference for discussion of the proposed sanction for Duryea's case #2878. Duryea and the Committee reached a Settlement Agreement that Duryea would provide specific documentation, such documentation specified by Duryea, to the Board office by August 29, 2014, and the penalty would be abated, contingent upon timely provision of that documentation. Duryea did not submit all items on the list and therefore failed to meet the terms of the agreement, violating ORS 672.200(5) by failing to comply with a Board order and is subject to the civil penalty assessed in case #2878. Pursuant to the terms of Duryea's final order incorporating settlement agreement, his abated civil penalty of \$1,000 is now due and payable. Duryea was issued a *Notice of Intent to Enforce Assessment of Civil Penalty* on October 28, 2014. He submitted the Options form on November 17, 2014, and requested an Informal Conference, preserving his right to a hearing.

Duryea participated in the informal conference on February 12, 2015 by teleconference. Duryea claimed he has been cooperating with the Board by providing documents, corresponding with investigators and offering to visit the Board office in-person. AAG Lozano reminded Duryea that the Board proposes to enforce Duryea's assessed penalty of \$1,000 for failing to meet the terms of his settlement agreement. The Board had found Duryea to be in violation of OAR 820-020-0015(8) for failure to cooperate with the Board by obstructing its investigation and failing to provide the information and documentation by the deadlines provided on multiple occasions. In response, he asked the committee not to enforce the civil penalty assessed in case #2878 and, additionally to suspend any further investigation of him for engineering practice violations for six months, continuing investigation of him at the end of those six months only if evidence of new engineering practice violations surface. **The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on case #2903. 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. It was moved and seconded (Kent/Van Dyke) to proceed with a hearing on case #2903 – Mitchell J. Duryea.** There was no additional discussion. The motion passed unanimously. Duryea asked for the reasoning behind the motion. On behalf of the Committee, Kent responded by explaining that the Committee disagrees with his assertion that he complied with the Board. Although Duryea submitted some documents, the Committee found that he did not submit *all* items listed on the Settlement Agreement; thus failing to cooperate with the Board in violation of OAR 820-020-0015(8). Duryea explained that he continues to disagree with the violation of OAR 820-020-0015(8) – failure to cooperate. There was no further discussion.

#### 2868 – Shaun Martin

In prior Board law enforcement case #2750, Martin was found to have prepared a Professional Letter of Reference for an Army Corps of Engineers (ACOE) colleague who submitted a licensure application to the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects. Martin listed his occupation as an Oregon Civil Engineer and affixed a forged Oregon Professional Engineer embossed seal to the Letter of Reference. These acts constituted the professional practice of engineering without registration. The Board and Martin settled the case. The leniency of the sanctions on which the Board ultimately agreed was based, in large part, on Martin’s claims that the listed violations were the only ones he committed, that he committed them only because he was pressured to do so by a senior officer, and that he was already being harshly disciplined by the military, specifically that he had paid financially and had a permanent disciplinary letter in his military file.

A number of contrasting statements and evidence were submitted to the Board by the following: David A. Kaulfers, PE (VA), Martin’s hiring officer at ACOE; LTC Torry DiCiro of 555 Engineering Brigade; District Counsel for the Department of Army; and the Staff Judge Advocate for the Oregon National Guard. These correspondences indicated that Martin’s case may contain discrepancies and potentially false statements made by Martin, including that Martin had not been disciplined by the military as he alleged.

Upon further investigation, the Board found evidence that: on or about March 18, 2010, Martin provided his résumé to the ACOE, in which he reported under the category “Professional Registration, License and Military Skill Identifiers” that he had been registered with the Board as a PE since 2006 and as an EI since 2002, falsely representing an Oregon professional engineer registration number; during October and November 2010, a series of emails was exchanged between, among others, Martin and William Hossfeld, Supervising Administrative Engineer, East Bay Municipal Utility District (EBMUD). In the emails, Martin used a signature block that included the “PE” designation, falsely representing an Oregon professional engineer registration; And, prior to or about October 31, 2011, Martin submitted a Federal Engineer of the Year Award application to the National Society of Professional Engineers. In the application, Martin indicated that he held an Oregon PE registration #71822 that was issued in October 2006, again, falsely representing an Oregon professional engineer registration. He claimed to have later corrected the application and was awarded the USACE Federal Engineer of the Year Award as an EI.

The Board found that Martin provided false testimony to the Board, submitted a falsified résumé to the ACOE, used the PE designation without registration in his employment communications, and purported to be able to engage in the practice of a professional engineer without registration. The Committee discussed assessing a \$1,000 civil penalty for misleading

the Committee during informal conference and \$3,000 for falsely purporting or representing that he was authorized to practice engineering on three occasions. The Committee then determined to direct staff to issue a NOI to assess a \$4,000 civil penalty and a letter of reprimand for violations of ORS 672.020(1), ORS 672.045(1) and (2).

During the December 11, 2014 Committee meeting, the Committee and Martin, represented by Shauna Meyer, met in informal conference. Following review of the NOI, Martin answered various claims made by Kaulfers and DiCiro as described in the December 11, 2014 Committee meeting minutes, and stated that he would be willing to disclose documentation of his prior military discipline, except that it was confidential and would become a public record if he provided it to the Board. AAG Lozano clarified with Martin that he was proposing for the Board to either withdraw the NOI or reduce the civil penalty. Martin then asked the Board to issue the civil penalty for a “few hundred dollars” and an acceptable letter of reprimand, if it included language that would not prohibit him from taking the exam. After discussion and with the intent to follow-up on the statements heard during the informal conference, the Committee was not ready to settle the matter. AAG Lozano informed Martin that the delay would be Martin’s opportunity to seek a protective order for any confidential disciplinary records from the military, to then provide to the Board. Martin confirmed that a protective order would allow the Committee to review the records while also protecting his privacy. After further discussion, Martin and the Committee agreed to reschedule an informal conference for February 12, 2015. Martin was required to submit his information to Investigator Wilkinson by January 29, 2015. The Committee then directed Wilkinson to follow up on statements made by Martin during the informal conference.

Martin and attorney Meyer attended the informal conference on February 12, 2015 by teleconference. Included in the Committee packets were Martin’s military records, with information redacted, which were received from attorney Meyer in email correspondence to Investigator Wilkinson. This email explained that Martin/Meyer did not file a Motion for a Protective Order. Instead, attorney Meyer provided the military service records with information redacted. In the meantime, military authorities had indicated to Wilkinson and AAG Lozano that Martin’s disciplinary records were not confidential. Since the documents were heavily redacted, a FOIA request was submitted to the ORNG for copies of the records.

Martin reiterated that to settle the matter, he requests that Board to issue the civil penalty as “few hundred dollars” and would only issue a letter of reprimand if it did not include language that would prohibit him from taking the exam. **The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on case #2868. 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. It was moved and seconded (Boyd/Singh) to proceed with hearing on case #2868 – Shaun Martin.** There was no additional discussion. The motion passed unanimously.

