



Oregon

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

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LAW ENFORCEMENT COMMITTEE

Minutes of Meeting

October 10, 2013

Members Present:

Carl Tappert, Chair

Steven Burger

Shelly Duquette

Ron Singh (Excused absence)

Staff Present:

Mari Lopez, Executive Secretary

Jenn Gilbert, Executive Assistant

Jason Abrams

Joy Pariente

Monika Peterson

James R. (JR) Wilkinson

Others Present:

Katharine Lozano, Assistant Attorney General

Phil Martinson (Respondent)

Arthur M. Noxon (Respondent)

A meeting of the Law Enforcement Committee was called to order at 8:04 a.m. in the OSBEELS Conference Room at 670 Hawthorne Avenue SE, Suite 220, Salem, OR 97301.

Public Comment

There was no public comment.

Introduction to the Complaint Process Flow Chart

As a courtesy to new Committee members, the complaint process flow chart was reviewed. The flow chart provides an overview of the complaint process from start to finish. It supplements the Committee's Disciplinary Procedures Policy and was designed as a graphic representation of the process. Mr. Wilkinson pointed out that all cases addressed during Committee meetings are at some point in this process. **The Committee recommends the Board approve the Complaint Process Flow Chart for addition to regulation policies.**

Contested Case Updates

2618 – Martinez

In 2010, Mr. Martinez used the title “PLS” in his signature block when emailing the Board office. Despite being informed that he could not use that title along with an Oregon address and telephone number without Oregon registration, Mr. Martinez continued to correspond with the Board office using the same signature block. At the time, Mr. Martinez was registered in Washington, but the combination of the professional title and Oregon contact information could give the impression that Mr. Martinez was registered as a land surveyor in Oregon.

Chair Tappert took the Committee into Executive Session as provided by Oregon Revised Statute (ORS) 192.690(1) to deliberate on a contested case.

Upon returning to open session, it was noted that no action was taken during Executive Session.

After reviewing the ALJ proposed order and discussing the details of Mr. Martinez’s case, **the Committee recommends the Board adopt the presented version of the amended ALJ proposed order, with minor language changes.**

Cases Recommended for Closure

2659 – Freddie “Neil” Hibbs/Michael Allen Parker

On November 3, 2010, the Board received a complaint from Mr. Parker, PE, alleging that Mr. Hibbs, PLS, was, on multiple occasions, negligent in the practice of land surveying, practiced outside his area of competence, failed to issue objective and truthful statements and engaged in unprofessional behavior. Supplemental allegations were received regarding 45-day violations and advertising engineering services. The specific allegations regarding a drainage feature, preparation of a subdivision, staking error, confusion over ground or grid elevations and a waterline constructed too shallow all occurred prior to Mr. Hibbs suing Mr. Parker over non-payment of land surveying services totaling \$34,360.49 with interest. An arbitrator ruled in Mr. Hibbs favor and Mr. Parker submitted his complaint shortly after. Staff noted that Mr. Parker continued to use Mr. Hibbs land surveying services for two to three years after the issues alleged in the complaint occurred. Additionally, many of the complaints referenced business practice issues that do not fall within the jurisdiction of the Board.

Due to the time span between occurrences and a complaint being filed, Staff determined that it would be nearly impossible to ascertain if Mr. Hibbs and his crew were responsible for the errors or if those errors occurred at a different point in the design process. The investigation also found that nearly all of Mr. Parker’s complaints referenced items involved in litigation. The items which were not part of litigation, including 45-day violations, were discovered during the investigation to have been resolved. After discussion, **the Committee recommends the Board close this case as allegations unfounded.**

2752 – Robert Hale/OSBEELS

On December 20, 2011, the Board received an anonymous complaint regarding the website of an Oregon business, Bob’s Design Engineering (www.bdeinc.com). The website appeared to offer engineering services without employing an engineer. General Manager Rick Hale completed a company questionnaire indicating that there were no professional engineers on staff. When the case became active on June 5, 2013, Staff reviewed the website again and found that the entire business was now known as BDE Manufacturing Technologies. The website still contained numerous references to “CAD and CAM engineering,” but the company amended this language to “CAD and CAM programming” at the request of the Regulation Department. Language on the website explained the name change and indicated that the company would still accept

correspondence directed to Bob's Design Engineering. Clarifications to this language were also made to clarify that the company was not offering engineering services. Mr. Hale also reviewed the NCEES Industrial Engineering syllabus to ensure his company was not performing any activities that require knowledge of items listed in the syllabus. Mr. Hale explained that his company is involved in fabrication of customer designs and assisting customers with manufacturing designs. After discussion, **the Committee recommends the Board close this case as compliance met.**

2756 - Yoshiro Ideguchi/OSBEELS

On June 15, 2011, the Board received a signed renewal form from Mr. Ideguchi, PE, certifying that he completed the required professional development hours (PDH) for the previous biennial licensing period. He was requested to participate in an audit of documentation to support the PDHs claimed as a condition of his last renewal. On August 12, 2011, auditors received a Continuing Professional Development (CPD) Organizational Form claiming 31 PDHs, but without any supporting documentation. On September 8, 2011, auditors sent Mr. Ideguchi a letter requesting the proper documentation, but received no response. The audit file was transferred to the Regulation Department on December 19, 2011. A law enforcement case was opened on January 26, 2012 and a respond to allegations letter was sent via regular mail and email. Mr. Ideguchi responded via email and attached a document written entirely in Japanese. Investigators replied and cited OAR 820-010-0635(1)(d), which states that PDH documents must be submitted in English or translated into English. Mr. Ideguchi responded with an attached document written in English, but lacking any mention of specific hours spent in training. When the case became active again on May 31, 2013, Mr. Ideguchi was sent an email requesting more appropriate supporting documentation. Additional supporting documentation was received and deemed sufficient by the Accounts Department. After discussion, **the Committee recommends the Board close this case as compliance met.**

2775 – Michael E. Brown/Brian B. Conley

On April 4, 2012, the Board received a complaint from Mr. Conley, PE, regarding the business name "Bear Production Engineering" printed on the side of a van owned by Mr. Brown. Mr. Brown was sent an email asking that he change his firm's name and title in order to be compliant with ORS 672.007(1). As per the Oregon Secretary of State's business listing, Mr. Brown has owned this business name since 1998 and he holds no registration through OSBEELS. Mr. Brown returned a company questionnaire and response letter stating that his business had no website, performs residential remodeling, maintenance and repairs, as well as manufacturing consulting services consisting of machining and CNC programming. He stated that he does not perform any professional engineering and has hired registrants as subcontractors when a PE is needed.

On September 16, 2013 this case became active and Mr. Brown was contacted in an attempt to bring him into compliance. He reiterated that he has had this business name since 1998 and he has never had a client confuse him for a PE and he's never offered engineering services. After investigators directed Mr. Brown to review OAR 820-010-0715(2) and 820-010-0720, he responded with a copy of his bid sheet, which includes a disclaimer explaining that his business is not an engineering company and does not offer engineering services. Additionally, it explains that any engineering services needed would be subcontracted to a PE licensed by OSBEELS.

