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
December 10, 2015

Members present:
Bill Boyd, Chair
Jason Kent
Dave Van Dyke

Members absent:
Ron Singh

Staff present:
Mari Lopez, Board Administrator
Jenn Gilbert, Executive Assistant
Lisa Montellano, Investigator
Jennifer O'Neill, Social and Communications Media Specialist
James R. (JR) Wilkinson, Investigator

Others present:
JoAnna Tucker-Davis, Assistant Attorney General
Douglas Folk (via telephone)
Tim Kent, PLS
Paul Scott, PE
Roger Whitaker, PE
Christian Hill, Register Guard

The meeting of the Law Enforcement Committee (LEC) was called to order at 8:19 a.m. in the OSBEELS Conference Room at 670 Hawthorne Avenue SE, Suite 220, Salem, OR 97301.

Public Comment
There was no public comment.

Contested Case Updates
2898 – Jaime Lim
Mr. Wilkinson briefly updated the LEC regarding the status of case #2898 and Jaime Lim. It was moved and seconded (Kent/Van Dyke) to recommend that the Board approve the Motion for Summary of Determination. The motion passed unanimously. There was no further discussion.

Informal Conferences

2908 – Paul Scott

Paul Scott, PE, met in an informal conference with the LEC. Douglas Folk, attorney for Paul Scott, joined by telephone. The LEC asked Mr. Folk if he is a licensed attorney in Oregon. Mr. Folk answered, no. A discussion was held regarding Mr. Folk not being licensed in Oregon and lawfully representing Mr. Scott. Chair Boyd informed Mr. Folk that his attendance would be at his own risk. Mr. Folk understood and informed the LEC that he would simply like to listen to the meeting by telephone.

Chair Boyd clarified that during the period from February 2012 to October 2014 there were at least 17 occasions where Mr. Scott affixed his signature to a professional structural engineer stamp although Mr. Scott is not registered as a professional structural engineer. Mr. Scott answered yes. He then explained that confusion may have occurred between his staff and the stationery company after his initial Oregon stamp went missing and he wanted to reorder ha PE stamp. He further explained that his initial Oregon stamp was later found and that he sincerely did not take note of the differences between the two stamps. He stated that through his previous conversation on November 7, 2014 with the OSBEELS staff, he was asked how many projects were stamped with the incorrect stamp. He indicated that after research, it was discovered that 17 projects were completed by his company and of those projects 15 were actually sent out from his office. Mr. Scott then explained that a rough estimate of nine to ten of those drawings were stamped with the incorrect stamp.

Mr. Kent asked if Mr. Scott himself stamped all drawings or if another individual stamped drawings utilizing his seal in which he then applies his signature. Mr. Scott clarified that both methods have been used when stamping drawings. He reiterated that he did not notice the difference in stamps for he is specifically licensed as an SE in multiple other states. He further explained that he then contacted all jurisdictions to confirm if there were more drawings sealed with the incorrect stamp. He then stated that during his conversation with the OSBEELS staff, he was asked if the structures stamped were exempt, Mr. Scott explained yes.

Chair Boyd asked Mr. Scott if he had any proposals for settlement. Mr. Scott replied that he previously served on the Arizona State Board of Technical Registration and is familiar with the processes of regulatory Boards. He then proposed that the LEC issue him a letter of concern for he is licensed in several states and would not like it on his record. Mr. Folk requested to make a few additional remarks. Mr. Kent wondered if it would be considered legal representation of Mr. Scott if Mr. Folk were to comment. AAG Tucker-Davis explained that as a public meeting it is permissible for anyone to make a public comment. Mr. Folk then explained that Mr. Scott did not offer or perform as defined in the statute. Mr. Folk elaborated that Mr. Scott would be willing to contact all clients affected by this error and re-stamp the drawings with his correct seal. Mr. Folk further explained that Mr. Kent utilized his current registration number, whereas presumably someone intentionally committing a seal violation would not provide a registration number that could be verified. Mr. Scott added that a week after notification from the OSBEELS of his violations, he took the necessary actions to become licensed in Oregon as an SE. He was then told that he did not take necessary actions when really he was told that the OSBEELS would not move further on his application until his case is resolved.