**Staff update:** Meyer contacted the Board by submitting an Options Form on February 23, 2015, indicating Martin’s decision to not contest the Notice of Intent. As a result, the Board will have a Default Final Order for approval at its March meeting.

### **Cases Subject to OAR 820-010-0617**

Cases 2917 and 2918 were addressed earlier in the agenda because J. Kevin Shuba, attorney for John D. Rasberry, was present to discuss the allegations.

### 2917 – Thermal Energetics / OSBEELS

The Examinations and Qualifications Committee (EQC) met on October 10, 2014, to consider John D. Rasberry's Application for Registration by Examination. The EQC determined to refer Rasberry's company, Thermal Energetics, to the Regulation Department for evaluation. A case was opened on January 9, 2015 on Thermal Energetics, due to documents contained in the application for registration by John Rasberry indicating he was the Principal Engineer for the Thermal Energetics. Rasberry was initially registered with OSBEELS on 7/11/00, but his registration became delinquent on 12/31/02, then lapsed (no longer renewable) on 1/1/07 (ORS 672.170(4)). In his current application for (new) registration, Rasberry had made a request for a waiver of supervisory professional engineering references to verify his experience, which raised additional concerns of the unlicensed practice of engineering.

Rasberry described work that appeared to be the practice of engineering with Thermal Energetics on his application for the time period of March 2013 through the present (May 2014). Rasberry registered his company Thermal Energetics, LLC in December 2012 with the Oregon Secretary of State (SOS). Initial information reported by Rasberry on his Application for Registration as well as information provided by Mark Sodaro, PE, on the professional reference form, appeared to indicate that Thermal Energetics had offered/and or engaged in the practice of engineering; however, investigative staff reported that, after interviewing that reference, it appears the professional reference overstated the services Rasberry actually performed. J. Kevin Shuba, Rasberry's attorney, stated that Thermal Energetics has not completed any projects in Oregon. Shuba also claimed that any thermal imaging completed by Rasberry through Thermal Energetics was only to provide infrared images and the basic information on how to interpret the images, as Rasberry was attempting to gain expertise in the use of his camera. Staff reported that Thermal Energetics does not have a website or any marketing materials that have been identified nor does the business activity reported by Rasberry to the SOS Business Registry indicate that engineering services were offered. Shuba added that Rasberry does not intend to offer engineering services through Thermal Energetics until he has become registered as a professional engineer with the Board. Additionally, staff reported that Rasberry's use of the title "Principal Engineer" of Thermal Energetics on his email signature line may imply that Thermal Energetics offers engineering services. Shuba reported that Rasberry has corrected this error and asserted that the signature block was only used in correspondences to OSBEELS, describing the use as "inartful communication." He further claimed that the title was not provided on a company website or advertised to the public.

The Committee discussed whether Thermal Energetics was in compliance and if the case should be closed as compliance met, allegations unfounded, or whether a sanction should be assessed for violation of ORS 672.045(1) & (2) for the practice of engineering as defined in ORS 672.007(1)(a). Chair Kent clarified that there are two separate cases open, case 2917 – Thermal Energetics, LLC and case 2918 – John D. Rasberry. It was moved and seconded (Kent/Van Dyke) to recommend the Board close the case (2917) as allegations unfounded. There was no additional discussion. The motion passed unanimously.

### 2918 – John D. Rasberry / OSBEELS

The Examinations and Qualifications Committee (EQC) met on October 10, 2014, to consider John D. Rasberry's Application for Registration by Examination. The application and subsequent documentation received from Rasberry included his use of the title "Principal Engineer."

Rasberry was initially registered with OSBEELS on 7/11/00, but his registration became delinquent on 12/31/02, then lapsed (no longer renewable) on 1/1/07 (ORS 672.170(4)). In his current application for (new) registration, Rasberry used this "Principal Engineer" title on approximately nine instances, including in an email to Board staff on August 11, 2014. The EQC determined to refer Rasberry's application the Regulation Department for evaluation and case 2918 was opened on January 9, 2015.

Rasberry used the title of "Principal Engineer" on at least nine instances on his application (and in reference to his own company, Thermal Energetics) as well as one email to OSBEELS staff. After investigation, staff reported that there were indications that Rasberry provided engineering services to Mark Sodaro (as per Sodaro's professional reference found on the application); however, Shuba reported, this was an informal exploration of how Rasberry's infrared camera could aide in bridge inspections (during two trips where Rasberry accompanied Sodaro) and whether the technology could be used to determine section loss. When Sodaro completed the professional reference, he was indicating that he had knowledge of Rasberry's engineering work for the time period of July 2013 to present (June 2014). In addition, the experience summary reported by Rasberry on his application, verified by Sodaro, also indicated that Sodaro had personal knowledge of approximately one year of Rasberry's engineering work, working with him (Sodaro) from March 2013 to May 2014. When staff asked Sodaro for clarification during investigation, he clarified that, in fact, Rasberry had only participated in approximately two hours of project work with Sodaro (April 2013 and April 2014), that Rasberry was not actually performing engineering work on those projects, but only obtaining thermal images with Sodaro.

The Committee discussed whether or not to direct staff to close the case as compliance met if the Committee accepts Shuba's claim that Rasberry has taken the steps to correct his use the engineer title and if Rasberry offered and/or engaged in the practice of engineering through the repeated use of the engineer title. The Committee further discussed whether any action should be taken regarding Sodaro's professional reference for Rasberry for failing to provide true and accurate statements, as well as Rasberry's description of his experience details regarding his work with Thermal Energetics, LLC, on his application. Van Dyke noted that this was not Rasberry's first application with the Board, so he should have known better. Mr. Singh expressed concern with the discrepancies in the statements provided by Sodaro and the actual work done by Rasberry. It was moved and seconded (Van Dyke/Singh) to issue a NOI to assess a \$250 civil penalty for the untruthful statements made on Rasberry's application in violation of OAR 820-020-0025 and issue a letter of concern to regarding Rasberry's use of the title "engineer" while unlicensed. There was no additional discussion. Mr. Kent opposed. The motion passed by majority vote. It was moved and seconded (Van Dyke/Singh) to close the matter on the proposed practice violation as allegations unfounded. There was no additional discussion. The motion passed unanimously. It was moved and seconded (Boyd/ Singh) to issue a letter of concern to Sodaro regarding the discrepancies found in the professional reference he completed for Rasberry's application. For discussion, the Committee revisited the statements regarding the experience in question by made Sodaro on the reference form. Staff explained that Sodaro was later contacted and he clarified that the experience in question was not the practice of engineering but did include two visits where engineering was discussed; which was much less time, and very different duties, than the amount of time and type of duties Sodaro verified on Rasberry's application. Mr. Kent opposed, having voiced an opinion that a letter of concern was too lenient. The motion passed by majority vote.

