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

6 In the Matter of:

Case No. 3073

7 CHUL HWAN KIM

FINAL ORDER BY DEFAULT

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9 On or about July 19, 2019, the Oregon State Board of Examiners for Engineering and
10 Land Surveying (Board) properly served a Notice of Intent to Assess Civil Penalty and Suspend
11 Professional Registration (Notice) on Chul Hwan Kim (Kim). The Notice assessed a 60-day
12 suspension of Kim's professional registration (license) and a civil penalty in the amount of
13 \$1,750, and it designated the Board file on this matter as the record for purposes of establishing a
14 *prima facie* case upon default. Kim did not request a hearing. Therefore, upon consideration of
15 the facts and law, the Board enters the following Order:

16 **FINDINGS OF FACT AND ULTIMATE FACTS**

- 17 1. Kim first registered to practice engineering in Oregon on June, 11 2008. His registration
18 number is 78932PE, which expired June 30, 2017.
- 19 2. On May 29, 2015, Kim applied to renew his professional engineering registration, claiming
20 in his application that he had obtained 54 hours of continuing professional development
21 between June 2013 and June 2015. OSBEELS renewed his registration.

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3. On or about July 27, 2016, the Board notified Kim that it was auditing the continuing professional development (CPD) hours he claimed to have obtained in the July 1, 2013 to June 30, 2015 licensing biennium. In the notice of audit, OSBEELS requested Kim provide documentation of the professional development hours (PDH) he had claimed for the July 1, 2013 to June 30, 2015 biennium. Kim did not respond.
4. On or about September 26, 2016, OSBEELS sent Kim a second notice of his audit, with request for documentation. Kim failed to respond to this second notice.
5. On or about November 3, 2016, OSBEELS sent Kim a third and final notice requesting documentation for the audit via FedEx to both his residential and business addresses in South Korea. Kim failed to respond to this third and final notice.
6. On or about November 15, 2016, the FedEx envelope in which one of the notices was mailed to Kim was returned to OSBEELS and marked: "Address is correct/Recipient is no longer at this address."
7. To date, Kim has not submitted to OSBEELS any requested audit documentation.
8. On or about December 4, 2017, OSBEELS contacted Kim, requesting a response to the allegations that he had failed to comply with audit requirements. To date, Kim has not responded.

APPLICABLE LAW

1. OAR 820-020-0015(8), a rule of professional conduct, provides that Registrants or applicants for registration or certification shall cooperate with the Board on all matters subject to the Board's jurisdiction.
2. ORS 672.255(1)(f) gives the Board authority to prescribe standards and educational qualifications for renewal, in addition to those specified under ORS 672.002 to 672.325.

3. Under the authority of ORS 672.255(1)(f), OAR 820-010-0635(1)(a) requires registrants to obtain 30 CPD hours during each biennial registration period, and requires those same 30 CPD hours to have been obtained in order to renew for the next biennial registration period.
4. OAR 820-020-0015(7), a rule of professional conduct, requires registrants, in pertinent part, to continue their professional development throughout their careers.
5. OAR 820-010-0635(1)(e) further requires registrants to submit supporting documentation to verify CPD hours claimed, when audited by the Board.
6. OAR 820-010-0635(7) provides, in pertinent part, that the Board may require, as a condition for license renewal, that registrants provide documentation to support actions taken to maintain their professional competency.
7. OAR 820-020-0050(1), a rule of professional conduct, provides that it is the registrant's responsibility to inform the Board in writing, within 30 days, of any address change.
8. Under ORS 670.325(1), the Board may impose a civil penalty of up to \$1,000 per violation of its laws and rules.
9. Under ORS 672.200(6), the Board may suspend, revoke, or refuse to issue, restore, or renew a certificate or permit, or may reprimand an individual enrolled as an intern or holding a certificate or permit for violating a rule of professional conduct prescribed by the board.
10. OAR 820-015-0026 specifies that any registrant who fails to satisfy the Continuing Professional Development requirements in OAR 820-010-0635 will be subject to suspension of or refusal to renew the registrant's license.

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1 **CONCLUSIONS OF LAW**

- 2 1. Because Kim failed to submit supporting documentation to verify the PDH units recorded on
3 his CPD Organizational form to the Board office when requested to participate in an audit, he
4 violated OAR 820-010-0635(1)(e) and 820-010-0635(7).
- 5 2. Because Kim failed to demonstrate that he obtained any of 30 CPD hours he claimed for the
6 2013-2015 biennium, he violated OAR 820-010-0635(1)(a).
- 7 3. Kim thereby also failed to continue his professional development throughout that biennium
8 of his career, thereby also violating OAR 820-020-0015(7).
- 9 4. Because Kim failed to respond to audit notices sent by the Board on July 27, 2016,
10 September 26, 2016, and November 3, 2016, and because Kim failed to respond to the law
11 enforcement letter sent by the Board on December 4, 2017, Kim failed on four occasions to
12 cooperate with the Board on matters subject to the Board's jurisdiction. Thus, Kim violated
13 OAR 820-020-0015(8) four times.
- 14 5. Because Kim has not—to date—informed the Board in writing of his address change, he has
15 not informed the Board in writing within 30 days of an address change. Thus, Kim violated
16 OAR 820-020-0050(1).
- 17 6. By the violations above, Kim subjected himself to civil penalties of up to \$1000 per
18 violation.
- 19 7. By failing to satisfy his continuing professional development requirements, Kim subjected
20 his license to suspension and a refusal to renew that license.
- 21 8. By violating rules of professional conduct, Kim subjected his license to discipline, up to and
22 including revocation.
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1 **ORDER**

2 For his violations of OAR 820-010-0635(1) and 820-020-0015(7) as detailed above, the
3 Board HEREBY suspends Kim's Professional Engineering license for 60 days and assesses a
4 **civil penalty against him of \$1,000.**

5 For his violations of OAR 820-020-0015(8), the Board HEREBY **assesses an additional**
6 **civil penalty of \$500 against Kim.**

7 For his violation of OAR 820-020-0050(1), the Board HEREBY **assesses an additional**
8 **civil penalty of \$250 against Kim, for a total civil penalty assessed of \$1,750.**

9 DATED this 12 day of November, 2019.

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

14 **NOTICE**

15 Civil penalties, if unpaid, may be recorded and filed with the county clerks as liens against
16 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.

17 **APPEAL RIGHTS**

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