

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

In the Matter of:
James Clancy

Case No. 2022-2
FINAL ORDER BY DEFAULT

On or about February 17, 2022, 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 James Clancy (Clancy) via certified mail. The Notice proposed to assess a civil penalty in the amount of \$1,000. It designated the Board file on this matter as the record for purposes of establishing a *prima facie* case upon default. Clancy 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. At all relevant times, Clancy was a licensed Oregon engineer, registration number 80077PE.
2. On or about September 10, 2019, the New York State Education Department, Office of Professional Discipline, State Board for Engineering, Land Surveying and Geology (New York Board) entered an Order against Clancy for unprofessional conduct in the practice of engineering.
3. The New York Order is a disciplinary action related to the practice of engineering.
4. Clancy failed to notify the Oregon Board of the New York Order until or around November 10, 2021—792 days after the date the New York Order was issued.

APPLICABLE LAW

1. OAR 820-020-0045(4), a rule of professional conduct, provides that an applicant or registrant must give written notification to the Board of any disciplinary action or sanction related to

1 the practice of engineering, land surveying, or photogrammetric mapping imposed by any
2 licensing agency within 45 days of the final order being issued.

- 3 2. Under ORS 670.325(1), the Board may impose a civil penalty of up to \$1,000 per violation
4 of its laws and rules.
- 5 3. OAR 820-015-0060 provides that, in establishing the amount of a civil penalty to be assessed
6 pursuant ORS 672.325, the Board may consider the following factors: (a) the nature, gravity
7 and magnitude of the violation; (b) prior violations, including administrative, civil or
8 criminal proceedings in any state; (c) whether the violation was repeated or continuous; (d)
9 whether the violation was an inadvertent act or an intentional act; (e) the history of the
10 respondent in taking steps necessary or appropriate to correct any violation; (f) the
11 opportunity for and the difficulty in correcting the violation at issue; and (g) whether
12 measures have been put in place to prevent reoccurrence. In considering the factors set forth
13 above, the applicable factors may be given varying weight depending upon the circumstances
14 of the violation.
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- 16 4. Under ORS 672.200(6), the Board may suspend, revoke, or refuse to issue, restore, or renew
17 a certificate or permit, or may reprimand an individual enrolled as an intern or holding a
18 certificate or permit for violating a rule of professional conduct prescribed by the board.
19

20 **CONCLUSIONS OF LAW**

- 21 1. Because the New York Order is disciplinary action related to the practice of engineering,
22 Clancy was required to report it to the Oregon Board within 45 days of the action being
23 issued.
24
- 25 2. Because Clancy failed to report the New York Order to the Oregon Board within 45 days of
26 it being issued, Clancy violated OAR 820-020-0045(4).

1 3. The conduct described above is the basis for discipline under ORS 672.325(1) and ORS
2 672.200(6). Pursuant to ORS 672.200(6), the Board may suspend, revoke, or refuse to issue,
3 restore, or renew a certificate or permit, or may reprimand an individual holding a certificate
4 or permit for violating a rule of professional conduct prescribed by the board without
5 amending its notice. The Board proposes to assess a civil penalty of \$1,000 for Clancy's
6 violation of OAR 820-020-0045(4) detailed above.

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8 **ORDER**

9 For the reasons above, the Board **assesses a civil penalty in the amount of \$1,000**
10 **against Clancy for violating OAR 820-020-0045(4).**

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12 DATED this 10 day of May, 2022.

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15 Sean W. St.Clair, PE, President
16 Oregon State and of Examiners for
Engineering and Land Surveying

17 **NOTICE**

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

21 **APPEAL RIGHTS**

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