## Overview of Cadastral Surveys

Sue Newstetter provided a brief overview of cadastral surveys. Newstetter provided the overview for the non-PLS Board members and the AAG to aid the members in their understanding of the Public Land Survey System (PLSS). She distributed excerpts from the BLM *Manual of Surveying Instructions* and discussed how the Generalized Diagram of the Rectangular System of Surveys explains a Township Grid and the normal subdivision of sections, areas, and calculated distances.

## 2827 – Ronald McKinnis / Stephen Haddock

On January 28, 2013, the Board received a complaint from Stephen K. Haddock, PLS, CFedS, Morrow County Surveyor, regarding Ronald V. McKinnis, PLS, PE, CWRE. Haddock submitted a series of exhibits that are best summed by his requested remedy: “Correction of violations of 209.250(1). Two surveys have not been filed: one for 2 plus years and one for more than 8 years.” Haddock raised concerns regarding a multiple surveys, which included surveys of John and Karen Patterson’s property, Morrow County OHV Park, Boardman Rural Fire Plat, and a Port of Morrow Plat.

First, the Committee discussed the Patterson survey and related-information contained in the case summary. Staff reported that McKinnis stated in his narrative on the Patterson map that he was establishing the aliquot parts to properly subdivide the section. Staff indicated that was true, but a review of his map shows the Patterson property is along a Range Line with government lots, not aliquot parts, in the affected sections. McKinnis subdivided the section using the rules for a standard section and not by the parenthetical distances determined by the plat, for a lotted section. In addition, a review of Mr. McKinnis' narrative indicates that he alternately held and rejected some of the same forms of evidence at different corner locations. Wilkinson pointed out that 1973 Manual at paragraph 5-21 was in force at the time of the survey. McKinnis also refused the direction of the County Surveyor to correct his survey and seemed to have failed to file either a map of survey or the required corner certificates. With this allegation, Haddock pointed out that McKinnis was offered guidance by former County Surveyors Coppock and by Haddock since McKinnis began struggling with the survey in December 2006. On at least two occasions, McKinnis met with Coppock who informed McKinnis that he was not using proper *Manual* methodology. Coppock determined McKinnis was “not in compliance,” refused to file the map(s), but did not notify the Board. McKinnis dismissed the advice, rejected the procedures contained in the *Manual*, and did not return correct maps until Haddock took office. McKinnis carried forward the same conflict with Haddock, who brought forth the issue to the Board.

The investigation revealed that McKinnis produced three generations of Patterson maps of survey. The first map showed a survey date of December 2006 and a revision date of February 10, 2007. The second map has a survey date of January 2007 and a revision date of August 20, 2012, while the third map indicates a survey date of January 2007. It was filed as map #1701 on April 14, 2014. McKinnis had explained that the property was once under the ownership of the Kinzua Timber Company. Sometimes, McKinnis accept Kinzua placards as evidence; however, Kinzua employees were often not licensed surveyors, and were simply placing company placards to mark timber cuts, not necessarily placing surveying tags to mark surveyed boundary lines.

The Committee discussed whether it found that McKinnis failed to restore the conditions of the original survey by not developing all original and collateral evidence. Wilkinson provided

a chart noting the 45-day filing requirements under ORS 209.250(1), 30-day return requirements under ORS 209.250(4)(a), and 45-day corner certification filing requirements under ORS 209.250(9), indicating 45-day filing violations. Wilkinson reminded the Committee that on December 11, 2014, the Committee discussed the 30-day requirement and found “*that survey maps were submitted to the County Surveyor with ensuing discussions. If it was just a discussion, then the requirement to submit a map for filing was not fulfilled.*” Wilkinson suggested, based on McKinnis comments, that the maps were sometimes submitted as “progress maps” that also reflected the difficulty he had completing the surveys. Furthermore, records are lacking to evidence the exchanges between McKinnis and Coppock. The Committee then discussed if McKinnis failed to file the map of survey and corner monumentation records in violation of ORS 209.250(1), and ORS 209.250(9).

The Committee next discussed the Morrow County OHV Park survey Haddock submitted a review letter for the OHV Park survey on April 22, 2013. While the OHV Park survey was at the center of the initial complaint, two other example surveys were provided over which Coppock and/or Haddock disagreed with McKinnis (Boardman Rural Fire Protection District Partition Plat 2012-2007 and Port of Morrow Partition Plat 2012-08/Heppner or Kinzua Plat). The Committee reviewed the information collected by Wilkinson on the surveys.

The Committee reviewed the case in detail and determined that, based on the information provided, McKinnis was negligent or incompetent on all four surveys, failed on four accounts to follow the BLM manual, even after being directed to do so by two County Surveyors, that he failed to file corner monuments, and that he failed to file maps of surveys within 45-days on three accounts. Chair Boyd expressed that, in his opinion, McKinnis’ actions are serious violations. Wilkinson added that it appears McKinnis was especially combative with the direction provided by Coppock on the Patterson survey. It was originally moved and seconded (Boyd/Kent) to issue McKinnis an NOI to assess a \$7,000 civil penalty for 7 violations, but after reviewing each violation as it pertains to each survey, the negligence or incompetence, and the county surveyor corrections McKinnis refused to make, Chair Boyd amended the motion to issue McKinnis an NOI to assess an \$8,000 civil penalty for 8 total violations of ORS 209.250(1) and (9), ORS 209.200(3), OAR 820-020-0020, and OAR 820-030-0060. The motion passed unanimously. There was no further discussion.

#### 2841 – Joseph Sturtevant / John Duval

On February 19, 2014, the Board received a complaint form from John Duval, stating that Joseph A. Sturtevant was offering engineering services through his firm’s website [www.surface-tech.com](http://www.surface-tech.com). As evidence, Duval submitted screen shots of the website, dated February 17, 2014, with his complaint. Duval checked the OSBEELS website and found Sturtevant’s license status to be delinquent. On March 17, 2014, a case was opened with Sturtevant as the respondent and a respond to allegations letter was sent on March 18, 2014. A search of the OSBEELS database shows that Sturtevant’s license status became delinquent on July 20, 2010, and remained so until June 2, 2014. In reviewing his file, Investigator Abrams found that Sturtevant paid the fees associated with renewal on July 21, 2011, but failed to properly document his CPD for the previous biennium. Effective with the June 30, 2011 renewals, registrants were required to submit the CPD Organizational form to certify completion of the required professional development hours, along with their renewal for active status. Abrams reported that Sturtevant’s failure to submit the CPD Organizational form resulted in his delinquent status. Subsequently, he did provide the necessary CPD documentation.