This statement, along with Mr. Brown's CCB registration would meet the exception detailed in ORS 672.060(12), except that his CCB registration was suspended from February 24, 2004 to March 12, 2004, due to a lack of insurance coverage.

The Committee discussed the short period during which Mr. Brown's CCB registration was suspended. Mr. Burger and Ms. Duquette agreed that it was the start of a slippery slope to allow Mr. Brown to slide by with that short period of noncompliance. Additionally, by calling his business "engineering," Mr. Tappert believed that Mr. Brown was giving the perception of being an engineer. He explained that the title act exists to protect the public against those using the title "engineer" without registration. The Committee further discussed a number of factors prior to determining a sanction amount. There were no prior violations against Mr. Brown. Mr. Abrams told the Committee members he believes the offense was inadvertent, as Mr. Brown's client base is aware of who he is and what services his business offers. However, the Committee determined it would have been fairly easy for Mr. Brown to come into compliance, but he still refused. Mr. Burger noted that the nature, gravity and magnitude of Mr. Brown's offense were minimal. He explained that, as he advertises a residential remodeling business, the likelihood of damage due to misunderstanding Mr. Brown's qualifications is low. Ms. Duquette pointed out that the homeowners he works with could definitely be part of the portion of the public who could be confused by his misuse of title. However, Ms. Duquette agreed that subcontracting engineers when needed shows that Mr. Brown is aware of his limitations. After discussion, the Committee determined to issue a Notice of Intent (NOI) for a \$200 civil penalty for a violation of OAR 820-010-0720.

2848 – Andrew Robinson/OSBEELS

The Board received a complaint on March 5, 2013 alleging that several engineers may have practiced engineering outside their area of competence on the St. Anthony's Hospital project in Pendleton. The complaint was reviewed as a preliminary evaluation at the August 8, 2013 Committee meeting and determined to be unfounded. However, upon review of the project documents, it was found that Mr. Robinson's Oregon PE seal design was not in compliance with OAR 820-010-0620.

Mr. Robinson was contacted by the Regulation Department on May 29, 2013 regarding his seal. A representative from his firm responded on June 4, 2013 with an example of Mr. Robinson's revised seal, which was determined to be compliant. It was determined that the seal reviewed during the August Committee meeting was his previous seal and had been sent accidentally and was not reflective of the current compliant seal that had been in use since correspondence with the Board in June. After discussion, **the Committee recommends the Board close this case as compliance met.**

2849 – Lloyd Reitz/OSBEELS

Mr. Reitz was also named in the complaint concerning Mr. Robinson. Mr. Reitz's Oregon PE seal design was also not in compliance with OAR 820-010-0620.

Mr. Reitz was contacted by the Regulation Department on May 29, 2013 regarding his seal. He responded on June 17, 2013 with a revised seal that was determined to still be out of compliance at the August Committee meeting. He responded again on August 23, 2013 with another revised seal, which was determined to be compliant. After discussion, **the Committee recommends the Board close this case as compliance met.**

Informal Conferences

As a result of the August 8, 2013 Committee meeting, NOIs were issued to the following six respondents. All six elected to meet with the Committee in an informal conference.

2734 – Gary D. Wicks

Mr. Wicks responded to a settlement agreement negotiated with the Committee during the June 13, 2013 meeting by sending full payment and a copy of the settlement agreement reflecting language changes he made along with his signature. A key area of concern for Mr. Wicks was the language indicating that he did not respond to the Board's request for documentation. Mr. Tappert pointed out that Mr. Wicks did respond, but not with the appropriate information. AAG Lozano said the suggested change was acceptable because he did respond to the audit request, but not adequately. She explained that there is a difference between entirely failing to cooperate and submitting inadequate information. AAG Lozano suggested adding language clarifying that he did respond, but did not provide the requested documentation.

During discussion with Mr. Wicks via teleconference, he indicated that he thought, because OSBEELS had a receipt showing that he did submit information, as requested, this law enforcement case should be closed without sanction. The Committee explained to Mr. Wicks that he still did not meet either of the deadlines given for the audit (February 25, 2011 and April 2, 2011). Additionally, when Staff did receive a copy of his provided documentation, it only verified six PDH units, not the required 30.

The Committee suggested a language change in the settlement order to clarify that "the Board finds, but Wicks does not admit" regarding the investigation findings. Mr. Wicks requested changing "admit" to "agree." The Committee agreed to this change. However, Mr. Wicks still had issue with the \$1,000 civil penalty. Mr. Wicks said he didn't agree with the amount of the sanction for the charges, which he felt was not proportional to the violation. Mr. Wicks explained that, if someone was pulled over with an expired license, they would just get a warning. AAG Lozano said an issue with the civil penalty would have to be addressed at an administrative law hearing.

AAG Lozano told Mr. Wicks he still had the right to proceed to a hearing with an administrative law judge if he disagreed with the Board's settlement agreement. Mr. Wicks asked if the hearing would mean he still has to deal directly with the Board. AAG Lozano explained that the hearing is conducted by a completely different organization, but the Board will still have to review and approve the Final Order that results from the ALJ hearing. Mr. Wicks asked when and where the hearing would be held. AAG Lozano explained that it would be scheduled according to his schedule and the schedule of the Administrative Law Office. Mr. Tappert told Mr. Wicks he didn't have to decide on whether or not he wanted to go to hearing immediately and that Staff could send him the amended settlement agreement to review before deciding. After discussion, the Committee determined to send Mr. Wicks a copy of the amended settlement agreement via certified mail for his review.

Staff Update: Mr. Wicks agreed to the amended settlement agreement. The Board received his signed settlement agreement on October 31, 2013.

2742 – Phil Martinson

Mr. Burger mentioned that he previously recused himself from discussion on this case due to a potential conflict of interest. However, he explained that there were no current contracts with this company and he did not manage the contracts that were entered into between Mr.

Martinson's firm and the City of Portland. Mr. Martinson appeared at his informal conference in person and explained that there were unusual circumstances during the time he was unaware of his license delinquency. He said that he had gotten a divorce, changed his address and went in for emergency surgery around the time his license renewal was submitted. After his surgery, he went through his mail and saw the returned renewal. He said he immediately called OSBEELS and Staff directed him to submit his renewal information as soon as possible. He mailed the information again and sent it via email. He said he received an email stating that his renewal had been received. His credit card payment was also processed. Mr. Martinson said he wasn't aware of any issues with his license until he prepared to provide testimony for an OSHA claim and the Department of Justice informed him his license was delinquent. He admitted he was guilty of being late in his renewal and not properly checking on his license status. Mr. Martinson freely stated that the confusion wasn't anyone's fault, but his own and he understands the issues surrounding his renewal originated at his end. He also added that, when his license was delinquent in Oregon, he was licensed in Washington as well.