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

Upon returning to public meeting, it was moved and seconded (Kent/Van Dyke) to recommend to the Board to withdraw the Notice of Intent (NOI) and close the case by issuing a letter of concern to Mr. Scott. Chair Boyd explained that the drawings Mr. Scott stamped did not require an SE seal and he made good faith efforts to contact the jurisdictions where the drawings were sent. Mr. Kent added that the LEC valued his efforts in rectifying the issue by utilizing the correct seal. Mr. Scott then assured the LEC that he intends to obtain his SE registration in Oregon. The motion passed unanimously. There was no further discussion.

2922 – Roger Whitaker

Roger Whitaker, PE, met in an informal conference with the LEC. Chair Boyd summarized that on four separate occasions Mr. Whitaker affixed his professional engineer seal and signature to projects while possessing a delinquent professional engineer registration and therefore was not authorized to engage in the professional practice of engineering.

During the course of the investigation, Mr. Whitaker informed the Board that he had not received courtesy notices to renew his registration due to changes to his address. This meant Mr. Whitaker failed to notify the Board of any address changes within 30-days, thus violating Oregon Administrative Rule (OAR) 820-010-0605.

Mr. Whitaker explained to the LEC that he had no additional explanation other than he simply neglected to renew his registration. He stated that by attending the informal conference he hoped to reach an agreement with the LEC in assessing a monetary discipline rather than revocation or suspension of his license. Chair Boyd wondered why Mr. Whitaker did not update the Board of his address change. He responded that he has recently moved and updated his address with OSBEELS. Mr. Whitaker then explained that the acoustical engineering field did not bring him much work and while exploring other avenues to earn an income his registration had expired.

Mr. Van Dyke noted that after reviewing the documents provided by the OSBEELS staff, Mr. Whitaker's still kept up with his Continuing Professional Development (CPD) although his registration was delinquent. Mr. Whitaker confirmed and indicated that he provided the Board with the supporting documentation of his CPD. Mr. Van Dyke then asked Mr. Whitaker how he determined the expiration date he utilized with his seal without having renewed his registration. Mr. Whitaker explained that the use of an updated expiration date was an error on his part. He stated that he would never knowingly or intentionally update the renewal date of his seal.

Mr. Van Dyke inquired about Mr. Whitaker's current employment. Mr. Whitaker informed the LEC that he invented a mobile truck washing business, and then sold it to an international firm in which he now serves on the executive team doing mostly compliance work.

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

After further discussions, the LEC did not reach a settlement agreement. Chair Boyd informed Mr. Whitaker that the NOI recommending a two month suspension and assessing a $4,250 civil penalty will be forwarded to the full Board as a Default Final Order (DFO) for consideration. Chair Boyd also explained Mr. Whitaker's options in moving forward with a hearing. Mr. Whitaker expressed that he will be withdrawing his request for hearing in writing and would accept the DFO. There was no further discussion.

<u>2877 – Judson Coppock</u>
Judson Coppock, PLS, former Morrow County Surveyor, met in an informal conference with the LEC by telephone.

On at least two occasions, around January 2007 and June 2008, Mr. Coppock determined that maps prepared by Ronald McKinnis, PLS, were not compliant with ORS 209.250 subsections (1), (2), and (3), and subsequently failed to return them to Mr. McKinnis for corrections. Thereafter, Mr. McKinnis did not make the required corrections within 30 days of Mr. Coppock's return of the maps. As a result, Mr. Coppock failed to forward Mr. McKinnis' maps to the Board in violation of ORS 209.250(4)(c).

Mr. Coppock explained that at the time he felt he was making the best decision for the county and assumed that eventually the necessary corrections would have been made. He further explained that he did not expect the issue to escalate as far as it has. He then stated that it was not to his intent to deceive or avoid responsibility.