An email was received from Sturtevant on June 13, 2014 which read, *“I was granted a renewal of my PE license with OSBEELS. Given that I have addressed the basis of Mr. Duval's complaint, I am requesting that the investigation of the complaint be abandoned. If there is anything else I need to address to assist with the complaint dismissal, please notify me. Thank you for your consideration.”* The OSBEELS database now shows that Sturtevant’s registration is in active status with an effective date of June 2, 2014, set to expire on June 30, 2016.

On August 20, 2014, Sturtevant sent an email detailing his activities during the time of his delinquency with three Surface-Tech invoices attached. He described working in sales for Contech Engineered Solutions from 2009 to 2011 and AllianceGeo / Forta- Fi from May 2011 to July 2013, becoming president of Surface-Tech in August, 2013. Abrams reported that both of his previous firms, before Surface-Tech, are large employers with multiple PE’s on staff. The Surface-Tech invoice dated June 30, 2014 detailed the period from March through June 2014 and does not appear to contain engineering services performed by Sturtevant, although he signs the invoice “PE.” The others were dated July 15 and July 31, 2014, and did not contain any references to the period where Sturtevant was delinquent, nor do they appear to detail engineering services rendered. Peterson also reported that on October 8, 2014, Sturtevant sent two examples of marketing materials from Surface-Tech which lack the term engineering, but may indicate Sturtevant’s offering to perform engineering services while his license was in delinquent status.

During the December 11, 2014 Committee meeting, the Committee determined that more information was needed regarding Sturtevant’s work between March 2014 and June 2014. Staff contacted Sturtevant who explained that from March 2014 to June 2014 he was employed as a project manager with DR Horton. Investigator Peterson informed the Committee that DR Horton appears to be a company that builds residential homes in the Portland Metro area. Peterson provided a summary of Sturtevant’s responsibilities as project manager. Sturtevant explained that Surface Tech did not have the funding to keep the business operating during the time period. Sturtevant left DR Horton in June 2014 to help run Surface-Tech when there was funding to begin operations again. According to staff’s evaluation, Surface-Tech offered engineering services during the time Sturtevant’s registration was in delinquent status (July 20, 2010 – June 2, 2014), in violation of ORS 672.045(1) and (2); reports also indicated that he experimented with asphalt fiber treatments, performed extensive research and development, and worked with testing labs relating to asphalt fibers. The Committee was asked to discuss whether this constitutes the act of performing engineering as defined in ORS 672.005 (1) (a) and (b) and whether Surface-Tech (as a company) may be in violation of OAR 820-010-0720.

AAG Lozano noted, however, that in Sturtevant’s response to allegations letter, sent March 18, 2014, he wrote that Surface-Tech employed a licensed engineer during the timeframe in question. As a result of Sturtevant’s response to the respond to allegations letter sent on March 18, 2014, the Committee directed staff to conduct further investigation, specifically relating to the Sturtevant’s claim that Surface-Tech employed a licensed engineer during the time frame in question. There was no further discussion.

#### 2858 – Kenneth Delano / OSBEELS

On July 7, 2014, the Board received a complaint from Stephen Haddock, PLS, Morrow County Surveyor, regarding a survey by Kenneth Delano, PLS, for a proposed boundary adjustment in the City of Heppner. Haddock wrote, “This complaint is required by ORS 209.250(4)(c).” He included eleven survey projects that were each discussed in turn.

Haddock summarized his concerns with the Willow Creek survey by observing: 1) the map fails to provide the record data required by ORS 209.250(3)(e); 2) it should indicate in the narrative and on the plat that this survey is within a recorded subdivision; 3) it should show the data and explain how the perpetuated "best fit" would control, particularly since it may affect the other areas in this subdivision; and, 4) he should submit the survey for recording. After further exchanges, the Willow Creek map was submitted for filing on July 7, 2014, but it was not corrected to resolve the outstanding questions. As a result, the Committee determined to assess a \$250 civil penalty for both failing to file within 45 days (ORS 209.250(1), OAR 820-030-0060) and for failing to return a corrected map within 30 days (ORS 209.250(4)(b)), a \$1,000 civil penalty for failing to explain in his narrative how the boundary lines or other lines were established or reestablished (ORS 209.250(2)), and a \$1,000 civil penalty for failing to indicate measured bearings, angles, and distances that were used as a basis for establish or reestablishing lines or monuments (ORS 209.250(3)(e)). The Committee had additional questions for the investigator to follow-up, including securing copies of field notes for this survey.

Haddock noted a Delano survey that was done to locate a portion of the existing and proposed new right-of-way for Morrow County Road #598, Kunze Road. A surveyor had discovered Delano monuments that were unassociated with any filed survey. Delano informed Haddock that he had completed a "pre-survey map" in June 2006 and submitted the survey to former Morrow County Surveyor McKinnis, yet the map was not filed. As a result, the Committee determined to assess a \$250 civil penalty for failing to file within 45 days and \$350 for failing to file corner certificates (ORS 209.250(9)).

The third survey the Committee reviewed was done at the request of the Morrow County Public Works Department to locate, monument, and mark the Cutsforth Park boundary. Delano completed the survey completed on August 1, 2012, which was filed on December 21, 2013. A field check revealed that one of the monuments had a plastic cap marked LS 848 (Douglas Ferguson, PLS) and the other not capped, but associated with Ferguson. As a result, the Committee determined to assess a \$250 civil penalty for failing to file within 45 days and \$750 for failing to properly mark monuments of record (ORS 209.250(8)).

Morrow County Public Works Department requested a survey to locate and monument the proposed right-of-way at the intersection of Morrow County Road No. 504 and Oregon Highway 207 (Turner Road). Delano reported that the field work was performed in April 2001, claimed it was filed in June or July 2001, but the only indexed (filing accepted by County Surveyor and numbered) map of survey for the project was filed on February 17, 2011. There were questions regarding whether the County Surveyor or Public Works had may have received an earlier copy of the map that was not subsequently indexed, due to the County Surveyor practices in Morrow County at the time. As a result, the Committee found no violations.

Port of Morrow requested a survey to monument the centerline of the Boardman Airport. Upon Committee review of ORS 209.250(1), they determined that a filing is required "wherein the surveyor establishes or reestablishes a boundary monument." In this instance, the monuments set were to delineate the runway centerline and not a boundary. As a result, the Committee found no violation.

James D. Ward requested that Delano locate a proposed boundary line adjustment. The survey was completed December 21, 2010, but the map of survey was not filed until 58-days later on February 17, 2011. As a result, the Committee determined to assess a \$250 civil penalty for failing to file within 45 days.

The Morrow County Public Works Department requested a survey to delineate the proposed right-of-way for the realignment of Bombing Range Road and Kilkenny Road at their intersection with Oregon Highway 207. The survey was revised on April 22, 2009, but the map of survey was not filed until March 4, 2014. Haddock wrote a letter to the Board explaining that the Morrow County Survey Index shows that Ferguson completed the survey in 2002 and filed corner certificates in 2003. As a result, the Committee determined to assess a \$500 civil penalty for failing to file within 45 days.

