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

In the Matter of:
JOHN HEATON

Case No. x0003
FINAL ORDER BY DEFAULT

On or about August 29, 2019 and October 2, 2019, the Oregon State Board of Examiners for Engineering and Land Surveying (Board) properly served a Notice of Intent to Assess a Civil Penalty (Notice) on John Heaton (Heaton). The Notice assessed a civil penalty in the amount of \$52,000, and it designated the Board file on this matter as the record for purposes of establishing a *prima facie* case upon default. Heaton did not request a hearing. Therefore, upon consideration of the facts and law, the Board enters the following Order:

FINDINGS OF FACT AND ULTIMATE FACTS

1. Heaton became an Oregon Professional Land Surveyor, registration number 72841PLS, on January 14, 2009. On June 30, 2017, Heaton’s license became delinquent due to his failure to renew, and his license has not since been renewed.
2. From August 2017 through March 2019, Heaton performed 50 surveys in Klamath County, Oregon.

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- 1 3. Some of those surveys contained multiple pages, and on each of those pages, Heaton applied
2 his seal, which bore the fraudulent expiration date of “June 30, 2019.” In total, Heaton
3 applied this seal and fraudulent expiration date to surveys 72 times.
- 4 4. The surveys Heaton performed in Klamath County, Oregon, are listed as follows:
- 5 4.1 8279 Map of Survey for PLA 6-17 (August 2017)
6 4.2 8280 Land Partition 6-17 (July 2017)
7 4.3 8285 Map of Survey (September 2017)
8 4.4 8286 Map of Survey (September 2017)
9 4.5 8291 Land Partition 29-16 (August 2017)
10 4.6 8294 Land Partition 23-16 (September 2017)
11 4.7 8307 Land Partition 29-17 (December 2017)
12 4.8 8308 Land Partition 20-17 (December 2017)
13 4.9 8310 Land Partition 24-16 (November 2017)
14 4.10 8312 Land Partition 21-17 (January 2018)
15 4.11 8315 Land Partition 34-17 (January 2018)
16 4.12 8316 Map of Survey PLA 5-17 (January 2018)
17 4.13 8321 Map of Survey PLA 12-17 (March 2018)
18 4.14 8326 Land Partition 1-18 (March 2018)
19 4.15 8329 Map of Survey PLA 15-17 (March 2018)
20 4.16 8338 Map of Survey (April 2018)
21 4.17 8339 Map of Survey (April 2018)
22 4.18 8340 Map of Survey (April 2018)
23 4.19 8341 Map of Survey (April 2018)
24 4.20 8344 Map of Survey (May 2018)
25 4.21 8347 Map of Survey (May 2018)
26 4.22 8353 Land Partition 30-17 (April 2018)
27 4.23 8354 Map of Survey (May 2018)
28 4.24 8355 Map of Survey PLA 2-18 (June 2018)
29 4.25 8360 Map of Survey (July 2018)
30 4.26 8361 Map of Survey PLA 7-18 (August 2018)
31 4.27 8363 Land Partition 24-18 (August 2018)
32 4.28 8364 Land Partition 19-18 (August 2018)
33 4.29 8366 Land Partition 18-18 (August 2018)
34 4.30 8367 Land Partition 33-17 (August 2018)
35 4.31 8368 Map of Survey (September 2018)
36 4.32 8369 Map of Survey (September 2018)
37 4.33 8370 Map of Survey PLA 8-18 (September 2018)
38 4.34 8379 Land Partition 23-18 (September 2018)
39 4.35 8385 Map of Survey (November 2018)
40 4.36 8386 Map of Survey PLA 3-18 (September 2018)
41 4.37 8387 Map of Survey PLA 06-18 (August 2018)

- 1 4.38 8388 Land Partition 9-18 (May 2018)
- 4.39 8390 Map of Survey (November 2018)
- 2 4.40 8392 Map of Survey (November 2018)
- 4.41 8393 Map of Survey (November 2018)
- 3 4.42 8394 Land Partition 2-18 (October 2018)
- 4.43 8395 Land Partition 3-18 (October 2018)
- 4 4.44 8396 Map of Survey (December 2018)
- 4.45 8398 Map of Survey (December 2018)
- 5 4.46 8402 Map of Survey (January 2019)
- 4.47 8405 Land Partition 32-18 (January 2019)
- 6 4.48 8406 Land Partition 31-18 (January 2019)
- 4.49 8407 Map of Survey (February 2019)
- 7 4.50 8409 Map of Survey PLA 9-18 (March 2019)

8 5. On March 4, 2019, OSBEELS requested Heaton respond to the allegations presented in this
9 case. To date, Heaton has not responded to that request.

10 6. On April 1, 2019, OSBEELS requested Heaton respond to the allegations presented in this
11 case. To date, Heaton has not responded to that request.

12 7. On May 22, 2019, OSBEELS requested Heaton respond to the allegations presented in this
13 case. To date, Heaton has not responded to that request.

14 8. A Board investigation is a matter subject to the Board's jurisdiction.

15 **APPLICABLE LAW**

16 1. ORS 672.025(1) provides that no person shall practice land surveying in this state unless the
17 person is registered and has a valid certificate to practice land surveying issued under ORS
18 672.002 to 672.325.

19 2. ORS 672.045(2) provides that a person may not falsely represent, by any means, that the
20 person is authorized to practice engineering, land surveying, or photogrammetric mapping.

21 3. ORS 672.045(4) provides that a person may not attempt to use an expired or revoked
22 certificate or permit.

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1 4. OAR 820-020-0015(8), a rule of professional conduct, provides that registrants or applicants
2 for registration or certification shall cooperate with the Board on all matters subject to the
3 Board's jurisdiction.

4 **CONCLUSIONS OF LAW**

5 1. Because Heaton performed 50 surveys between August 2017 and March 2019, while his
6 license was delinquent, Heaton performed these surveys without a valid certificate to practice
7 land surveying. Therefore, Heaton violated ORS 672.025(1) on 50 occasions.

8 2. Because Heaton applied his seal bearing the fraudulent expiration date of June 30, 2019, to
9 72 pages of surveys when his license was in fact delinquent and was not then valid, Heaton
10 falsely represented that he was authorized to practice land surveying, and he used an expired
11 certificate. Therefore, Heaton violated ORS 672.045(2) and (4) on 72 occasions.

12 3. Because Heaton failed to respond to the allegations when OSBEELS contacted him on
13 March 4, 2019, April 1, 2019, and May 22, 2019, Heaton failed to cooperate with the Board
14 on a matter subject to its jurisdiction on three occasions. Therefore, Heaton violated OAR
15 820-020-0015(8) on three occasions.

16 4. The conduct described above is the basis for discipline under ORS 672.325. The Board
17 assesses a civil penalty of: \$50,000 for 50 violations of ORS 672.025(1) (\$1,000 per
18 violation); \$1,000 for 72 violations of ORS 672.045(2) and (4); and \$1,000 for three
19 violations of OAR 820-020-0015(8), for a total civil penalty of \$52,000.

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1 **ORDER**

2 For the reasons above, the Board HEREBY assesses a civil penalty in the amount of
3 **\$52,000 against Heaton for violating ORS 672.025(1), ORS 672.045(2) and (4), and OAR**
4 **820-020-0015(8).**

5 DATED this 12 day of November, 2019.

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

10 **NOTICE**

11 Civil penalties, if unpaid, may be recorded and filed with the county clerks as liens against
12 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.

13 **APPEAL RIGHTS**

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