Mr. Kent recapped a response provided by Mr. Coppock. In his response, Mr. Coppock mentioned that a map Mr. McKinnis submitted was not signed and sealed, nor was payment received for filing. Mr. Coppock also stated in his response to the Board that a final draft was never received. Mr. Kent wondered, as the Morrow County Surveyor, how common it was that Mr. Coppock received maps that were not signed, sealed, and/or paid for. Mr. Coppock explained that it was common practice for surveyors to provide maps to him for preliminary review which often times did not include payment. Mr. Kent then asked, after Mr. Coppock's preliminary review, did surveyors provide Mr. Coppock with a final draft and payment. Mr. Coppock responded, yes, that his corrections were often made and the final copies were received with payment. Mr. Kent then asked if it may have happened on more occasions where it was not reported to the OSBEELS when a corrected map was not submitted within the 30 day statutory requirement. Mr. Coppock explained that it may have been in his error of understanding, however, at the time it was more a concern to ensure a final map was received than reporting it to the OSBEELS.

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

Upon returning to public meeting, it was moved and seconded (Kent/Boyd) to recommend to the Board to consider the DFO to reduce the civil penalty to $250.00. AAG Tucker-Davis explained to Mr. Coppock that the DFO would still require full approval by the Board. Mr. Van Dyke asked Mr. Coppock if he would be willing to surrender his license in lieu of the $250.00 settlement. Mr. Coppock answered no. The motion passed unanimously. There was no further discussion.

Cases Subject to OAR 820-010-0617

2876 – Marvin Krush / Kent Baker

On May 9, 2014, the OSBEELS received complaints from Kent Baker, PLS, Roberts Surveying, Inc.; D. Michael Jackson, PLS, Lane County Surveyor; H. Timothy Fassbender, PLS, City Surveyor, City of Eugene; and, Ryan Erickson, PLS, EGR & Associates regarding Marvin Krush, PLS. The LEC reviewed and discussed each allegation by complainants and documents, conditions, and violations, along with Mr. Krush's response to each potential violation.

Based on Mr. Baker's allegations and staff's case summary, the LEC found Mr. Krush had not submitted for filing a map of survey within 45 days in violation of ORS 209.250(1). Mr. Krush set 12 monuments on May 15, 2007, and filed a map of survey on July 19, 2007. The LEC also found Mr. Krush in violation of OAR 820-020-0025(1) for filing a map of survey on May 13, 2013, and purporting to have set two monuments on May 1, 2013, when those monuments were not set.

Based on Mr. Jackson's allegations and staff's case summary, the LEC found Mr. Krush was in violation of OAR 820-020-0025(1) for referencing monuments that were not set for a deed (#99071068) recorded on August 13, 1999. Subsequently, a violation of ORS 209.250(1) was determined for an unrecorded survey.

~~The LEC then found Mr. Krush again in violation of ORS 209.250(1) for two more separate incidents based on Mr. Fassbender's allegations and staff's case summary. Mr. Krush filed maps of surveys, C.S. #35557 on November 19, 1998, and C.S. #43268 on May 1, 2015, where in both instances permanent monuments referenced were not set.~~

The LEC then found Mr. Krush again in violation of ORS 209.250(1) for two more separate incidents based on Mr. Fassbender's allegations and staff's case summary. Mr. Fassbender filed maps of survey C.S. #35557 on November 19, 1998, and C.S. #43268 on May 1, 2015, and both surveys record Mr. Krush setting wooden hubs to mark "approximate" property corners in lieu of setting permanent monuments and filing a survey. **The investigation found that Mr. Krush set wooden hubs to mark property corners and boundary lines, yet he failed to file maps of survey in violation of ORS 209.250(1)**.

Mr. Fassbender provided additional allegations; however, Mr. Kent purposed that the LEC recommend to the Board to issue an NOI and in the interim staff conduct further investigation for clarification regarding Mr. Fassbender's additional allegations. Mr. Kent then suggested that staff provide the Board its findings during the next Board meeting. Chair Boyd added that if the NOI is approved, staff may conduct a conference call if revisions are necessary.

The LEC then found Mr. Krush again having violated OAR 820-020-0025(1) based on Mr. Erickson's allegations and staff's case summary. Mr. Krush filed two maps of surveys: C.S. #40833 filed on December 11, 2007, and C.S. #35371 filed on August 14, 1998. Again, in both instances monuments referenced in those surveys were not set.

Lastly, the LEC found Mr. Krush was in violation of ORS 209.250(1) for C.S. #42979, which was conducted on June 19, 2009, and filed on May19, 2014.