Elsie Brunch, GIS Senior Analyst, Oregon Department of Revenue, emailed Haddock an inquiry about a survey for right-of-way acquisition & intersection improvement. Haddock discovered that the survey was done to acquire additional right-of-way for the construction of the Spring Hollow replacement bridge because the original bridge was deemed a historic structure. It was made into a wayside attraction. Survey work was allegedly completed in October 2011, but a Delano "Right-of-way Sketch" was dated June 13, 2011. A filed map of survey showed monuments "to be set," but they had not been set after a field check. Singh noted that the purpose of the Sketch, the intent of the "to be set" statement, and whether the project went through with the additional right-of-way was not clear. As a result, the Committee determined to assess a \$500 civil penalty for failing to file within 45 days.

This survey was done to locate the existing right-of-way and to locate and monument the right-of-way as required for improvements to Morrow County Road #630, Juniper Road. The survey was allegedly completed in October 2002, but a map of survey was not filed June 14, 2014. As a result, the Committee determined to assess a \$500 civil penalty for failing to file within 45 days.

The City of Burns wanted to revise the layout to selected portions of their cemetery. Due to an increase in scope and budget problems, the final drafting of the plat was not completed. As a result, the Committee determined to assess a \$750 civil penalty for failing to file within 45 days.

The last survey discussed was for the Morrow County OHV Park. Delano was responsible for surveying a portion of the south boundary line, which is a Township line that forms a portion of the boundary between Grant and Morrow counties. The survey offered challenges because there are senior/junior corners along that boundary with line trees shown on the original plat. Delano and the County Surveyors held discussions over the appropriate methodology. In addition, concerns were found regarding the differences in distances between the McKinnis and Delano surveys. Upon Committee review of these and other factors, including communications from the Bureau of Land Management (BLM), they determined to set aside the Morrow County OHV Park survey and to request the assistance of a professional reviewer.

Also during the investigation it was discovered that Delano's professional land surveying seal was not in compliance with OAR 820-010-0620. Delano immediately corrected his seal design; however, he used the incorrect renewal date on nine filed maps. As a result, the Committee determined to issue a \$250 civil penalty.

In sum, it was moved and seconded (Boyd/Kent) issue Delano a Notice of Intent to assess a total civil penalty of \$6,600. The motion passed unanimously. Van Dyke and Kent noted a pattern of not filing that occurred for over a decade. They also asserted that since he had been a County Surveyor there was an expectation of a higher standard of practice. The Committee discussed suspending Delano's license for a period of time. It was then moved and seconded (Boyd/Singh) to include a 90-day suspension of Delano's professional land surveyor registration in the NOI for the violations described above. The motion passed, Kent dissenting.

There was further discussion about the \$250 for unfiled surveys, which is a departure from the Board's prior practice. Lopez noted that the Board takes the issue of unfiled maps very seriously. Kent replied that this case presented a spectrum for the amount of time between survey and filing. Boyd agreed observing that the harm done from the failure to file for a few months is less than if there was a failure to file for years. He stated the longer the wait the more opportunities there are to find unfiled survey monuments. Kent clarified that the assessed penalty of \$250 was due to a shorter length of time that the filings were delinquent.

#### 2877 – Judson L. Coppock / OSBEELS

During the investigation of case #2827, Ronald McKinnis, PLS, the Board became aware of potential violations of ORS 209.250(4) by Judson Coppock, PLS, who at the time was the Morrow County Surveyor. The concerns included his failure to notify OSBEELS regarding a survey map not being corrected within the specified time period and failure to accept map submissions for review while holding the office of Morrow County Surveyor. Coppock explained the details of the McKinnis survey for the Patterson property by recalling that McKinnis brought a survey map to him for a "quick look over" sometime around January 2007. Coppock told McKinnis that he needed a better description of the evidence he was showing as found and holding. In a second attempt with a map revised on June 29, 2008, Coppock spoke with McKinnis and identified a number of issues, including that McKinnis subdivided the section as aliquot parts and not as the original, platted Government Lots. This was contrary to the BLM *Manual of Surveying Instructions*. McKinnis said he would submit a revised copy for review. The last attempt was a map revised on August 20, 2012. Coppock noted that McKinnis found stones and private location tags that were not described, among other concerns. He reiterated that the section was not properly subdivided per the *Manual*. Coppock never received back a corrected map before his term ended as the Morrow County Surveyor. McKinnis eventually filed the survey with Morrow County Surveyor Stephan Haddock, PLS, on March 21, 2014.

In response to Board inquiries, Coppock explained his poor record keeping regarding exact dates of submittals. He emphasized that Morrow County had not maintained a log of submitted surveys. He also stated he did not forward his concerns to the Board about McKinnis because of political issues. In addition, the ongoing conflict between Coppock and McKinnis led Coppock to inform McKinnis that he would remove himself from reviewing and approving his partitions and subdivisions. Coppock would file plats after recording and file surveys as required. He directed McKinnis to use a County Surveyor from another county to conduct reviews. Coppock asserted that ORS 209.250(4)(e) protects him for refusing to file the McKinnis maps of survey.

On June 9, 2014, the Board received an opinion from Senior Assistant Attorney General Katharine Lozano titled "OSBEELS Authority over County Surveyors." The opinion was subsequently released to James Elam, PLS, interim President for the Oregon Association of County Engineers and Surveyors (OACES). It confirmed that the Board has the authority to discipline a county surveyor who fails to comply with ORS 209.250(1) through (9), including a county surveyor who:

- 1) Fails to determine whether a map submitted to that county surveyor for filing complies with ORS 209.250(1), (2) and (3) within 30 days of receipt;
- 2) Determines that a map submitted for filing complies with ORS 209.250(1), (2) and (3), but fails to index that map within 30 days of determining it compliant;

- 3) Determines that a map submitted for filing does not comply with ORS 209.250(1), (2), or (3), but fails to return that map to the submitting surveyor within 30 days of receipt for correction; or,
- 4) Fails to forward to the OSBEELS a map the county surveyor has returned to a professional land surveyor for correction, when those corrections were not made within 30 days of the county surveyor's return of the map.

The opinion also asserts the Board's authority to discipline a county surveyor under ORS 672.200, including for negligence, gross negligence, or incompetence in the county surveyor's exercise of judgment in determining whether a map submitted for filing complies with ORS 209.250. The Committee discussed aspects of the AAG memorandum.

Investigator Wilkinson offered that either the Patterson survey map was compliant and should have been filed, or that it was not and Coppock was correct for not filing. AAG Lozano agreed, but observed that it was not forwarded to OSBEELS as per ORS 209.250(4)(c). Boyd suggested issuing a letter of concern. Van Dyke asked about the violation. After AAG Lozano read the statute, Boyd noted that it was clear about county surveyors' duty. Van Dyke observed that Coppock informed McKinnis of the problems, but did not notify the Board. He continued that since Coppock did not inform the Board it allowed the conflict and the filing problems to fester for a number of years.

