

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

3 In the Matter of:

4 ANDREW J. KOLTAVARY

Case No. 3108

FINAL ORDER BY DEFAULT

5
6 On or about August 29, 2019, the Oregon State Board of Examiners for Engineering and
7 Land Surveying (Board) properly served a Notice of Intent to Assess a Civil Penalty (Notice) on
8 Andrew J. Koltavary (Koltavary). The Notice assessed a civil penalty in the amount of \$4,000
9 and it designated the Board file on this matter as the record for purposes of establishing a *prima*
10 *facie* case upon default. Koltavary did not request a hearing. Therefore, upon consideration of
11 the facts and law, the Board enters the following Order:

12 **FINDINGS OF FACT AND ULTIMATE FACTS**

- 13 1. Koltavary first registered to practice engineering on February 29, 1980, license number
14 10498PE. However, his license has been expired since July 1, 2000, and is no longer
15 renewable.
- 16 2. Koltavary has never been registered to practice land surveying in Oregon.
- 17 3. On or about February 11, 2017, Koltavary sealed an ALTA/NSPS survey for a property
18 located at 1499 Mohawk Boulevard in Springfield, Oregon. The survey included a legal
19 description of the property, which in turn included measurements, as well as an easement
20 description and a basis of bearing description. Koltavary also certified that “the map or plat
21 and the survey on which it is based were made in accordance with the 2016 minimum
22 standard detail requirements for ALTA/NSPS land title surveys...”

- 1 4. Koltavary signed and sealed the Mohawk Boulevard ALTA/NSPS survey with his expired
2 professional engineer's seal.
- 3 5. An ALTA/NSPS survey is detailed, comprehensive survey that adheres to the national
4 standards adopted by American Land Title Association and National Society of Professional
5 Surveyors. ALTA/NSPS surveys are requested by lenders, corporations, or title companies
6 for the development of commercial properties. While boundary surveys show the boundary
7 lines between land parcels, they do not necessarily show any improvements on the property.
8 ALTA surveys impose a more stringent set of requirements than typical boundary surveys.
- 9 6. As of May 21, 2019, Koltavary's LinkedIn profile lists him as being a registered civil
10 engineer in Oregon. His profile does not list an Oregon professional land surveyor
11 certification, but it does advertise Koltavary as being qualified to perform ALTA surveys.

12 **APPLICABLE LAW**

- 13 1. ORS 672.005(2) defines the "practice of land surveying" to include, in pertinent part,
14 providing or offering to provide professional services that apply mathematics, geodesy and
15 other sciences and involves the making of geometric measurements and the gathering of
16 related information pertaining to the physical or legal features of the earth or improvements
17 on the earth; the development of measurements and information described above into
18 graphics, data, maps, plans, reports, descriptions, projects or other survey products; and the
19 making of surveys that involve horizontal or vertical mapping control or geodetic control.
- 20 2. ORS 672.025(1) provides that no person shall practice land surveying in this state unless the
21 person is registered and has a valid certificate to practice land surveying issued under ORS
22 672.002 to 672.325.

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- 1 3. ORS 672.045(2) provides that a person may not falsely represent, by any means, that the
2 person is authorized to practice engineering, land surveying or photogrammetric mapping.
- 3 4. ORS 672.045(4) provides that a person may not attempt to use an expired or revoked
4 certificate or permit.
- 5 5. ORS 672.045(6) provides that a person may not practice engineering, land surveying or
6 photogrammetric mapping when not qualified.
- 7 6. OAR 820-010-0510(1) provides, in pertinent part, that active registrants or certificate holders
8 authorized to engage in the professional practice of engineering, land surveying,
9 photogrammetric mapping, . . . and who are current with regards to payment of application
10 and biennial renewal fees and continuing Professional Development Hour (PDH)
11 requirements, if applicable, may practice in their respective professions.
- 12 7. Under 670.325(1), the Board may impose a civil penalty of up to \$1,000 per violation of its
13 laws and rules.

14 **CONCLUSIONS OF LAW**

- 15 1. Because Koltavary performed services for another, he performed professional services.
- 16 2. Because Koltavary performed an ALTA survey which included a legal description of a
17 property and also included mathematical measurements, as well as an easement description
18 and a basis of bearing description, Koltavary provided professional services that applied
19 mathematics, geodesy and other sciences and involved the making of geometric
20 measurements and the gathering of related information pertaining to the physical or legal
21 features of the earth or improvements on the earth; the development of measurements and
22 information described above into graphics, data, maps, plans, reports, descriptions, projects
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1 or other survey products; and the making of surveys that involve horizontal or vertical
2 mapping control or geodetic control. Therefore, Koltavary engaged in the practice of land
3 surveying as defined by ORS 672.005(2).

4 3. Because Koltavary engaged in the practice of land surveying without being registered or
5 having a valid certificate to practice land surveying, Koltavary engaged in the unlicensed
6 practice of land surveying, and thus violated ORS 672.025(1).

7 4. Because Koltavary has never been registered as a professional land surveyor and has never
8 demonstrated he meets any of the qualifications to be a professional land surveyor, Koltavary
9 is not qualified to practice land surveying. Because Koltavary engaged in the practice of land
10 surveying without being qualified, he violated ORS 672.045(6).

11 5. Because Koltavary claims on his LinkedIn page that he is a registered civil engineer in
12 Oregon and that he is qualified to perform ALTA surveys when he is not a registered civil
13 engineer in Oregon and not qualified to perform ALTA surveys or land surveying in general,
14 Koltavary falsely represented that he is authorized to practice engineering and land
15 surveying. Therefore, Koltavary violated ORS 672.045(2).

16 6. Because Koltavary sealed the ALTA survey with his expired Oregon engineer seal, despite
17 his Oregon engineering license being expired and non-renewable since July 1, 2000,
18 Koltavary used his expired certificate and therefore violated ORS 672.045(4).

19 7. The conduct described above is the basis for discipline under ORS 672.325.

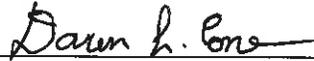
20 ORDER

21 For the reasons above, the Board **HEREBY** assesses a civil penalty in the amount of
22 **\$4,000 against Koltavary. The civil penalty is assessed as follows:**

- 23 • **\$1,000 for 1 violation of ORS 672.025(1)**

- \$1,000 for 1 violation of ORS 672.045(2)
- \$1,000 for 1 violation of ORS 672.045(4)
- \$1,000 for 1 violation of ORS 672.045(6)

DATED this 12 day of November, 2019.



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

NOTICE

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

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.