Ms. Lopez mentioned the DOJ Opinon regarding Negligence, Gross Negligence, and Incompetence. A discussion was held regarding the definition of negligence and incompetency. The LEC then discussed the assessment of civil penalty factors. Chair Boyd wondered if Mr. Krush has any prior violations. Staff answered yes, two. The determination was discussed based on what LEC knew aside from staff's investigation for clarification of Mr. Fassbender's additional allegations. It was moved and seconded (Van Dyke/Kent) to issue an NOI assessing a $9,000 civil penalty and revocation. The motion passed unanimously. There was no further discussion.

2894 – Theodore Baker / Ken Wachal

The Committee entered into executive session pursuant to ORS 192.660 (2)(f) to review and discuss a DOJ Opinion regarding the definition of "Land" for the purposes of ORS 672.047. All members of the audience were asked to leave the room and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was announced that no decisions were made and no votes were taken while in executive session.

The OSBEELS received a complaint on May 28, 2014, from Ken Wachal. Mr. Wachal's complaint alleged that Robert's Surveying failed to provide the required notice for right of entry and some damage to fencing. One of the property corners was in the public right-of-way and questions arose as to the need to provide notice.

A discussion was held regarding the difference between an easement and right-of-way. ORS 672.047 requires notice to enter "any" land - there is no exclusion for corners marking a right-of-way or easement. It was moved and seconded (Kent/Van Dyke) to recommend to the Board to assess a $250 civil penalty for violation of right of entry under ORS 672.047. The motion passed unanimously. There was no further discussion.

2902 – Jan Rohlik / OSBEELS

Mr. Rohlik was requested to participate in an audit of documentation to support the PDH units he claimed as a condition of the renewal he submitted in January 2013. After several attempts to contact him by mail by the Accounting Department Staff, Mr. Rohlik spoke with the OSBEELS staff on October 21, 2014. Subsequently, an email was sent to Mr. Rohlik memorializing their conversation. Mr. Rohlik was provided with a copy of his submitted CPD Organizational form and was again requested to submit supporting documentation by November 17, 2014. Later that same day, Mr. Rohlik responded with an apology and was not able to find

any supporting material. There was an additional conversation that OSBEELS staff memorialized in an email to Mr. Rohlik on December 17, 2014. Once the case was referred to the Regulation Department, a respond to allegations letter was sent to Mr. Rohlik on February 19, 2015. When no response was received, Mr. Rohlik's contact information was verified by

using PeopleSmart with requests sent to the same address as on file and to a post office box on August 7, 2015. Mr. Rohlik was also emailed the August letter; however, no response has been received. After discussion and applying the CPD Penalty matrix, it was moved and seconded (Kent/Van Dyke) to recommend to the Board to assess a $1,000 civil penalty for PDH deficiency, 60 day suspension, and $250.00 for failure to cooperate. The motion passed unanimously. There was no further discussion.

2910 – Jack Watson / Michael Springer

On June 27, 2013, the OSBEELS received a complaint from Michael C. Springer, PLS, CWRE, Grant County Surveyor, regarding Jack Watson, PLS. Mr. Springer identified his complaint as "*Watson's habitual practice of either intentionally or unintentionally erroneously identifying objects as original General Land Office (GLO)evidence*." After investigation, staff found Mr. Watson having committed four violations. Specifically a 45-day filing violation pursuant to ORS 209.250(1); failure to separately indicate monuments set and their relation to older found monuments pursuant to ORS 209.250(3); failure to timely file a corner restoration form pursuant to ORS 209.250(3); and failure to reference the 1973 BLM *Manual* pursuant to ORS 209.200(3). As a PLS, the LEC accepted public input from Mr. Tim Kent. AAG Tucker-Davis advised that the LEC consider a subject matter expert for advice. Therefore, it was moved and seconded (Boyd/Van Dyke) to table the matter until an expert reviewer is able to review the surveys in question. The motion passed unanimously. There was no further discussion.