Van Dyke also recalled that Coppock refused to review McKinnis surveys. Wilkinson replied that was true due to their combative relationship. Coppock informed McKinnis that he had removed himself from the review and approval process. He would continue to file plats after recording and file surveys as required, but McKinnis would need to use a County Surveyor from another county for review and approval. Van Dyke contended that a letter of concern was insufficient because Coppock contributed to the very serious Morrow County land surveying process problems by not sending the matter to the Board.

The Committee reviewed ORS 209.250(4)(a) and noted that Coppock was not accepting McKinnis maps for review. Lozano clarified that reviewing a map for compliance under (4)(a) is a different function and requirement than the act of recording a map that does comply (4)(d), or refusing the file a map that does not comply (4)(e). Rather than forwarding McKinnis and the map to the Board under ORS 209.250(4)(c), Kent concluded Coppock violated ORS 209.250(4)(a) by refusing to perform reviews. The remaining question was whether failing to forward non-compliant maps is a separate violation from failing to review other maps. Singh noted that the conflict could have been stopped at an earlier stage had Coppock submitted the matter to OSBEELS. Upon review of the civil penalty factors, the Committee determined to issue a Notice of Intent to assess a \$1,000 for violating ORS 209.250(4)(a) and a \$1,000 civil penalty for violating ORS 209.250(4)(c) (Kent/Singh). The motion carried, Boyd dissenting.

#### 2886 – Dan Saltzman / Russell A. Lawrence

On May 20, 2014, the Board received a complaint form from Russell A. Lawrence, PE, PLS, CWRE, stating that Portland City Commissioner Dan Saltzman falsely represented himself as an environmental engineer. His complaint contained as evidence a page from the Official Clackamas County 2014 Primary Election Voters' Pamphlet where Saltzman listed "*Environmental Engineer*" under the section labeled "*Occupational Background*". Staff reported that a search of the OSBEELS database does not show Dan Saltzman as a registrant of any kind; thus resulting in violation of ORS 672.007(1)(a) and ORS 672.045(2). The Committee discussed whether sending a Letter of Concern to Saltzman is appropriate or if a sanction should be

assessed considering the civil penalty factors. Investigator Peterson provided the Committee with Saltzman's responses. She also reported that Saltzman went on to state that he holds a B.S. in Environmental and Civil Engineering from Cornell University, a M.S. from the MIT school of Civil Engineering and is a member of the American Society of Civil Engineers. Peterson contacted Saltzman in order to determine if he was (or had been) registered as a professional engineer in any other jurisdiction. Kent was concerned that Saltzman was gaining credibility based on the use of "environmental engineer" listed in his occupational background, when he is not, in fact, an Oregon registrant. It was moved and seconded (Boyd/Van Dyke) to close the case with a letter of concern to Saltzman for his incorrect use of the term "environmental engineer" in violation of ORS 672.007(1)(a) and ORS 672.045(2). There was no additional discussion. The motion passed unanimously.

### 2891 – Urban Robotics / OSBEELS

The Board opened a case in June 2014, regarding the allegation of the unregistered practice of engineering, land surveying, and photogrammetry by Urban Robotics, Inc. Investigator Peterson reported that the website for Urban Robotics offered aerial photogrammetry, mapping and surveying, and engineering services. In addition, staff (including the management team) was given the "Engineer" title without registration as a professional engineer. A respond to allegations letter was sent on June 3, 2014, to Geoffrey Peters, CEO and Registered Agent for Urban Robotics. Peters submitted a response on July 7, 2014, in which he claimed exemption from ORS 672.002 to 672.325. Peters stated that Urban Robotics is a U.S. Department of Defense subcontractor and is exempt under ORS 672.060(16) and (17). Peters stated that over 99% of the business income from Urban Robotics comes from the Department of Defense and the remaining <1% comes from other sources for software engineering development of software tools. Peters stated that the company produces photogrammetric software and not photogrammetric services. Peters stated that their engineers are software engineers and claimed the website was modified to reflect that. The remaining products offered by Urban Robotics are for the development of sensors and software algorithms to be sold to other companies that would be responsible for creating end products that would need to be certified by a licensed professional.

Peterson reviewed the website on July 8, 2014, and again on July 25, 2014, and observed the revisions referred to by Peters; however, references to engineers and engineering services continued to be found on the following sections on the website: Management & Technical Team, Products and Services and Engineering Philosophy. Peterson suggested that although staff titles were revised (i.e. "Mechanical Engineer" to "Mechanical Design Sleuth") the position description continued to describe the company as "...an established defense engineering firm... with a proven team of exceptionally talented, passionate, and motivated engineers..." In addition, on the home page for Urban Robotics, the company continues to include "services for rapidly generating large mapping and modeling datasets" as well as "Rapid 3D Image Processing." Peters has argued that they offer exempt software engineering services (independent of any military exemption); however, Peterson suggested to the Committee that it does not appear that photogrammetric mapping would be exempt, as it is not exempt in and of itself, as Additionally, these photogrammetric mapping services were also purportedly provided by Urban Robotics, evidenced by the "Dream Jobs 2010" article which had been referenced on the Urban Robotics Home page until it was removed in September 2014. Although the project highlighted in the article was reported by Peters to be exempt because it was a military project,

the article conveyed the type of services offered by the company to include “...*orthorectified maps which can be used to measure true distances...*,” and the article was used for advertising and purporting to the general public, not a military-only audience. Peters further claimed that it had been removed because it contained factual mistakes and did not reflect the view of the company; however, the link to the article was found on the Home page of the website for Urban Robotics since at least December 2010 (according to internet archives) with no disclaimers. Peterson informed the Committee that, according to the informational page on the Urban Robotics website for TerraFlash Orthophoto Processing Software, prospective clients can purchase the Service or the System. A Service package indicates that “*Urban Robotics provides all processing, maintenance, and data hosting.*” Peterson suggested this indicates that the company offers all image processing and the creation of orthorectified maps to clients who elect to purchase a Service package. A March 2012 recruitment for a GIS intern through Oregon State University was also posted by the company. Although the website for Urban Robotics identifies primarily U.S. Government Agencies as their customer base, the services offered on the website for Urban Robotics, does not exclude private companies, Peterson concluded. The Committee discussed if Urban Robotics has adequately addressed the allegations through the revision of the website and if compliance is met, or whether the website continues to suggest that engineering and photogrammetric services are offered to the public and not isolated to federal agencies or their contractors. On February 12, 2015 the Committee opened the website and reviewed it. Peterson reminded the Committee that some items have been updated, but the website in its entirety still contains instances of non-compliance. It was moved and seconded (Boyd/Kent) to issue a NOI to assess a \$1000 civil penalty for falsely offering engineering services in violation of OAR 820-010-0720, ORS 672.020(1) and ORS 672.045(2). There was no additional discussion. The motion passed unanimously.