After discussion, **the Committee recommends the Board approve a settlement agreement with Mr. Martinson for a \$500 civil penalty for violations of 672.020(1) and 672.045(1) and (2).**

2671 – James Edward Pfluger

Mr. Pfluger's informal conference was conducted via telephone. He stated that he had no objection regarding his failure to maintain CPD documentation, but he disagreed with the allegations about failing to cooperate with the Board and failing to be objective and truthful in his dealings with the Board. Mr. Tappert asked for confirmation from Mr. Pfluger if he was agreeing with not maintaining his records and disagreeing with failure to cooperate and being untruthful. Mr. Pfluger confirmed this fact. Mr. Pfluger has also already retired his license. He added that he should have dealt with the renewal mistake sooner. After discussion, **the Committee recommends the Board approve a settlement agreement with Mr. Pfluger for a \$500 civil penalty for a violation of OAR 820-010-0635(1).**

2763 – Keith L. Short

Mr. Short's informal conference was conducted via telephone. Mr. Short informed the Committee that his intent was always to fully comply with the audit request. In July 2011, he thought he had submitted the correct documentation. The next correspondence received was in December 2011 and it said he needed to provide supporting documentation. Mr. Short said he emailed Staff at osbeels@osbeels.org with a request for clarification of what documents were needed. Mr. Short said he received no response. In February 2012, he said he received a letter about an investigation opening although he had already sent in the documentation he was directed to submit by Staff via a phone call with the Board office.

Mr. Short claimed that a response from the Board to his email would have clarified the issue he had when submitting his documentation. He said there were two versions of OAR 820-010-0635 available on the website at the time and he needed to know which to follow.

Committee members asked about the September 2011 letter from the Accounts Department that was in Mr. Short's records. Mr. Short said he never received it, but after receiving a copy from the Regulation Department, he said it contained all the information he had been trying to acquire from Board Staff. Mr. Tappert asked Mr. Short what his response was to the Board's allegations. Mr. Short said he always intended to comply and had adequate PDHs for the renewal cycle.

AAG Lozano pointed out that his number of PDHs wasn't the source of the violation, but rather, his failure to comply with the audit.

The Committee offered Mr. Short a reduced civil penalty of \$300, which Mr. Short was not agreeable to. Mr. Tappert said that Mr. Short's first letter received stated that documentation of his PDHs was required for the audit. Mr. Short said the CPD Organizational Form states that documents must be retained, but doesn't explain that those documents must also be submitted. He reiterated that he responded to the first notice, but didn't realize the documentation submitted was incorrect. He said he didn't receive the second notice and contacted the Board office after the third notice, but did not receive a response from Staff. He said after not receiving a response, he starting putting together information to submit to the Board office that he hoped would show compliance. The next contact from the Board office came in the form of a respond to allegations letter from the Regulation Department. AAG Lozano reiterated that the first audit letter clearly states that supporting documentation is required when audited. Mr. Short said he understands that now, but at the time he didn't and he was only given one chance to comply with the audit. He offered retirement of his licensure in lieu of a civil penalty. After discussion, **the Committee recommends the Board approve a settlement agreement with Mr. Short for retirement without reinstatement for a violation as OAR 820-020-0015(8).**

2758 – Randall John LaPlante

Mr. LaPlante's informal conference was conducted via telephone. Mr. LaPlante's main concern was with the shared reporting with other state boards through NCEES. Mr. Tappert said he wasn't sure how other states process reciprocal disciplinary actions, but he explained that in Oregon the charge of failure to cooperate with an audit with a civil penalty would not rise to the level of reciprocal disciplinary action. Mr. LaPlante asked if it would be clear to recipients of the settlement agreement that the offense was failing to cooperate with the audit and not a more severe violation. Mr. Tappert said the settlement agreement would clearly state the nature of the offense. Mr. LaPlante asked if it would be reasonable to assume that other boards would interpret this disciplinary action appropriately and if language in the newsletter would reflect the nature of the violation. Mr. Tappert said the nature of the violation would be clearly communicated by OSBEELS. Mr. LaPlante asked if the settlement agreement can clarify that he failed to cooperate with the audit, but did eventually come into compliance. AAG Lozano said this could be one option for settlement agreement language. He also asked if there was any possibility of having this violation struck from his record following no further violations. He said the permanence of the offense on his record implies a high degree of severity. Mr. Tappert assured Mr. LaPlante that the settlement agreement would clearly define the nature of the offense and offered a reduced civil penalty of \$300 for his cooperation with the Board. Mr. LaPlante asked if the settlement agreement would impact his future relationship with OSBEELS. Mr. Tappert said there would be no further repercussions from this offense unless he violated OSBEELS rules or statutes again. After discussion, **the Committee recommends the Board approve a settlement agreement with Mr. LaPlante for a \$300 civil penalty for a violation of OAR 820-020-0015(8).**

2760 – Thomas Werner Pennington

Mr. Pennington's informal conference was conducted via telephone. Mr. Pennington acknowledged that he did receive the notices regarding the audit. He explained that he was based in New York and working in a field office, but wasn't receiving Board mail to that

address. When he moved to California in 2012, he was under the impression that his license was already lapsed and he no longer needed to notify the Board of his address changes. Mr. Tappert informed Mr. Pennington that his license didn't become delinquent until January 2013. Additionally, his license was still active when requested to participate in an audit. Mr. Pennington had no additional information to provide to the Committee. AAG Lozano asked Mr. Pennington if he had any suggestions regarding his sanction. Mr. Pennington suggested \$100. After discussion, **the Committee recommends the Board approve a settlement agreement with Mr. Pennington for a \$100 civil penalty for a violation of OAR 820-010-0605.**

2765 – Art Noxon

Mr. Noxon appeared in person for his informal conference. He told the Committee he had not fully read OAR 820-010-0620, although he should have. He thought he could look at the examples of proper seals and obtain all the information needed to properly design his seal. He said when he finally read the rule, he was able to come into compliance. He explained that he doesn't ignore the rules or codes pertaining to his engineering work and he should have treated this rule in the same manner.

Mr. Noxon was under the impression that when he was communicating with the Regulation Department about his seal that they were trying to help him come into compliance; not collecting examples of errors. He acknowledged that putting the expiration date instead of registration date, using a banner not authorized for acoustical engineers, using "EST," and using "renews" instead of "expires" were all choices he made without reading the rule regarding stamp requirements and restrictions. Additionally, he was using digital copies of his stamp and signature on correspondence with the Board without realizing his digital copy was also out of compliance.