2934 - Thomas Larsen/OSBEELS

The LEC determined to discuss Thomas Larsen out of order of the agenda due to public attendees. Ms. Montellano briefly explained the case of Thomas Larsen. Mr. Larsen allowed his registration as a professional engineer to lapse on January 1, 2009. However, he continued to update the expiration date on his seal and stamped traffic engineering projects during that lapse. His registration was also lapsed from January 1, 2005 to July 6, 2005 and January 1, 2007 to December 27, 2007, during which he also unlawfully stamped plans for the City of Eugene. Ms. Montellano then explained that through her investigation there were many inconsistencies with Mr. Larsen's answers provided to the Board and other media. Chair Boyd asked if Mr. Larsen submitted any proof of having completed any PDH units. Ms. Montellano explained that it is not a requirement upon lapsing. Mr. Van Dyke questioned why Mr. Larsen self-reported. Ms. Montellano explained that a reason was not provided. A discussion was held regarding any adverse effects of Mr. Larsen's practice of traffic engineering while lapsed.

Mr. Kent questioned how many projects were completed after Mr. Larsen's license expired. Ms. Montellano answered that Mr. Larsen's supervisor, Robert Lankston, PE, reported 47 projects and a total of 280 sheets that were stamped by Larsen. She then explained that Mr. Lankston stated that staff responsible for drafting the final plans did contact each engineer by telephone to confirm that their registrations were renewed before updating expiration dates. Mr. Van Dyke questioned if Mr. Larsen provided the OSBEELS staff an explanation as to how he answered those telephone calls. Ms. Montellano explained that she asked Mr. Larsen his process in renewing his registration; he indicated that upon receiving his renewal reminder, he would complete the necessary paperwork and utilized the City's credit card to renew his registration. Ms. Montellano further explained that she spoke with Mr. Lankston and Mark Schoening, PE, to clarify what their processes were in renewing their registration, to which both

responded with the same renewal process as Mr. Larsen. Ms. Montellano stated that during her conversation with Mr. Larsen she clarified if there would be any reason as to why Mr. Larsen would not have received his courtesy renewal sent by the Board (i.e. change of address, illness, etc.) and he answered no. She then explained that when asking Mr. Larsen how the renewal process might have changed giving him the inclination that his registration was being renewed; he replied that he did not have an answer.

The LEC reviewed and discussed the civil penalty factors and Mr. Larsen's violations. It was noted that a civil penalty is the only option for Mr. Larsen no longer holds a registration in Oregon. It was moved and seconded (Kent/Van Dyke) to recommend to the Board to assess Mr. Larsen a $1,000.00 civil penalty for each of the 47 acts committed in violation of ORS 672.045(1) and 672.045(2). The motion passed unanimously. There was no further discussion.

2923 – Marcela Alcantar / OSBEELS

In the March 2015 edition of *Portland Monthly*, which focused on Oregon's Women, an article was published titled, "The Builder, Marcela Alcantar, Alcantar & Associates." However, the on-line title of the article was, "The incredible story of the engineer behind Portland's newest bridge," with the subtitle, "Marcela Alcantar, president of Alcantar and Associates, on her roots in Mexico, her love of dirt, and launching the Diversified Builders and Engineers Council." A law enforcement case was opened because of the reference to Ms. Alcantar as an engineer in the on-line version of the story when in fact Ms. Alcantar is not a registered professional engineer. Staff provided that based on the comments from Rachel Ritchie, author of the article, Ms. Alcantar did not use the title but was assigned the title by editors. Staff also informed the LEC that as a result of case #2453, Ms. Alcantar received a letter of concern about representing herself as an engineer. After a brief discussion, it was moved and seconded (Boyd/Kent) to recommend to the Board to close the case as allegations unfounded. The motion passed unanimously. There was no further discussion.

2928 – Anthony Ryan / Albert Hertel

On November 14, 2014, the OSBEELS received a complaint from Albert Hertel, PLS, regarding Tony Ryan, PLS. Mr. Hertel was hired by client Marsha Hunt in September 2014 to "search for existing corner markers on her property." On November 13, 2014, Mr. Hertel checked with the Washington County Survey office and found that "no survey has been received or recorded by Tony Ryan in recent months" regarding the wooden stakes that were set by Mr. Ryan in August 2014. Staff informed the LEC that Mr. Ryan explained that the temporary stakes were set until a final decision could be made regarding a possible property line adjustment. However, it wasn't until January 8, 2015 that a final decision was made not to pursue a property line adjustment. Subsequently, Mr. Ryan's crew set permanent property corners on January 12, 2015. After further investigation, OSBEELS staff found that while ORS 672.047, Right of entry, allows for the placement of temporary materials, it also sets a 60 day time-limit for the removal. Mr. Ryan set on-line points on August 4, 2014, but did not remove them within 60 days, violating ORS 672.047(7).

