

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

3 In the Matter of:

4 GERALD T. WYNNE

Case No. 3136

FINAL ORDER BY DEFAULT

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6           On or about July 17, 2018, 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 Gerald T. Wynne (Wynne). The Notice assessed a civil penalty in the amount of \$1,000 and it  
9 designated the Board file on this matter as the record for purposes of establishing a *prima facie*  
10 case upon default. Wynne did not request a hearing. Therefore, upon consideration of the facts  
11 and law, the Board enters the following Order:

12                                   **FINDINGS OF FACT AND ULTIMATE FACTS**

- 13 1. Wynne was issued certificate of registration under number 81326PE on May 14, 2013.  
14       However, Wynne's registration has since lapsed after having been in delinquent status as of  
15       May 2014.
- 16 2. On or about August 1, 2018, Wynne sealed structural plans for a retaining wall in Sandy,  
17       Oregon, for Zayo Group Holdings, under an expired license.
- 18 3. Creating structural plans for another is a professional service requiring engineering  
19       education, training and experience, and applied special knowledge of the mathematical,  
20       physical and engineering sciences.

21                                   **APPLICABLE LAW**

- 22 1. Under ORS 672.005(1)(a) and (b), the practice of engineering includes:  
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1       **Performing any professional service or creative work requiring engineering education,**  
2       **training and experience. Applying special knowledge of the mathematical, physical and**  
3       **engineering sciences to such professional services** or creative work as consultation,  
4       investigation, testimony, evaluation, planning, **design** and services during construction,  
5       manufacture or fabrication for the purpose of ensuring compliance with specifications and  
6       design, **in connection with any public or private utilities, structures,** buildings, machines,  
7       equipment, processes, works or projects.

8       (Emphases added).

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- 10      2. (ORS 672.020(1) and (2) provide that in order to safeguard life, health and property, no
- 11       person shall practice or offer to practice engineering in this state unless the person is
- 12       registered and has a valid certificate to practice engineering issued under ORS 672.002 to
- 13       672.325, and each registered professional engineer shall, upon registration, obtain a seal of
- 14       the design authorized by the State Board of Examiners for Engineering and Land Surveying.
- 15       Every final document including drawings, specifications, designs, reports, narratives, maps
- 16       and plans issued by a registrant shall be stamped with the seal and signed by the registrant.
- 17       The signature and stamp of a registrant constitute a certification that the document was
- 18       prepared by the registrant or under the supervision and control of the registrant.
- 19      3. ORS 672.045(1) provides that a person may not engage in the practice of engineering, land
- 20       surveying or photogrammetric mapping without having a valid certificate or permit to so
- 21       practice issued in accordance with ORS 672.002 to 672.325.
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- 1 4. OAR 820-010-0520 provides that registrants or certificate holders who are delinquent,  
2 retired, inactive, suspended or revoked by the Board, are not authorized to engage in the  
3 professional practice of engineering.
- 4 5. Under 670.325(1), the Board may impose a civil penalty of up to \$1,000 per violation of its  
5 laws and rules.


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7 **CONCLUSIONS OF LAW**

- 8 1. Because Wynne performed a professional service or creative work requiring engineering  
9 education, training and experience, and applied special knowledge of the mathematical,  
10 physical and engineering sciences to the professional service of designing a public structure  
11 (retaining wall), Wynne engaged in the practice of engineering.
- 12 2. Because Wynne's license was in delinquent status at the time he submitted design plans  
13 containing his seal and signature, Wynne engaged in the unlicensed practice of engineering.
- 14 3. The conduct described above is the basis for discipline under ORS 672.325.

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16 **ORDER**

17 For the reasons above, the Board HEREBY assesses civil penalty in the amount of  
18 \$1,000 against Wynne for 1 violation of ORS 672.045(1).

19 DATED this 12 day of November, 2019.

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

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**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.