Mr. Noxon acknowledged that he's used an inordinate amount of Staff time to correct this issue. After discussion, **the Committee recommends the Board approve a settlement agreement with Mr. Noxon for a \$100 civil penalty for violations of OAR 820-010-0620(1)(2)(4) and OAR 820-020-0015(9). Additionally, Mr. Noxon turned over all non-compliant stamps to OSBEELS for disposal and may not use any non-compliant, electronic or digital stamp on documents in the future.**

Cases Subject to OAR 820-010-0617

2740 – Yukimasa Aizawa/OSBEELS

OSBEELS received a signed renewal form from Mr. Aizawa, PE, certifying that he completed the required PDHs. He was requested to participate in an audit of documentation to support the PDHs claimed between January 1, 2008 and December 31, 2009. Mr. Aizawa did not respond. A second and a final notification were sent and Mr. Aizawa still did not respond. The audit file was transferred to the Regulation Department for further review. A law enforcement case was opened and a respond to allegations letter was sent. Mr. Aizawa did not respond. On April 26, 2013, another letter was sent by investigators to both addresses on record for Mr. Aizawa offering a final opportunity to submit a response to the audit request. Mr. Aizawa did not respond.

Investigators attempted to call Mr. Aizawa on June 27, 2013 using a Japanese interpreter and the two phone numbers on record for Mr. Aizawa. The interpreter located a number for Mr. Aizawa's employer and successfully contacted someone there, but it was before business hours.

The individual contacted said they would attempt to convey the message, but did not recognize Mr. Aizawa's name.

Investigators received an email from Mr. Aizawa on June 30, 2013 and he said that he had received a message from his employer while on a business trip. He said his business trip will last through November and he acknowledged that he had recently received a letter from OSBEELS from April. He attached his CPD Organizational Form. However, the information submitted was for PDHs obtained during the current renewal period. Investigators asked Mr. Aizawa to provide PDH documentation for the audit period and to verify his mailing address. Mr. Aizawa responded and said that he "already got authorization of the period to 12/31/2013. The documents which I sent yesterday are supporting documentation of the active period." Investigators emailed Mr. Aizawa twice more asking for the CPD Organizational Form and supporting documentation for the audit period. Mr. Aizawa did not respond. After discussion, the Committee determined to issue a NOI for a \$3,000 civil penalty and a 90-day suspension for violations of OAR 820-020-0015(7), OAR 820-010-0635(1) and (5), OAR 820-020-0015(8) and OAR 820-010-0605.

2743 – Timothy W. Bardell/OSBEELS

During the August 8, 2013 Committee meeting, Staff were directed to find out additional information regarding the U.S. Fish and Wildlife building constructed in Umatilla County. Investigators spoke with the Morrow County Planning Department and the Morrow County Plans Examiner who said the U.S. Fish and Wildlife Site Improvement Project was inspected, even though the buildings were federally exempt structures that didn't require inspection. Three of the five structures were at least 4,000 square feet. Mr. Bardell described the main building to be 4,000 square feet gross enclosed with intended use as a warehouse/equipment garage. Investigators said one of the three 4,000 square foot structures was likely to be the structure Mr. Bardell designed, but there was no documentation available from Morrow County indicating that he was responsible for the designs because the project was exempt and not required to be permitted.

Ms. Duquette pointed out that, as federal projects, it is likely that Mr. Bardell's designs were exempt from local permitting and building rules. The Committee determined that it appears Mr. Bardell designed four structures while his registration was delinquent from December 31, 2009 through January 24, 2012. One of those structures, Golgatha Church, is considered a significant structure, which requires a structural engineer. Furthermore, the date on his stamp for each project reflected a different expiration date – none of which were his actual expiration date. The Committee determined that designing a significant structure when the individual is not a structural engineer and has a delinquent license is a very significant violation. After discussion, the Committee determined to issue a NOI for a \$6,000 civil penalty and a 180-day suspension for violations of OAR 820-040-0020(1), ORS 672.107, ORS 672.002, ORS 672.020 and OAR 820-010-0620.

2751 – Adrian Bartle Pearmine/Doug L. Spencer

OSBEELS received a complaint from Mr. Spencer, PE, at Oregon Department of Transportation, expressing concerns that Mr. Pearmine had used the PE title on project proposal documents while his PE registration was in delinquent status. Mr. Pearmine explained that he was not aware his status was delinquent until notified by OSBEELS. Mr. Pearmine responded to the issue by removing his PE title from documents, business cards, signature lines and marketing materials.

He also stated that he does not currently practice engineering and his primary duties are in project management related to information technology. Mr. Pearmine said he intends to bring his PE registration back into active status, however, he will no longer be able to renew as of the end of this year, due to being in the delinquent status for greater than five years (ORS 672.170(4)). Duquette noted that, while he may not have been engaging in engineering, Mr. Pearmine was marketing the PE designation. Mr. Tappert pointed out that he did comply and update his materials to reflect his current lack of registration. Ms. Duquette also noted that Mr. Pearmine was working on systems that directly impact the public and he was performing this work for clients who were under the impression that he was properly registered and, therefore, up-to-date on CPDs and field developments. After discussion, the Committee determined to issue a NOI for a \$750 civil penalty for violations of ORS 672.002, 672.020(1), 672.045(2) and OAR 820-010-0605.

Additionally, the Committee recommended a preliminary investigation be completed on IBI Group, which has two divisions in Portland, one of which offers engineering services, but does not identify any registered professional engineers.

2754 – Glenn William Case/OSBEELS

Mr. Case was selected to participate in an audit of his PDH units for the renewal period of January 1, 2008 through December 31, 2009. He submitted a CPD Organizational Form claiming 49 PDH units, but these units were only for the non-qualifying activities of equipment demonstrations obtained during Mr. Case's regular employment. He initially failed to submit any supporting documentation of his PDHs in order to gain compliance with the audit request and he could not verify 30 PDHs during the audit period. Investigators noted that the demonstrations do appear to have been extremely technical in nature and not merely sales demonstrations, as they took place after the sale of the products in order to inform Mr. Case and his company as to how to incorporate these products into the workplace.

AAG Lozano noted that the rules pertaining to acceptable PDHs specifically exclude equipment demonstrations. Investigators also noted that Mr. Case did not respond to the audit request until it had already been transferred to law enforcement. Some Committee members recommended a \$3,000 civil penalty for violations of OAR 820-010-0635(1) and (5), OAR 820-020-0015(7) and OAR 820-020-0015(8). After a discussion about policy, the Committee determined to issue a NOI for a \$2,000 civil penalty and a 90-day suspension for violations of OAR 820-010-0635(1) and (5), OAR 820-020-0015(7) and OAR 820-020-0015(8).

2757 – Melvin L. Johnston/OSBEELS

Mr. Johnston was selected to participate in an audit of his PDHs for the renewal period of July 1, 2009 through June 30, 2011. He failed to respond to numerous attempts by the Board to contact him and gain his compliance with the audit request. Once contacted, Mr. Johnston did not provide the Board with adequate documentation of his claimed PDHs. He also failed to keep his address current with the Board. After discussion, the Committee determined to issue a NOI for a \$3,000 civil penalty and a 90-day suspension for violations of OAR 820-010-0635(1) and (5), OAR 820-020-0015(8) and OAR 820-020-0025(1).