#### 2899 – Robert L. Sanders / OSBEELS

On June 27, 2012, the Board received a signed renewal form from Robert L. Sanders, PE, certifying that he completed the required Professional Development Hour (PDH) units. Sanders was requested in a January 28, 2014, letter to participate in the audit of documentation to support the PDH units he claimed as a condition of the last biennial registration period, July 1, 2010 to June 30, 2012. That letter was returned as unable to forward on February 3, 2014. A second letter was sent on March 10, 2014, and a final notice was sent on March 31, 2014, certified, but was not signed for and was returned on April 7, 2014, unable to forward. All three of these letters were sent to the same home address listed in the OSBEELS database; however, On July 1, 2014, Sanders submitted an updated home address to the Board during his 2012 renewal, but his address was never updated in the OSBEELS database, in an apparent clerical error. In addition, CPD audit requests were never sent to his work or email addresses, both of which were correct in the OSBEELS database. As a result, Sanders never received his CPD audit requests. Once his address was corrected in the database and he was contacted with regard to his CPD audit, Sanders immediately attained compliance with regard to his CPD audit. Through general consensus, the Committee determined to close case #2899 as allegations unfounded due to the apparent clerical error made by OSBEELS. There was no additional discussion. The motion passed unanimously.

#### 2900 – David L. Sorensen / OSBEELS

On August 25, 2014, the Board's Registration Department generated a memo to Regulation Department detailing a potential violation of OAR 820-010-0730 regarding David L. Sorensen. Sorensen completed a reference form for OSBEELS applicant Garrett L. Headrick wherein he referred to himself as "*Chief Engineer*" and "*PE.*" In addition, Sorensen is listed as "Chief Engineer" on his firm's website: [www.climaxportable.com](http://www.climaxportable.com). Sorensen is licensed as a PE in Utah and he does indicate this on his firm's website. Abrams reported that Sorensen's Utah registration is set to expire on March 31, 2015 and he has no history of discipline in Utah or on the NCEES database. Abrams explained that Sorensen used the title of engineer without indicating the state of licensure on correspondence to OSBEELS, in violation of ORS 672.007(1)(a), and OAR 820-010-0730(1). Abrams reported that Sorensen modified his title on the website to indicate the jurisdiction where he was actively registered. The Committee discussed potential remedies to Sorensen's use of the term "*Chief Engineer*" and "*PE*" on correspondence to OSBEELS; Sorensen's supervisor claims Sorensen is exempt from Oregon registration engineering, citing the exemption in ORS 672.060(6). The Committee discussed if this is indeed the case, or if OSBEELS should further investigate Climax Portable as a respondent. It was moved and seconded (Van Dyke/Singh) to close case #2900 as compliance met due to the correction made to Sorensen's title. There was no additional discussion. The motion passed unanimously.

#### 2908 – Paul G. Scott / Shelly Marie Clark Duquette

On September 4, 2014, the Board received a complaint regarding Paul G. Scott from Shelly Marie Clark Duquette PE/SE of the City of Portland, Bureau of Development Services. Duquette's complaint stated that plans submitted by Scott for permit were sealed with a Structural Engineering seal and Scott is not registered in Oregon as a Structural Engineer. Evidence submitted with the complaint included partial copies of a plan set which included the Structural Engineer seal used by Scott. Pursuant to OAR 820-015-0010, the Committee completed a preliminary review of the complaint on October 22, 2014, and determined to open a case; which was opened on October 27, 2014, and a respond to allegations letter was sent to Scott. On this same date, Peterson contacted Duquette and she clarified that the plan set was not for a significant structure and did not require a Structural Engineer (SE). Scott submitted a written response on November 12, 2014, stating that he used the correct seal on all engineering projects in Oregon until February of 2013. Scott provided a list of jobs completed from February 2012 to October 2014, along with a copy of the client contract for each project. There were seventeen jobs of which none required the stamp of a SE. Scott offered an apology and stated that he was working to correct the issue by applying for his SE registration in Oregon and using the proper seal until his registration was approved; he submitted a copy of the revised seal that he claims to be currently using on November 21, 2014. Peterson reiterated that Scott is licensed as a structural engineer (SE) in the state his company is based in and was under the [false] impression that he was also a licensed SE in Oregon as well.

Chair Boyd expressed that this is a significant error. Kent pointed out that Scott appears to have started using the SE seal in 2012 and wondered why this began in 2012 if Scott was originally licensed in 1985. Lopez noted that Scott was denied a SE registration by comity in Oregon and was only approved for Civil PE registration. Singh had similar concerns and questions if Scott had a project that required an SE seal. Through general consensus, the Committee directed Peterson to further investigate case #2908 to determine why Scott changed to an SE seal in February 2012. The Committee further directed Peterson to obtain a list of

projects he participated in in 2012 and five years prior to February 2012, and to select a random sample of projects to request project documentation. The documentation was to include the scope of Scott's responsibilities, client information and project date. There was no further discussion.

#### 2909 – Jesse Davis / Brian Barnett

On July 28, 2014, the Board complaint from Brian F. Barnett, PE for the City of Springfield alleging that Jesse Davis, who is an employee at Signal Construction Group, LLC, used the title of "Engineer" in his signature block on his email and he was not registered as a professional engineer with the Board. Pursuant to OAR 820-015-0010, the Committee reviewed the preliminary file on October 22, 2014, and determined to open a case regarding the matter. The case was opened on October 27, 2014 and a respond to allegations letter was sent, which Davis responded to on November 4, 2014. Peterson reported that when Davis was contacted, he promptly changed his title on his signature line to "Project Manager," evidenced through his email correspondence with Board staff. Also, the website for Davis's employer gives him the title of "Electrical Estimator." Although Davis's position description indicates the possible need for knowledge of the engineering sciences, he clarified that his employer does not produce design documents, nor is he responsible for their review. Peterson confirmed that Davis's duties are consistent with that of a Project Manager for a construction company. The Committee discussed if Davis has met compliance with the use of the "Engineer" title and if his responsibilities do not include the practice of engineering. It was moved and seconded (Boyd/Kent) to close case #2909 as compliance met. For discussion, Kent added that he has no additional concerns with Signal Construction Group, LLC. The motion passed unanimously. There was no further discussion.

