



Oregon

State Board of Examiners for
Engineering & Land Surveying
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BEFORE THE OREGON STATE BOARD OF EXAMINERS
FOR ENGINEERING AND LAND SURVEYING

In the Matter of:

Case No. 3023

MARCIA LYNN KARR

FINAL ORDER BY DEFAULT

On or about December 29, 2016, the Oregon State Board of Examiners for Engineering and Land Surveying (Board) properly served a Notice of Intent to Suspend Registration and to Assess a Civil Penalty (Notice) on Marcia Lynn Karr (Karr). Karr requested a hearing, but withdrew the request for a hearing and paid her full civil penalty amount of \$1,000.00. The Notice designated the Board file on this matter as the record for purposes of establishing a *prima facie* case upon default. Therefore, upon consideration of the facts and law, the Board enters the following Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.

At all relevant times, Karr was an Oregon Professional Engineer registration number 59051PE. The Board issued her certificate of registration on September 22, 1998, and it is currently unexpired.

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2.

At all relevant times, Karr was employed with the City of Portland, Bureau of Development Services (BDS) as a Mechanical & Energy Code Plan Reviewer, who reviews and then either approves or denies building plans that are submitted for Portland building permits and so that construction projects can proceed.

3.

In 2015, Karr and Carolyn Roos, Ph.D. (Roos), completed development of an engineering software product called Engineer in a Pocket (EIP), which is a software program used to calculate potential energy savings as a result of mechanical equipment upgrades in commercial properties. Roos provided the software expertise and Karr provided expertise in energy analysis and efficiency.

4.

Skylab Architecture (Skylab) is the architectural firm in charge of the Burnside Bridge Project in Portland, Oregon. Skylab is required to submit its mechanical and energy (engineering) plans to BDS, to obtain approval for its construction projects, including the Burnside Bridge Project. In January 2016, Karr attended a meeting during her regular BDS work hours and marketed EIP to Skylab as a resolution to issues with window glazing on the Burnside Bridge Project, window glazing being a component of the Burnside Bridge Project's energy plans.

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1 5.

2 Following the January 2016 meeting between Karr and Skylab, American Heating, Inc.
3 (American Heating) purchased EIP for Skylab's Burnside Bridge Project. On January 26, 2016,
4 during a normal BDS workday, Karr visited American Heating to provide instruction on the
5 proper use of EIP in relation to the Burnside Bridge Project.

6 6.

7 On February 23, 2016, Karr sent a mass marketing email communication promoting EIP,
8 using her City of Portland, BDS email account.

9 7.

10 Oregon Heating & Air Conditioning had submitted a plan for the Fisk Building Project to
11 BDS for review, which the plan was denied - at least in part - based on its energy components. In
12 March 2016, Oregon Heating & Air Conditioning, LLC, submitted an appeal of that denial to
13 BDS. The appeal contained a report that was generated from the EIP product purchased by
14 Oregon Heating & Air Conditioning, LLC and this portion of the appeal is still pending at BDS.

15 8.

16 In addition to the above mentioned parties, Karr also admitted to selling EIP to the
17 following persons during the course of her full time BDS duties, which person submit building
18 plans to BDS for review and approval, and for appeals of BDS plan denials:

- 19 • Jacobs Heating & Air Conditioning, Inc.
- 20 • Fred Wilson, unknown employer/firm
- 21 • Art Anderson, unknown employer/firm
- 22 • Viking Sheet Metal

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1 9.

2 KARR did not disclose this simultaneous conduct or the circumstances surrounding it that
3 could impair her judgement and the quality of her services, to BDS or to the persons to whom
4 she marketed EIP, in writing.

5 10.

6 OAR 820-020-0030(2) provides:

7 Registrants and applicants for registration or certification must disclose all known or potential
8 conflicts of interest to their employers or clients by promptly informing them, in writing, of any
9 business association, interest, or other circumstances that could influence their judgment or the
10 quality of their services. For purposes of this rule, a "conflict of interest" includes, but is not
11 limited to, an interest in any property or any other thing of value that is related in any way to or
12 potentially affected by the services that the registrant provides.

13 11.

14 KARR personally marketed, trained customers on, and profited from an engineering product for
15 designing building plans – a thing of value -- when she worked as a plan reviewer for the
16 municipality where those plans would be submitted for review – which created a relationship
17 between that thing of value and the services she was providing. The city plan reviewer
18 affirmatively marketed a private planning tool that would benefit her personally, and did so on
19 city time while employed full time as a plan reviewer. These circumstances constituted a conflict
20 of interest. Because it would promote her software product if she approved plans she reviewed
21 that used it, the circumstances of her conduct could also influence her judgment as a plan
22 reviewer and the quality of her BDS services.

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12.

By failing to disclose her conflict of interest and private business circumstances that could influence her judgment or the quality of her services, Karr violated rule of professional conduct OAR 820-020-0030(2) in at least nine instances. This conduct is the basis for discipline under ORS 672.200(6) and 672.325(1).

FINAL ORDER

Based on the foregoing and pursuant to ORS 183.745, 672.200, and 672.325, it is HEREBY ORDERED that a civil penalty is imposed on Marcia Lynn Karr in the amount of \$1,000 and Karr’s professional engineering registration is suspended for 90 days, for the violation of OAR 820-020-0030(2) in nine separate instances. The civil penalty is due and payable 70 days after the date of this order, unless the penalty has already been paid.

Jason Kent, PE
Board President
Oregon State Board of Examiners for
Engineering and Land Surveying

Date

APPEAL RIGHTS

You are entitled to judicial review of this order in accordance with ORS Chapter 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the date of service of this order.