2764 – Douglas Colman Zaitz/OSBEELS

Mr. Zaitz was selected to participate in an audit of his PDHs for the period of July 1, 2008 through June 30, 2010. He did not respond to any attempts by the Accounts Department to

contact him regarding the audit. Investigators reached him by telephone to confirm his contact information listed in Board records. He was emailed an explanation of what was required to bring him into compliance. He replied with a CPD Organizational Form claiming six PDHs with no supporting documentation. Investigators informed Mr. Zaitz of the information to bring him into compliance. He replied with a blank CPD Organizational Form with the explanation that his record keeping during the audit period was unsatisfactory and he could not provide supporting documentation for any PDHs. Investigators again contacted him to explain that it would be in his best interest to fill out the CPD Organizational Form as best he could, but he did not respond. After discussion, the Committee determined to issue a NOI for a \$3,000 civil penalty and a 90-day suspension for violations of OAR 820-010-0635(1), OAR 820-020-0015(8) and OAR 820-020-0025(1).

2768 – Steven Miller/OSBEELS

A case was opened against Mr. Miller, the registered agent for Bulk Handling Systems (BHS) as a result of information obtained in an application for registration by Benjamin Park, EIT. Mr. Park stated that his work was not under the supervision of a PE. Further investigation revealed the advertisement of engineering services and engineering positions on the BHS website. Through correspondence with BHS management, an organizational chart was provided that reflected a number of staff in the company who were given the “engineer” title and did not have professional engineer registration in Oregon. Roy Miller, PE, the Vice President of Engineering, responded to the complaint by changing staff titles and meeting compliance with ORS 672.007. Mr. Miller also clarified that he was a registered engineer, especially qualified in mechanical engineering. He further identified Evergreen Engineering as the contracted firm that provides structural engineering services for BHS. Mr. Miller said he provides supervision and control of those in the engineering department along with staff from Evergreen Engineering. Mr. Miller said that Mr. Park’s claim that he was not supervised was not accurate and that Mr. Park was new at the time and did not fully understand BHS processes. Mr. Miller and the management team at BHS believe they fall under the industrial exemption in ORS 672.060(6) because their engineering work is not offered directly to the public and (7) because the staff are executing engineering work that is designed by a professional engineer, whether or not they are directly employed by the company.

The Committee determined that BHS does not fall under the industrial exemption because the recycling equipment offered is not “off-the-shelf,” but rather, customized for each location of use. After discussion, the Committee determined to issue a Letter of Concern to BHS explaining that all engineering work performed must be done under the supervision of a registered engineer. Ms. Lopez suggested including the definition of “responsible charge” for clarification. Mr. Tappert also suggested including an explanation of why BHS does not fall under the industrial exemption.

2771 - Marjan Sassanfar Amesbury/OSBEELS

Ms. Amesbury was selected to participate in an audit of her PDH units for the renewal period of January 1, 2008 through December 31, 2009. Ms. Amesbury failed to respond to numerous attempts by the auditors to contact her and gain her compliance. When contacted by investigators, Ms. Amesbury provided a CPD Organizational Form claiming 32 PDHs with supporting documentation for 16 of those units. She explained that she could not obtain documentation for the remaining PDHs claimed because she was no longer employed with

Hewlett Packard, which sponsored the training. She also explained that both of her addresses on file were incorrect, as her employment had changed in 2009 and she had moved in 2012. When the case became active, Ms. Amesbury was able to obtain emails from three separate people verifying her completion of the other 16 PDHs. At this point, compliance was met. After discussion, the Committee determined to issue a NOI for a \$250 civil penalty for a violation of OAR 820-010-0605(1).

2772 – Leonard W.W. Cooke/OSBEELS

Mr. Cooke was selected to participate in an audit of his PDHs for the renewal period of January 1, 2008 through December 31, 2009. He failed to respond to numerous attempts by the auditors to contact him and gain his compliance with the audit request. Mr. Cooke later responded to investigators and informed them that he had changed his address in 2012, but had not notified the Board. When the case became active, investigators sent Mr. Cooke an email requesting supporting documentation for 32 PDHs previously claimed. He responded by sending a new CPD Organizational Form claiming 91 PDHs with supporting documentation. At this point, compliance was met. After discussion, the Committee determined to issue a NOI for a \$250 civil penalty for a violation of OAR 820-010-0605(1).

2774 – Ryan B. Mitchell/OSBEELS

Mr. Mitchell was selected to participate in an audit of his PDHs for the renewal period of January 1, 2009 through December 31, 2010. Mr. Mitchell failed to respond to numerous attempts by the auditors to contact him and gain his compliance with the audit request. Mr. Mitchell later responded to investigators and informed them that he had changed his address, but had not notified the Board. Mr. Mitchell submitted a CPD Organizational Form claiming 45 PDHs with supporting documentation. At this point, compliance was met. After discussion, the Committee determined to issue a NOI for a \$250 civil penalty for a violation of OAR 820-010-0605(1).

2779 – David A. Loomis/Gregory and Teresa Aland

A complaint was filed with the Board against Mr. Loomis on May 15, 2012, alleging failure to give written right of entry notice, negligence and failure to file within 45 days of setting monuments. There appears to be a history of conflict between neighbors in this subdivision and there is a history of strong conflict between the neighbors in this case. John Waffenschmidt, Lincoln County Surveyor, stated that Lincoln County staff who have been out to the neighborhood have reported that there are monuments in the ground that don't align with fences and the whole neighborhood may have issues like that. These are issues unrelated to Mr. Loomis. The complainants stated that Mr. Loomis did not provide written notice for right of entry to complete survey CS 18889, which was filed November 10, 2011, though Mr. Loomis gave verbal notice. A 2011 revision to ORS 672.047 specifically requires written notice for right of entry, but it was not effective until January 1, 2012. Both the complainants and the respondent state that verbal notice was given, therefore, Mr. Loomis is not in violation of right of entry notification for this survey.

However, Mr. Loomis disclosed that he knew there were errors in CS 18889 that were corrected in CS 18964, which was filed June 27, 2012 – nearly a year later. Mr. Loomis also said he did not file CS 18880 in a timely manner. He said he did the field work in 1998 and filed the survey on October 21, 2011.

The Committee discussed the fact that Mr. Loomis did direct harm to the public by filing a survey that he knew contained errors. Additionally, Mr. Loomis waited more than 10 years to file CS 18880, which means there were monuments set with none of the necessary corresponding information. AAG Lozano also noted that Mr. Loomis had a previous violation on record with the Board for a similar offense. After discussion, the Committee determined to issue a NOI for a \$2,000 civil penalty and revocation of registration for violations of OAR 820-020-0015(2), OAR 820-030-0060 and ORS 209.250(1).