Mr. Van Dyke expressed the difficulty in determining the severity of the violation. After discussion, it was moved and seconded (Boyd/Kent) to issue an NOI assessing a $250.00 civil

penalty for violation of 672.047(7). The motion passed unanimously. There was no further discussion.

2935 – Andy Bowen/OSBEELS
Ms. Montellano explained that through investigation of another case, it was discovered that Andy Bowen was employed as a Bridge Engineer in Oregon, prior to becoming registered with the OSBEELS on November 12, 2013. The LEC determined to open a case on April 23, 2015 where a respond to allegations letter was sent.

The OSBEELS staff reported that of the professional engineers interviewed regarding the projects worked on with Mr. Bowen, each confirmed having overseen his work. Staff reported that it did not appear that Mr. Bowen was practicing engineering in Oregon without having a registration. However, on several occasions the company he has worked for has given him the title prior to being registered in three states. AAG Tucker-Davis wondered if Mr. Bowen is currently licensed in any other jurisdiction. Mr. Kent noted that Mr. Bowen appeared to have gained registration in Idaho on April 5, 2013, months after being announced in the WHPacific news release as their PE of their Boise, Idaho office. Mr. Kent did however clarify that other states may not have a title act. It was moved and seconded (Kent/Van Dyke) to close the case as evidence unfounded. The motion passed unanimously. There was no further discussion.

2936 – Scean Ripley / Anonymous
On February 27, 2015, the OSBEELS received an anonymous complaint alleging that Scean Ripley engaged in the practice of land surveying in Oregon without being registered. On April 9, 2015, the LEC determined to open a case on Mr. Ripley. Ms. Montellano explained that after investigation, both Mr. Ripley and Dan Gilbert, PLS, attested that Mr. Ripley was the party chief on the Crown Castle project; however, Mr. Gilbert supervised and sealed the final project. It was moved and seconded (Kent/Boyd) to close the case as allegations unfounded. The motion passed unanimously. There was no further discussion.

The OSBEELS staff also reported that during the investigation, it was found that Mr. Gilbert was utilizing a seal that did not meet the requirements of former OAR 820-010-0620. It was also noted that Mr. Gilbert appeared to be performing work for Ambit Consulting on a contract/consultant basis. However, he did not appear to be an employee of the company, a potential violation of OAR 820-010-0620 and OAR 820-010-0720. After a brief discussion, it was moved and seconded (Kent/Van Dyke) to open a case against Ambit for offering services without having a professional on staff. The motion passed unanimously. There was no further discussion.

It was then moved and seconded (Kent/Van Dyke) to open a case against Mr. Gilbert for stamp violations. The motion passed unanimously. There was no further discussion.

2937 – Thomas Woldendorp / Anonymous
On February 27, 2015, the OSBEELS received an anonymous complaint alleging that Thomas Woldendorp prepared a topographic survey without an Oregon registration. OSBEELS staff reported that Mr. Woldendorp admitted to performing the topographic survey in Oregon without an Oregon registration, which is a violation of ORS 672.025 and 672.045. He also stated it is the

only work he has performed in Oregon. As a registered PLS in Washington (PLS #38964), Mr. Woldendorp used his Washington seal to stamp the topographic survey. However, during his conversation with the OSBEELS staff, Mr. Woldendorp stated that while he did stamp the survey, it was not signed nor was it a final copy. He added that he was unaware whether the project was ever completed. Chair Boyd wondered if a stamp was ever required. Ms. Lopez reminded the LEC that in Oregon a sealed drawing means it's final and that Mr. Woldendorp also sealed the drawings utilizing his out-of-state stamp. AAG Tucker-Davis wondered how the map was obtained to even be submitted to the OSBEELS without it having been filed anywhere. It was moved and seconded (Kent/Boyd) to recommend to the Board to assess a civil penalty of $250 for violation of ORS 672.045. Mr. Van Dyke amended the recommendation to $500. Mr. Kent accepted Mr. Van Dyke's amendment. Mr. Boyd seconded it. The motion passed unanimously. There was no further discussion.

