

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

3 In the Matter of:
4 John Heaton

Case No. x0048 & x0054
FINAL ORDER BY DEFAULT

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6 On or about June 19, 2020, 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 John Heaton (Heaton). 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. Heaton 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. Heaton became an Oregon Professional Land Surveyor, registration number 72841PLS, on
14 January 14, 2009. On June 30, 2017, Heaton’s license became delinquent due to his failure to
15 renew, and his license has not since been renewed.
- 16 2. From June 2019 through August 2019, Heaton performed 11 surveys in Klamath County,
17 Oregon, 10 of which were filed with the County.
- 18 3. Some of those surveys contained multiple pages, and on each of those pages, Heaton applied
19 his seal, which bore the fraudulent expiration date of either “June 30, 2019” or “June 30,
20 2021.” In total, Heaton applied this seal and fraudulent expiration date to surveys 15 times.
- 21 4. The surveys Heaton performed in Klamath County, Oregon, that were filed with the County,
22 are listed as follows:

- 1 4.1 8420 Map of Survey (June 2019)
- 2 4.2 8421 Map of Survey (June 2019)
- 3 4.3 8427 Map of Survey (June 2019)
- 4 4.4 8428 Map of Survey (June 2019)
- 5 4.5 8430 Map of Survey for PLA 4-19 (June 2019)
- 6 4.6 8431 Map of Survey (July 2019)
- 7 4.7 8436 Map of Survey (August 2019)
- 8 4.8 8437 Land Partition 10-19 (August 2019)
- 9 4.9 8438 Land Partition 39-18 (June 2019)
- 10 4.10 8439 Map of Survey (August 2019)

- 11 5. On November 20, 2018, Heaton was contracted by a client to perform final platting,
12 easement creation, and construction staking for the Tract 1534 – Redwood Hills – Phase 2
13 project in Klamath County, Oregon (Redwood Hills Project). Heaton performed surveying
14 work for the Redwood Hills Project in August 2019. On each page of the 3-page preliminary
15 draft for the Redwood Hills Project, Heaton applied his seal with the fraudulent expiration
16 date of “June 30, 2021.”
- 17 6. Because Heaton’s license was inactive, Klamath County would not accept the Redwood Hills
18 Project survey for filing.

APPLICABLE LAW

- 19 1. ORS 672.025(1) provides that no person shall practice land surveying in this state unless the
20 person is registered and has a valid certificate to practice land surveying issued under ORS
21 672.002 to 672.325.
- 22 2. ORS 672.045(2) provides that a person may not falsely represent, by any means, that the
23 person is authorized to practice engineering, land surveying, or photogrammetric mapping.
- 3. ORS 672.045(4) provides that a person may not attempt to use an expired or revoked
certificate or permit.

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1 **CONCLUSIONS OF LAW**

- 2 1. Because Heaton performed 11 surveys between June 2019 and August 2019, while his
3 license was delinquent, Heaton performed these surveys without a valid certificate to practice
4 land surveying. Therefore, Heaton violated ORS 672.025(1) on 11 occasions.
- 5 2. Because Heaton applied his seal bearing the fraudulent expiration date of June 30, 2019 or
6 June 30, 2021, to 15 pages of surveys when his license was in fact delinquent and was not
7 then valid, Heaton falsely represented that he was authorized to practice land surveying, and
8 he used an expired certificate. Therefore, Heaton violated both ORS 672.045(2) and (4) on
9 15 occasions.
- 10 3. The conduct described above is the basis for discipline under ORS 672.325. Pursuant to ORS
11 672.325(1), the Agency may impose a maximum civil penalty of \$1,000 per violation
12 without amending its notice, for a total of \$41,000. Instead, the Board proposes to assess a
13 total civil penalty of \$1,000 for 11 violations of ORS 672.025(1), 15 violations of ORS
14 672.045(2), and 15 violations of ORS 672.045(4)¹.

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22 ¹ The Board proposes to assess this civil penalty totaling \$1,000, which is significantly less than it would normally
23 propose in a case of practicing without a valid license and using a fraudulent seal. Ordinarily, the Board proposes
\$1,000 per occasion of practicing without a valid license, and additional civil penalties for using a fraudulent seal.
However, in Case No. x0071, the Board is proposing revocation of Heaton’s PLS license for his failure to comply
with the final order issued in Case No. x0003. It is the seriousness of the discipline proposed in Case No. x0071 that
led the Board to propose an unusually lenient penalty in these combined cases, Nos. x0048 and x0054.

1 **ORDER**

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

4 DATED this 9th day of September, 2020.

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

11 **NOTICE**

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

16 **APPEAL RIGHTS**

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