2827 – Ronald McKinnis/Stephen Haddock

OSBEELS received a complaint on January 28, 2013 from Steve Haddock, Morrow County Surveyor, regarding a Morrow/Grant County OHV Park Survey and a survey for John and Karen Patterson that were completed by Mr. McKinnis. The OHV Park survey was initiated by Mr. McKinnis around 2004. He submitted a preliminary survey on or about May 2007 with notes that monuments would be set and the survey recorded in 2007. Mr. McKinnis did not set monuments until August 2013, however, his temporary control points and preliminary map were used for the construction of fencing and negotiation of boundaries with an adjacent landowner. Mr. McKinnis also accepted county funds to complete the work in 2005. Additionally, Mr. McKinnis did not follow the current BLM Manual at the time of the survey, which would be required for resurveys of previous BLM surveys.

In reference to the Patterson survey, the survey was initially submitted to the Morrow County Surveyor on or around February 10, 2007 and returned to Mr. McKinnis for corrections. He did not follow the instructions of the County Surveyor's Office to return the survey, with corrections, within 30 days. When the survey was submitted a second time, on or around June 29, 2008, it was again returned for corrections. These corrections were again not submitted, as required, within 30 days. The survey was submitted a third time, on or around October 2012 and again returned for corrections. These corrections were again not submitted, as required, within 30 days. Additionally, the Patterson survey was another resurvey of a previous BLM survey where Mr. McKinnis did not follow the current BLM Manual.

AAG Lozano said that the approximate dates are not strong enough evidence to move forward with. However, a resurvey of a previous BLM survey must be conducted as directed by the BLM Manual. Failure to do so could be a negligence or incompetence violation.

The Committee directed Staff to further investigate if Mr. McKinnis followed the BLM Manual for his resurveys. Ms. Peterson said no survey map has officially been filed to reference. AAG Lozano said preliminary maps can be used because the BLM Manual survey criteria are more focused on the survey methodology than the final result. Additionally, the Committee directed Staff to complete preliminary evaluations for Kenneth Delano, Judson Coppock and Doug Ferguson.

Staff Update: Sufficient evidence was collected after the Committee meeting to justify opening cases on both Mr. Delano and Mr. Ferguson.

2829 – Jack Watson/OSBEELS

The Committee directed Staff to undertake further investigation after review of the case at the August Committee meeting. As a result, Mr. Watson was contacted by investigators regarding the lack of information about his methodology when he restored Public Land Survey System (PLSS) monuments. He was asked to submit any supplemental information regarding his methodology. He responded on August 29, 2013 with information unrelated to the inquiry.

Staff noted that Mr. Watson had three opportunities to identify problems with the survey, including two corner restoration forms and the preparation of the map of survey. Mr. Watson provided no reference to the 1973 BLM Manual in either the narrative or the map of survey. Mr. Watson also did not state the controlling deed records, deed elements and survey records, as required by ORS 209.250(2). Additionally, he failed in the narrative and on the map itself to identify, not only the BLM lands, which experienced unpermitted timber removal, but failed to also identify the government lots in Sec. 7 or any other properties that may be altered by the survey.

Ms. Duquette asked about the public impact of Mr. Watson's actions. AAG Lozano explained that Mr. Watson's survey essentially took BLM land and granted it to his private client, which resulted in unpermitted timber removal from federal land. Mr. Burger asked if the BLM has already dealt with the monetary loss of the unpermitted timber removal. AAG Lozano said recouping money would be an agency matter outside of OSBEELS jurisdiction. Mr. Burger asked if the BLM is waiting on OSBEELS to make a ruling prior to pursuing civil charges against Mr. Watson. AAG Lozano said BLM is not interested in litigating. Additionally, she pointed out that OSBEELS' focus is on public safety, health and welfare, not civil cases.

Ms. Duquette said, based on the information provided and the age of the offense, she can't rationalize license suspension or revocation. Mr. Burger agreed. Ms. Duquette asked AAG Lozano about the severity of this violation to help determine an appropriate amount for a civil penalty. AAG Lozano explained that this violation is against the only codified law for standards of practice for land surveying. Ms. Duquette said that an offense of this nature seems to be more significant than a CPD violation, which carries a \$1,000 civil penalty per offense. After discussion, the Committee determined to issue a NOI for a \$3,000 civil penalty for violations of ORS 209.250(1)(2) and OAR 820-020-0015.

2845 – Timothy Wolden/OSBEELS

On July 9, 2013, OSBEELS entered into a settlement agreement with Mr. Wolden to settle law enforcement case 2781. The Final Order stated that Mr. Wolden's registration would be suspended for 45 days, starting on July 9, 2013 and he was assessed a civil penalty of \$16,000. Half of the civil penalty was payable, but the second half was suspended for five years, as long as the Board finds no violations for any past, present or future conduct involving the practice of engineering. After five years, if there were no violations, the \$8,000 would be abated. Additionally, if the Board issues a final order involving finding that Mr. Wolden committed further violations in the five year period, the remaining \$8,000 would be immediately due and payable.

As a matter of policy, Staff sent notification to Oregon Building Officials on July 10, 2013, alerting them that Mr. Wolden's registration had been suspended from July 9, 2013 through August 23, 2013. On July 23, 2013, Staff received an email from a City of Corvallis Permit Technician, stating that the city had received a facsimile from a RamJack contractor along with an engineer's special inspection report on repairs to a single-family residence foundation. Mr. Wolden had sealed and signed the report. In the report, Mr. Wolden recounts his site visit to observe installation of RamJack helical piers. He also verified pier placement, discussed adjustments to the original design and analyzed pier placement to conclude that bearing capacity exceeded 12,000 pounds. Mr. Wolden closed the report with "All foundation repair work is in compliance with my recommendations and the standards of the steel pier industry." The fax date stamp is July 23, 2013 and the City of Corvallis date stamp showed it was received on July 23,

2013. Therefore, Mr. Wolden prepared the report while suspended. The exception for a single-family residence under ORS 672.060(10) does not apply to registrants and his suspension does not make him a non-registrant.

The Assistant Building Official for the City of Eugene also forwarded calculations that the city had received as part of a design Mr. Wolden had completed June 20, 2013. The calculations were received August 2, 2013 and were unstamped and unsigned.

Mr. Wolden wrote that the City of Corvallis work was supposed to be completed prior to the start of his suspension. He said the report he wrote was required upon completion of the project as part of the closing procedure outlined in the permitting process. He was under the impression that, since he wasn't doing design or analysis work, he could close out previous projects while suspended. Regarding the City of Eugene project, Mr. Wolden said those calculations were only sent to the designer and were intended to assist him in answering a question from the city's plan reviewer.