2940 – Eric Yost / OSBEELS

The LEC reviewed a case summary for Mr. Yost's failure to comply with CPD requirements by his grace period deadline and the fact that he did not respond to any audit notifications. Applying the CPD Penalty Matrix, it was moved and seconded (Kent/Van Dyke) to assess $1,000.00 civil penalty and suspend his registration for 60 days for failure to comply with the CPD audit. The motion passed unanimously. There was no further discussion.

Staff Update: Due to the November Board discussion, the case was sent back to the Accounting Department Staff to proceed with an NOI to suspend.

Preliminary Evaluations

Staff introduced the preliminary evaluations by stating that the LEC was provided documents as submitted by the complainant for their determination on whether or not to open a case.[1] No investigations have occurred. The below list begins with the subject of the complaint followed by the name of the complainant.

Monica Anderson / Anonymous

On October 15, 2015, the OSBEELS received an anonymous complaint regarding Monica Anderson, PE, and Balzhiser & Hubbard Engineers, Inc. According to the complainant, Balzhiser & Hubbard is claiming to have "a Portland office when no one is in that office more than "half the person's working time." They assert that the Portland office is an address only location. A brief discussion was held and pursuant to OAR 820-010- 0720, it was moved and seconded (Van Dyke/Boyd) to open a case. The motion passed unanimously. There was no further discussion.

Nicolas Dente / Zachary Gollier

On September 29, 2105, the OSBEELS received a complaint from Zachary Gollier, PE, regarding Nicolas Dente. Mr. Gollier stated that he went on extended sick leave from the firm, Alliance Project Engineers and Construction Consultants, on August 3, 2015, and thereafter on

[1] OAR 820-015-0010, Processing Complaints, The Board will process complaints as follows:
(1) Anyone may submit a complaint against a licensed or unlicensed person. Complaints must be in writing and include evidence to document all charges; (2) The Board will conduct a preliminary review of the complaint to establish that there is sufficient evidence to justify proceeding and that the allegations against the respondent are such that, if proven, would result in a penalty or sanction. * * * *

September 23, 2015, notified them that he would not continue employment. Mr. Gollier wrote that Mr. Dente provided design documents to the Portland Public Schools that show Mr. Gollier's seal and signature, but Gollier "did not review, stamp, sign or have any control over the design documents." After a brief discussion, it was moved and seconded (Kent/Boyd) to open a case. The motion passed unanimously. There was no further discussion.

Department of Environmental Quality / Leonard Rydell
On November 12, 2015, the OSBEELS received an emailed complaint from Leonard Rydell, PE, regarding the Oregon Department of Environmental Quality (DEQ). Mr. Kent noted that the information contained in the supporting documentation provided by Mr. Rydell is not within OSBEELS' jurisdiction. It was also noted that the documentation did not appear to be the practice of engineering. It was moved and seconded (Kent/Boyd) to not open a case. The motion passed unanimously. There was no further discussion.

Arwin Priest reporting disciplinary action
On September 28, 2015, Arwin D. Priest, PE, submitted notification of disciplinary action taken by the Professional Engineer Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Professional Land Surveyors (Wisconsin Board). The Wisconsin Board took action in a Final Decision and Order on September 17, 2015, for the disciplinary action taken by the Louisiana Professional Engineering and Land Surveying Board (Louisiana Board) on November 21, 2011 for Mr. Priest aiding and abetting unlicensed practice by a firm.

Additionally, on July 18, 2012, the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects (Missouri Board) also disciplined Priest for failing to report the Louisiana Boards disciplinary action when he renewed his Missouri credential.

When Mr. Priest notified the Wisconsin Board of the two disciplines on July 2, 2014 they also found that on three occasions he acted as the engineer of record for a firm that had no certificate of authorization. This was also the basis of the Louisiana and Missouri Board actions.

The LEC was informed that Oregon does not have a requirement for firm registration. Mr. Kent noted that the Board does not contain the same rules for which Mr. Priest was disciplined. As a result, it was moved and seconded (Kent/Van Dyke) to not open a case. The motion passed unanimously. There was no further discussion.