#### 2916 – Corey Westermann / OSBEELS

On June 30, 2014, the Board received a signed renewal form from Corey Noah Westermann, certifying that he completed the required Professional Development Hour (PDH) units. Westermann was requested in a July 28, 2014, letter to participate in an audit of documentation to support the professional development hour (PDH) units required as a condition of the last biennial registration period (July 1, 2012 to June 30, 2014). Westermann did not respond. A second notification letter was sent to the same address of record on September 8, 2014 and Westermann did not respond. A final notification letter was sent to the same address of record on September 30, 2014, via certified mail. Signature verifying receipt of the final notification letter was dated October 4, 2014 and Westermann did not respond. Westermann responded to the Account Specialist's fourth attempt to contact him; however, he stated he was not able to provide documentation because his external hard drive had crashed and he was in the process of moving. After a case was opened, Westermann further responded to the Regulation Department that he no longer had any electronic documentation to support his CPD. The Committee discussed if Westermann failed to cooperate with the Board by not responding to three attempts to gain his participation in an audit and if he failed to comply with the CPD requirements for the audit period. It was moved and seconded (Singh/Kent) to issue a NOI to assess a \$1,500 civil penalty and a 60-day suspension of Westermann's professional license for violation of OAR 820-020-0015(7) and (8) and OAR 820-010-0635. This is consistent with the CPD Penalty Matrix established by the Committee. There was no additional discussion. The motion passed unanimously.

#### **Disclosure of Disciplinary Action (Information received pursuant to OAR 820-020-0045(4))**

### William M. York

On October 28, 2014, the Board received a letter from William M. York informing the Board of a recent discipline taken by the Colorado Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors (Colorado Board) against York for failing to renew his professional engineering license. During the delinquency, the Colorado Board found that he performed engineering on a residence. He reported that his license has since been renewed in Colorado. York enclosed the Final Order and Stipulation and Final Agency Order. Investigator Peterson reported that she confirmed his standing with the Colorado Board. Chair Boyd inquired what the Committee has decided on in the past in similar cases. Investigator Wilkinson noted that his license was not revoked or suspended, which is currently a prerequisite for reciprocal discipline under Oregon law. It was moved and seconded (Boyd/Van Dyke) to decline opening a case regarding the discipline York was assessed by the Colorado Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors in September 2014, as provided in York's Disclosure of Disciplinary Action. There was no additional discussion. The motion passed unanimously.

### **Preliminary Evaluations**

Pursuant to OAR 820-015-0010, the Committee conducted preliminary evaluation of the following complaints and determined the following:

It was moved and seconded (Boyd/Kent) to open a law enforcement case against Roger Shane Whitaker. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Boyd/Kent) to open a law enforcement case against Duane Thompson. The Committee discussed issuing a Request for Qualifications for expert review of the case. AAG Lozano explained the public contracts rule. The motion passed unanimously. It was moved and seconded (Boyd/Van Dyke) to grant authority to issue an RFQ for expert review on the case. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Boyd/Singh) to decline opening a law enforcement case against Charles H. Moss. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Boyd/Van Dyke) to decline opening a law enforcement case against Robert V. Nangia. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Van Dyke/Boyd) to open a law enforcement case against Greg Logan. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Boyd/Kent) to open a law enforcement case against Roland Allmon. For discussion, Van Dyke expressed interest in investigating the county surveyor mentioned in the complaint. The motion passed unanimously.

It was moved and seconded (Boyd/Van Dyke) to decline opening a law enforcement case against Freshwater Trust. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Singh/Boyd) to open a law enforcement case against Shawn Kampmann. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Boyd/Van Dyke) to open a law enforcement case against Joel Smith. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Boyd/Singh) to open a law enforcement case against Chris Fischborn. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Boyd/Van Dyke) to decline opening a law enforcement case against Roger Roberts, Gregory Crites, and Joel Smith. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Boyd/Singh) to open a law enforcement case against Herbert Farber. For discussion, the Committee decided to combine the three complaints received against Farber into one case. The motion passed unanimously.

It was moved and seconded (Singh/Boyd) to open a law enforcement case against Tony Ryan. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Kent/Boyd) to open a law enforcement case against Dyer Partnership Engineers & Planners, Inc. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Boyd/Singh) to open a law enforcement case against Mats Jarlstrom. There was no additional discussion. Kent abstained. The motion passed unanimously.

It was moved and seconded (Singh/Kent) to decline opening a law enforcement case against Ryan Erickson. There was no additional discussion. The motion passed unanimously.

## **New Business**

### **EQC Grace Period Referrals**

The Committee reviewed a memo generated by staff regarding individuals who requested, and were granted, a grace period for up to one year in order to comply with CPD requirements at the time of their renewal. As of this date, these individuals have not submitted verification that they have met the CPD requirements. It was also noted that these individuals do not fall within the existing OSBEELS Law Enforcement CPD Penalty Matrix. AAG Lozano described three options for the Committee to consider in moving forward: (1) “status: renewal pending” – not affirmatively renewing the licensure and issue a notice of refusal to renew if the individual fails to comply with the grace period requirements (2) renew the license and if the individual fails to comply with the grace period requirements, a notice of intent to suspend the license will be issued and the suspension would be lifted upon completion of the CPD requirements or (3) renew the license and if the individual fails to comply with the grace period requires, the individual could be penalized per a matrix based on of how many credits are delinquent. Ms. Gilbert recapped on the current process. Singh lead a discussion regarding how these changes

would affect expiration dates on seals, perhaps including “renewal pending.” AAG Lozano also discussed how the various options could affect comity applicants. Kent and Singh expressed that, given the grace period timeline, individuals are granted more than sufficient time to complete the requirements. AAG Lozano explained that if option 1 is selected, rule changes will need to be addressed regarding seals. For those who are granted a grace period, Kent suggested the individual be provided with a new expiration date; however, if the individual does not meet the grace period requirements within the given time frame, a suspension or reapplication may be necessary. Chair Boyd inquired how to move the discussion forward. AAG Lozano explained that OAR 820-015-0026(3) does not accurately complement ORS 183.430. It was moved and seconded (Boyd/Kent) to direct AAG Lozano to return with suggestions regarding OAR 820-015-0026(3) and ORS 183.430. There was no additional discussion. The motion passed unanimously.

### **Contested Case Updates**

#### 2697 – Dale La Forest

Investigator Wilkinson reported that the OAH hearing for the case is scheduled for 4/17/2015.

#### 2826 – Commstructure Consulting

Investigator Wilkinson reported further investigation in progress.

#### 2846 – Nick M. Kerber

AAG Lozano reported that a Motion for Summary Determination was filed and granted, with a proposed order from the Administrative Law Judge to uphold the Board’s proposed license denial. As a result, the OAH hearing scheduled for 1/21/2015 was cancelled. She added that a draft final order will be prepared for the Board’s consideration during its next Board meeting in March.

#### 2905 – Timothy A. Wolden

Investigator Wilkinson reported that the OAH hearing for the case is scheduled for 8/05/2015.

### **Case Status Reports**

The Committee reviewed the case status reported that indicated the total cases open (50), cases subject to collections (14), or on cases subject to monitoring (19). AAG Lozano reminded the Committee that it has received a related AAG opinion on cases subject to collections, which is scheduled to be placed on the next Committee agenda.

The meeting adjourned at 4:53 p.m.