Ms. Duquette said she believed she had recently received plans to review from Mr. Wolden and she would check her records and notify Board Staff of her findings. AAG Lozano said Ms. Duquette would have to recuse herself from discussion because of potential personal knowledge. Without Ms. Duquette, the Committee did not have a quorum for this discussion and it was forwarded to the November 2013 Board meeting for further discussion.

Staff Update – Ms. Duquette emailed investigators on October 11, 2013 and said that the submissions to her office from Mr. Wolden were submitted prior to the start of his suspension.

2851 – Scott T. Ogren/OSBEELS

Ms. Duquette asked AAG Lozano if being an acquaintance of Mr. Ogren meant she had to recuse herself from discussion. Ms. Duquette clarified by explaining that they know each other, but it is not a close or personal relationship. AAG Lozano said there were no conflict of interest issues in this situation.

Mr. Ogren was selected to participate in an audit of his PDHs for the renewal period of January 1, 2009 through December 31, 2010. Mr. Ogren did not respond until he received the final notification letter from the Accounts Department. He responded by submitting verification that was accepted for 24 PDH and requested a grace period to comply with the remaining 6 PDH. The grace period was granted, however, Mr. Ogren did not respond with the remaining PDH by the deadline he was given. His file was transferred to the Regulation Department and a law enforcement case was opened. Mr. Ogren responded to the investigator the same day he was contacted and submitted verification for the remaining PDHs and compliance was met. After discussion, the Committee determined to issue a NOI for a \$500 civil penalty for a violation of OAR 820-020-0015(8).

Preliminary Evaluations

Charter Construction

During the August 8, 2013 Committee meeting, concerns arose during the discussion of Case No. 2744. Investigators noted that the website for Charter Construction lists staff for both the Oregon and Washington office. Charter Construction gives the title of "Project Engineer" to non-registered staff. For Oregon, Charter Construction changed the staff title to "Project Manager," but the website does not distinguish which staff were assigned to the Oregon office and which are assigned to the Washington office. There are additional concerns that Charter

Construction may be practicing engineering without identifying the registered professional engineer who is performing those services. Investigators contacted the Vice President of Oregon Operations for Charter Construction on May 29, 2013 regarding the staff location concerns. He emailed a response on June 3, 2013 and said OSBEELS would hear from Charter Construction shortly. Investigators followed up on June 24, 2013, but there was no response. On July 16, 2013, a letter was sent to Charter Construction and their registered agent, James Law Group, LLC, requesting a response and completion of the company questionnaire. There was no response. Another letter sent to Charter Construction, including the company president and James Law Group, LLC, on August 13, 2013 also went unanswered. The Committee determined to open a case against Charter Construction for potential violations of OAR 820-010-0715 and OAR 820-010-0720.

Earth Engineers

An inquiry was received on June 4, 2013 from Michael Remboldt, PE, alleging that Earth Engineers was actively pursuing geotechnical engineering projects in the Springfield area and did not have a registered professional engineer on staff. Investigators contacted Mr. Remboldt for additional information and to request that he complete the official OSBEELS complaint form and he did not respond. When reviewing the Earth Engineers website, investigators noted that there was no PE listed for the Springfield location. Troy Hull, PE, was listed as the Oregon registered professional engineer, but he was assigned to the Vancouver office. Mr. Hull was contacted and he completed the company questionnaire. He explained that he is present at least one-half of his working time at the Springfield office and he was the PE for both locations. Mr. Hull had the website amended to reflect that he is the designated officer at both locations. The website is now compliant with OAR 820-010-0720. The Committee determined to not open a case against Earth Engineers.

Carl Stout, PLS

On April 4, 2013, Mr. Stout submitted a sealed and signed statement in support of Jack Watson, PLS, Case No. 2829. Mr. Stout recalled how he assisted Mr. Watson in a cadastral survey that resulted in map of survey 1430, which was filed with the Grant County Surveyor on November 1, 1996. The BLM subsequently discovered unpermitted timber harvest on their lands affected by survey 1430. Mr. Watson filed the relevant Certified Record of Land Corner Monumentation forms, but listed Dave Bondsteel as a witness, not Mr. Stout. When the Committee reviewed a case summary for Case No. 2829 on August 8, 2013, they directed further investigation because some of Mr. Stout's statements did not seem to match what the records showed.

Mr. Stout said he assisted Mr. Watson in the survey of the T.G. Brown property, which involved reestablishing more than 13 miles of boundary lines. The issue at the corner of Sections 7,8,17 and 18 is that the BLM found the original basalt stone 100.85 feet away from where Mr. Watson monumented his corner position. Investigators interviewed Mr. Stout on September 12, 2013 and he said he was involved in the survey from the start and helped Mr. Watson search for the corners on at least three occasions. However, he confirmed that he was not present when Mr. Watson and Mr. Bondsteel monumented the corners. The Committee determined not to open a case against Mr. Stout.

Stephan Hoffman, PE

Additional information was presented regarding Mr. Hoffman's preliminary investigation, which was initially reviewed at the August 8, 2013 Committee meeting. Staff were directed to identify when the mandatory reporting rule was adopted by OSBEELS to ensure Mr. Hoffman's disclosure was required in 2000.

The threshold for OSBEELS to consider law enforcement action, which is set by OAR 820-020-0015(6) states:

Conviction of a felony without restoration of civil rights, or the revocation or suspension of the license of a registrant in another jurisdiction, if for a cause which in the State of Oregon would constitute a violation of ORS 672.020 to 672.310 or of these rules, shall be grounds for a charge of violation of these rules.

OAR 820-020-0015 took effect in 1981 and offers a two-prong criterion: the sanction level and the violation. This rule was in effect at the time of the violations and Massachusetts (MA) Board action. Since Mr. Hoffman was revoked, the sanction level was reached. Also, the MA Board took action based on him stamping plans not prepared under his control and supervision, which could be a violation of ORS 672.020(2) and OAR 820-020-0015(10). In addition, they found Mr. Hoffman failed to adequately validate the structural integrity of the buildings and to ensure compliance with building codes. These could be violations of OAR 820-020-0015(2). As a result, both the MA Board sanction and the violations appear to rise to a level to trigger OAR 820-020-0015(6). Currently, multiple states are taking reciprocal action for failing to report the MA Board discipline. Additionally, Mr. Hoffman reported that the Iowa Board fined him \$100 for failing to comply with CPD requirements in 2008. In this case, the revocation/suspension threshold set by OAR 820-020-0015(6) is not met for OSBEELS action, despite the fact that failing to comply with CPD requirements is within the Board's jurisdiction. Ms. Duquette asked how long the reciprocal disciplinary cycle will continue for Mr. Hoffman; especially considering that his license was reinstated by the MA Board after revocation. The Committee determined to send Mr. Hoffman a Letter of Concern detailing Oregon's disciplinary action reporting requirement and a review of Oregon's CPD and audit cooperation requirements.

