

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

In the Matter of:
MARVIN S. KRUSH

Case No. 3135
FINAL ORDER BY DEFAULT

On or about April 30, 2018, 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 Marvin S. Krush (Krush). The Notice assessed a civil penalty in the amount of \$1,000 and a 60-day license suspension. It designated the Board file on this matter as the record for purposes of establishing a *prima facie* case upon default. On February 13, 2020, Krush timely requested a hearing. However, on July 2, 2020, Krush submitted a written withdrawal of his request for a hearing. Therefore, upon consideration of the facts and law, the Board enters the following Order:

FINDINGS OF FACT AND ULTIMATE FACTS

1. At all relevant times, Krush was an Oregon Professional Land Surveyor, registration number 01643PLS
2. During or about November 1997, Krush performed an ALTA/ ACSM Land Title Survey for (Northwest Self-Storage) Eugene Storage Ltd., at Eugene Mini-Warehouse, located at 3210 W. 11th Avenue, 17-04-35-3-1, Tax Lot No. 801.
3. In performance of the survey, Krush set a 5/8" x. 30" iron rod with a yellow cap marked "Krush P.L.S. 1643."
4. On or about October 28, 2019, Krush submitted the survey for filing to the Lane County Surveyor.

1 **APPLICABLE LAW**

2 1. ORS 209.250(1) provides that a registered professional land surveyor making a survey of
3 lands within this state wherein the surveyor establishes or reestablishes a boundary monument
4 shall, within 45 days thereafter, submit for filing a permanent map of the survey to the county
5 surveyor for review. If the surveyor is unable to complete the survey and submit a permanent
6 map within 45 days, the surveyor shall, within 45 days of establishing or reestablishing a
7 boundary monument, provide written notice to the county surveyor containing the reasons for the
8 delay, an estimate of the amount of time reasonably necessary to complete the survey but not
9 exceeding 180 days, and a temporary map showing the position of monuments established or
10 reestablished.
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12 2. Under ORS 672.325(1), the Board may impose a civil penalty of up to \$1,000 per
13 violation of its laws and rules.
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15 3. Under ORS 209.250(11), a registered professional land surveyor failing to comply with
16 the provisions of subsections (1) to (9) of ORS 209.250, ORS 92.050 to 92.080 or a county
17 ordinance establishing standards for surveys or plats is subject to disciplinary action by the State
18 Board of Examiners for Engineering and Land Surveying.
19

20 **CONCLUSIONS OF LAW**


21 1. Because Krush set a monument while performing a survey at 3210 W. 11th Avenue, 17-04-35-
22 3-1, Tax Lot No. 801, in Eugene, Oregon, during or about November 1997, but did not file the
23 survey until October of 2019, Krush has failed to file to the survey within 45 days of establishing
24 a boundary monument and has thus violated ORS 209.250(1).
25
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1 2. The conduct described above is the basis for imposition of a civil penalty under ORS 672.325,
2 and for professional discipline under ORS 209.250(11). Pursuant to ORS 209.250(11), the
3 Agency may discipline a professional land surveyor up to and including revocation of
4 registration. In this instance, the Board assesses a 60-day suspension of Krush's professional
5 land surveying registration and a civil penalty of \$1,000.

6 **ORDER**

7 For the reasons above, the Board HEREBY assesses a 60-day suspension of Krush's
8 professional land surveying registration and a civil penalty in the amount of \$1,000 against
9 Krush for violation ORS 209.250(1).
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12 DATED this 14th day of July 2020.

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15 _____
16 Daren Cone, PE/PLS, President
17 Oregon State Board of Examiners for
Engineering and Land Surveying

18 **NOTICE**

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

22 **APPEAL RIGHTS**

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