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

In the Matter of: | Case No. 3126
THOMAS DAVID HUBBARD | FINAL ORDER BY DEFAULT

On or about April 8, 2019, the Oregon State Board of Examiners for Engineering and Land Surveying (Board) properly served a Notice of Intent to Assess a Civil Penalty on Thomas David Hubbard (Hubbard). The Notice assessed a civil penalty in the amount of \$1,000, and it designated the Board file on this matter as the record for purposes of establishing a *prima facie* case upon default. On April 29, 2019, Hubbard timely requested a hearing. However, on August 19, 2019, Hubbard submitted a written withdrawal of his request for hearing. Therefore, upon consideration of the facts and law, the Board enters the following Order:

FINDINGS OF FACT AND ULTIMATE FACTS

1. Hubbard was an Oregon Professional Engineer, registration number 78681PE, from September 19, 2006, to June 30, 2011. On June 30, 2011, his registration (license) expired.
2. On or about March 11, 2014, Hubbard created and submitted to Scott Wittenberg, an Oregon-based client, a design for a tram lift system to be built in Lake Oswego, Oregon.
3. The design bore Hubbard’s expired seal and signature.

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- 1 4. Creating a design for a tram lift system requires the application of special knowledge of
2 mathematical, physical, and engineering sciences.

3 **APPLICABLE LAW**

- 4 1. ORS 672.020(2) provides, in pertinent part, “the signature and stamp of a registrant
5 constitute a certification that the document was prepared by the registrant or under the
6 supervision and control of the registrant.”
- 7 2. ORS 672.005(1)(b) defines, in part, the “practice of engineering” or the “practice of
8 professional engineering” as “applying special knowledge of the mathematical, physical and
9 engineering sciences to such professional services or creative work as consultation,
10 investigation, testimony, evaluation, planning, design and services during construction,
11 manufacture or fabrication for the purpose of ensuring compliance with specifications and
12 design, in connection with any public or private utilities, structures, buildings, machines,
13 equipment, processes, works or projects.” (emphases added)
- 14 3. ORS 672.045(1) provides, in part, that a person may not engage in the practice of
15 engineering without having a valid certificate or permit to so practice issued in accordance
16 with ORS 672.002 to 672.325.
- 17 4. Under ORS 672.325(1), the Board may impose a civil penalty of up to \$1,000 per violation.

18 **CONCLUSIONS OF LAW**

- 19 1. Because the tram design bore Hubbard’s seal and signature, Hubbard certified that the design
20 was prepared by him or under his supervision and control.
- 21 2. Because Hubbard designed a private tram lift system—which is a machine or equipment—
22 applying special knowledge of the mathematical, physical and engineering sciences, Hubbard
23 engaged in the practice of engineering.

1 3. Because Hubbard engaged in the practice of engineering without having a valid certificate of
2 registration (license) to so practice, Hubbard engaged in the unlicensed practice of
3 engineering, in violation of ORS 672.045(1).

4 **ORDER**

5 For the reasons above, the Board HEREBY **assesses a \$1,000 civil penalty against**
6 **Hubbard** for the violating ORS 672.045(1).

7 DATED this 10 day of September, 2019.

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10 Daren L. Cone, PE, PLS, President
11 Oregon State Board of Examiners for
Engineering and Land Surveying

12 **NOTICE**

13 Civil penalties, if unpaid, may be recorded and filed with the county clerks as liens against
14 property 10 days after the expiration of the statutory appeals period (70 days after issuance of
this order). Make checks payable to the Oregon State Board of Examiners for Engineering and
Land Surveying.

15 **APPEAL RIGHTS**

16 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.