Steve Copeland

On September 9, 2013, OSBEELS received an email from Scott Field, PLS, who was concerned that Copeland Contracting Services group was potentially offering engineering and land surveying services without a licensed registrant listed on their website, in violation of OAR 820-010-0720. Mr. Field was asked to fill out a complaint form, but he said the email was all he wished to contribute. On September 25, 2013, Mr. Copeland returned the company questionnaire and stated that there were no registered engineers or land surveyors employed by his company. He said beyond the wording on his website, they do not offer to perform or perform any unlicensed services and that, when necessary, the subcontract these services to registered professionals. Investigators informed Mr. Copeland that his website, in its current state, was in violation of OAR 820-010-0720 and showed him how, by following OAR 820-010-0715, he could bring his website into compliance.

Mr. Copeland added a disclaimer to his website clarifying that he and his staff are not engineers or land surveyors and they do not offer those services. Based on OAR 820-010-0715(2)(d), this disclaimer and Mr. Copeland's CCB license, the Copeland Contracting Services website is now in compliance. The Committee determined to not open a case against Mr. Copeland because compliance has been met. However, concerns relating to a "Design and Architecture" tab on the website will be forwarded to the Oregon Board of Architect Examiners.

Matt Newman

On July 30, 2013, OSBEELS received a complaint form from Susan L. Weedall stating that Mr. Newman, of NW Engineers, did not respond to her query regarding a downed quarter corner marker laying in her property that was replaced with a bare post. She claims to have seen surveyors adjacent to her property in May 2013 without being notified. Ms. Weedall stated that she contacted with Multnomah and Washington County surveyors who confirmed that they had not been on her property within the year.

Investigators spoke to Mr. Newman who said he had asked SFA and CMT, the two survey companies involved in his project, about the issue after Ms. Weedall's inquiry. Both companies claimed to have not entered Ms. Weedall's property and neither had touched the marker in question. Ms. Weedall did not have any additional information as to the identity of a possible surveyor who may have entered her property or downed the marker.

Email traffic between SFA Design Group and Mr. Newman explains that there was no reason to enter Ms. Weedall's property, as their job could be done from outside her boundaries. Surveyors said they noticed the 4x4 post on the ground and it looked like it had been there for a while. They also mentioned that the county marker had been replaced and it was possible the old marker was removed to make way for the new Carsonite marker.

Investigators contacted the Multnomah County Surveyors Office and they confirmed that the Carsonite marker was placed in 2001, but notes indicate that both the wood post and the Carsonite marker were in place during the most recent survey of the area in 2010. It may be possible that the wood marker fell on its own due to decay or external forces not related to recent surveys. The Committee determined to not open a case against Mr. Newman due to insufficient evidence.

Dan Danicic

A complaint was received from Jay Harris, City Engineer, City of Newberg, on August 30, 2013, alleging that Dan Danicic, PE and former City Manager for the City of Newberg, was deceptive and attempted to cover-up a sexual relationship he had with an employee who was under his direction. Mr. Danicic reportedly resigned his position as city manager at the direction of the City Council because he attempted to cover-up a relationship with a former city employee, which was against city policy. There was no criminal conviction. The complaint from Mr. Harris was based on Mr. Danicic's alleged violation of the Rules of Professional Conduct. The Committee determined to not open a case against Mr. Danicic since the conduct was not substantially related to Mr. Danicic's fitness and ability to engage in engineering, as determined by ORS 670.280.

Unfinished Business

Nonpayment of Civil Penalty

The following respondents were sent a Final Order assessing civil penalty(s) approved by the Board. The due date has passed without receipt of payment.

2708 – John Arscott - \$500

2712 – John R. Gery - \$3,000

2715 – Jong-Rok Lee - \$3,000

2721 – Steven Toyama - \$500

Staff Update: Mr. Toyama paid his civil penalty in full. Payment was received at the Board office on October 17, 2013.

The Committee directed Staff to open new cases against each of the above individuals, except for Mr. Toyama, for violations of OAR 820-020-0045(3).

Request for Reconsideration

Zaki Kiriakos, Case No. 2735, requested the Committee reconsider his case due to circumstances that resulted in his not receiving all correspondence from the Board regarding his case. He was issued a Default Final Order that was mailed on May 31, 2013 for a \$3,000 civil penalty and a 90-day suspension. He also did not report an address change within 30 days, as is required by OAR 820-010-0605. Mr. Kiriakos' registration has been in delinquent status since June 30, 2011.

Mr. Kiriakos said due to a divorce he hadn't had access to mail arriving at his home of record. Additionally, he said much of his PDH activity is considered classified by the National Security Agency due to its sensitive content. He said the PDH work he could disclose was kept from him by his estranged wife during divorce proceedings. Finally, his work files related to his PDHs were not available after his military retirement as they were the property of his former employer, Lockheed Martin. The Committee denied Mr. Kiriakos request for reconsideration, as it was outside the 60-day window to contest the Default Final Order.

Staff Update: Upon further review of the record, it was found that Mr. Kiriakos should not have been selected for the CPD audit due to his registration status at the time. The Board will review this additional information during the November 12, 2013 meeting to determine if the Final Order should be withdrawn.

Informal Conference Follow-up

Following his informal conference during the August Committee meeting, additional information was provided regarding Cole R. Elliott, Case No. 2753. Mr. Elliott claimed to have originally sent his CPD verification information in September 2011 following a July 2011 audit participation request. Mr. Elliott provided a fax cover sheet from January 12, 2012 referencing an earlier reply email from Staff and a series of emails dated November 14, 2011, January 6, 2012 and January 24, 2012 in an attempt to prove his compliance with the auditors. While he never fully supplied the proper PDH documentations until he was working with investigators, these attempts at compliance negate the violation of OAR 820-010-0635(1)(c).

It also appears that the home address on file for Mr. Elliott has remained the same throughout his registration. As residential address is the only address change the Board needs to be notified of within 30 days, this eliminates the violation of OAR 820-010-0605(1).

The Committee determined to withdraw Mr. Elliott's NOI.

Case Status Report

The LEC offered no comments on total cases open (100), cases subject to collections (10), or on cases subject to monitoring (16). Mr. Wilkinson noted that Thomas P. Swart, Case No. 2626, finally contacted investigators and informed them that he's been out of work for the past year, which is why he hasn't been paying monthly toward his civil penalty. Mr. Swart said, since he's working now, he can start paying again. However, as the Board already directed the Regulation Department to send Mr. Swart's account to collections during the May 14th, 2013 Board meeting, there is no option for him to renegotiate a payment agreement. Additionally, Ms. Gilbert noted that Kelly Scott Dame, Case No. 2632, is deceased.

Pending JCC Review

2726 - David Gowers

2725 – James Rodine

The JCC meeting is scheduled for October 24, 2013 at 1 p.m. in the OSBEELS Conference Room at 670 Hawthorne Ave SE, Suite 220 Salem, OR.

The meeting adjourned at 3:55 p.m.