BETORE THE OREGON STATE BOARD OF EXAMINERS
FOR ENGINEERING AND LAND SURVEYING

In the Matter of: HERBERT FARBER

Case No. 2930

FINAL ORDER INCORPORATING SETTLEMENT AGREEMENT

Based on the attached Settlement Agreement, incorporated herein, the Oregon State Board of Examiners for Engineering and Land Surveying (Board) finds that because Herbert Farber (Farber) included in his survey for Eric and Lisa Artner a narrative which cites utilizing GPS control, tying the recovered monuments “as shown,” and locating the right-of-way “per plat records,” but fails to show found monuments or record data, Farber demonstrated a willful indifference to prescribed standards and practices, legal duties, probable consequences, and/or the rights of others. Thus, Farber demonstrated gross negligence in violation of ORS 672.200(2).

IT IS HEREBY ORDERED that pursuant to ORS 672.325, ORS 183.417(3), and ORS 183.745, the Board assesses a civil penalty of $1,000 against Farber and accepts the permanent retirement of his Oregon Professional Land Surveyor registration (registration number 02189PLS), such retirement effective no later than August 31, 2018.

DATED this 14th day of May, 2018.

Shelly Duquette, PE, SE, President
Oregon State Board of Examiners for Engineering and Land Surveying
SETTLEMENT AGREEMENT

The Board, by and through its President, Shelly Duquette, PE, SE, and Herbert Farber (Farber), do hereby agree and stipulate as follows:

1. The Board and Farber agree to settle this matter in accordance with ORS 183.417(3).

2. Farber is an Oregon registered Professional Land Surveyor, license number 02189PLS. The Board issued his certificate of registration on July 26, 1985. Farber’s registration is currently in Active status with an expiration date of December 31, 2019.

3. On December 5, 2017, the Board issued a Notice of Intent to Assess Civil Penalty against Farber assessing a civil penalty of $5,000 and a 90-day license suspension. The Board charged Farber with violating: (1) ORS 209.250(1) for failing to file a survey with the county within 45 days of establishing a monument; (2) ORS 209.250(2) for an insufficient survey narrative; (3) ORS 672.200(2) for a negligent survey narrative; (4) OAR 820-025-0015 for seal violations; (5) ORS 209.250(3)(g) for a missing seal; (6) OAR 820-025-0015(2) for failing to sign and seal a document or, in the alternative, mark the document as preliminary; (7) ORS 672.200(2) for gross negligence; and (8) ORS 209.250(3)(e) for failure to include bearings and distances on a map of survey.

4. On or about December 21, 2017, Farber requested an informal conference with the Law Enforcement Committee (LEC) of the Board on the matter.

5. On February 8, 2018, the LEC and Farber met in an informal conference to discuss a settlement. The LEC and Farber did not agree to a settlement at that time.

6. On or about February 20, 2018, Farber requested a second informal conference with the LEC.

7. On April 12, 2018, the LEC and Farber met in a second informal conference to discuss a settlement. The LEC and Farber did not agree to a settlement at that time.

8. However, on April 13, 2018, Farber agreed to settle this matter as discussed at the April 12, 2018 LEC meeting.

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9. Because Farber included in his survey for Eric and Lisa Artner a narrative which cites utilizing GPS control, tying the recovered monuments “as shown,” and locating the right-of-way “per plat records,” but fails to show found monuments or record data, Farber demonstrated a willful indifference to prescribed standards and practices, legal duties, probable consequences, and/or the rights of others. Thus, Farber demonstrated gross negligence in his survey for Eric and Lisa Artner. The Board finds that Farber violated ORS 672.200(2).

10. The Final Order Incorporating Settlement Agreement sets forth the entire agreement of the parties. Farber agrees that the determination of any violation of this settlement agreement is entirely within the Board’s discretion.

11. The Board and Farber agree that Farber is assessed a civil penalty of $1,000 for violating ORS 672.200(2).

12. Payment shall be made to the “Oregon State Board of Examiners for Engineering and Land Surveying” and delivered or mailed to 670 Hawthorne Street SE, Suite 220, Salem, Oregon 97301, no later than June 1, 2018.

13. If Farber fails to pay any part of the civil penalty on its due date, the Board will assess a 15% interest rate on any unpaid balance.

14. Farber agrees to permanently retire his professional land surveying license by August 31, 2018, with no opportunity for reinstatement.

15. Farber agrees to not take on any new land surveying work as of April 12, 2018.

16. Farber agrees to provide a list of all current land surveying projects to the Board by April 30, 2018.

17. Farber agrees to provide the name of an Oregon-licensed professional land surveyor who will peer review all of his current land surveying projects to the Board for approval by April 30, 2018. This Oregon-licensed professional land surveyor will be paid by Farber for any and all peer review work he or she provides. The peer reviewer must be approved by the Board.
before this term of the settlement agreements is considered fulfilled. The peer reviewer must
agree to review and, if necessary, assist Farber in correcting any and all work before Farber
submits it to a County Surveyor or City Surveyor.

18. By accepting this settlement agreement, the Board agrees to dismiss the remaining charges
contained in the Notice, and not to take action against Farber for any and all other land
surveying work he performed prior to April 12, 2018.

19. Farber acknowledges that the Final Order Incorporating Settlement Agreement is a public
record and may be disclosed in accordance with Oregon’s public records law. Farber also
acknowledges and understands that the Final Order Incorporating Settlement Agreement is a
final order.

20. Farber represents that he has carefully read this Settlement Agreement and Consent Order,
understands the intent and content of the document, and signs below of his own free will,
without coercion or duress. Farber hereby waives any and all rights to appeal or challenge
this Settlement Agreement and Consent Order.

Herbert Farber

Date

Approved as to form: N/A

Attorney for Respondent

Date

Shelly Duquette, PE, SE, President
Oregon State Board of Examiners
for Engineering and Land Surveying

Date
Farber Settlement Agreement Addendum

This addendum is hereby incorporated into the Final Order and Settlement Agreement in OSBEELS law enforcement Case No. 2930.

WHEREAS, the current land surveying project list provided by Farber pursuant to Paragraph 16 of the Settlement Agreement includes as project no. 33 “Forest Boundary Survey Contract” with Hancock Forest Management; and

WHEREAS, such contract is not a land surveying project, but an on-call contract that includes an indefinite number of individual land surveying projects, without finite lists of projects;

THEREFORE, Farber agrees to provide a list of all specific land surveying projects he was completing within his Hancock Forest Management “Forest Boundary Survey Contract” as of May 8, 2018, to be provided no later than May 11, 2018.

Farber further agrees to accept no new land surveying projects under his Hancock Forest Management, Forest Boundary Survey Contract after May 8, 2018.
FINALLY, Farber agrees that, in the event that any other land surveying project he has
listed pursuant to paragraph 16 of the Settlement Agreement is or includes an on-call contract, he
shall, no later than May 11, 2018, provide a list of all specific land surveying projects he was
completing within those contracts as of May 8, 2018, and further agrees to accept no new
projects under any such contracts.

Herbert Farber

Approved as to form: N/A

Attorney for Respondent

Shelly Duquette, PE, SE, President
Oregon State Board of Examiners
for Engineering and Land Surveying

5-11-18

Date

14 May 18

Date