James Anspach/State of Missouri
On December 2, 2015, Dawn Wilde, Investigator for the Missouri Board, notified the OSBEELS of an investigation regarding James H. Anspach for unlicensed practice of engineering. According to the notification, Mr. Anspach's LinkedIn page shows he is residing in Oregon and using the title of civil engineer, but is not registered in Oregon. From December 2008 to December 2012 Mr. Anspach owned J. H. Anspach Consulting in Bend, Oregon yet there is no record of J. H. Anspach Consulting on the Secretary of State's Oregon Business Registry. The company has an active website, with a list of experience including: subsurface utility engineering, corrosion engineering, project design and surveying. The Missouri Board

also provided the OSBEELS with a copy of a deposition in which Mr. Anspach was an expert witness. In his testimony, Mr. Anspach admits that he advertises himself as a civil engineer, but not as a licensed engineer and does not consider this to be a violation. He also admits that he is offering engineering and surveying services and does not feel it necessary to be registered in any state for either discipline. Mr. Anspach's website also indicates he is a registered geologist in Virginia (VA), Pennsylvania (PA) and Tennessee (TN). However, his registration for VA expired on August 31, 2011; Pennsylvania expired on September 30, 2011 and TN expired on February 1, 2001. Furthermore, the Oregon Board of Geologist Examiners does not show Mr. Anspach as registered in Oregon. It was moved and seconded (Kent/Van Dyke) to open a case. The motion passed unanimously. There was no further discussion.

Unfinished Business

Gregory Wilson / Gerald Pappe

On March 18, 2015, the OSBEELS received a complaint from Gerald (Gerry) Pappe, PLS, City of Salem Surveyor, regarding Gregory Wilson, PLS. During the April 9, 2015, LEC meeting the LEC conducted a preliminary review where they directed AAG Lozano to research and provide a DOJ Opinion on if OSBEELS has jurisdiction over city surveyors.

The Committee entered into executive session pursuant to ORS 192.660 (2)(f) to review and discuss the DOJ Opinion regarding OSBEELS' jurisdiction over city surveyors. All members of the audience were asked to leave the room and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was announced that no decisions were made and no votes were taken while in executive session. Upon exiting executive session, it was moved and seconded (Kent/Boyd) to open a case against Gregory Wilson. The motion passed unanimously. There was no further discussion.

It was then moved and seconded (Kent/Boyd) to add the DOJ Opinion regarding OSBEELS' jurisdiction over city surveyors to the agenda of the January Board meeting. The motion passed unanimously. There was no further discussion.

Dale E. Marx settlement agreement update

Mr. Wilkinson updated the LEC with status of Mr. Marx' settlement agreement. He informed them that Mr. Marx had successfully completed his ethics course. There was no further discussion.

Jack Watson – Violation 2

Mr. Wilkinson informed the LEC that he has contacted at least six or seven surveyors to serve on the Board's peer review panel of surveyors. He explained that all but Mr. Tim Kent have declined his request. As a result, there are several cases that are pending review. Mr. Jason Kent wondered how many surveyors are required to serve on the peer review panel. Mr. Wilkinson explained that the original vision was to have three surveyors to serve on the panel with an additional two surveyors to serve as alternates. A discussion was held regarding the options of moving forward with one surveyor for peer review until a full panel could be met. There was no further discussion.

New Business: Statement of Qualifications

Timothy A. Kent

Mr. Wilkinson introduced Mr. Tim Kent to the LEC. After a brief discussion, it was moved and seconded (Boyd/Van Dyke) to recommend to the Board to approve Mr. Tim Kent as the Board's expert witness. Mr. Tim Kent then self-reported which requires further discussion. The motion passed unanimously. There was no further discussion.

Case Status Reports

Mr. Kent sought clarification from staff regarding case #2897 of Robert Wayne Stimson. Mr. Wilkinson explained that although Mr. Stimson made efforts to make a payment towards the civil penalty issued, the Board did not enter into a settlement agreement with Mr. Stimson to make payments. Therefore, the Board would not process his payment to adhere to the agreement of the Board. A brief discussion was held regarding Department of Revenue collections. There was no further discussion.

Case Status Report, total cases open: 49

Cases Subject to Monitoring: 17

Cases Subject to Collections: 16

The meeting adjourned at 2:51 p.m.