

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

In the Matter of:  
Timothy Prockish

Case No. 2023-1  
FINAL ORDER BY DEFAULT

On or about February 22, 2023, 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 Timothy Prockish (Prockish) 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. Prockish 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, Prockish was a licensed Oregon engineer, registration number 78291PE.
2. On or about September 20, 2021, the Nevada State Board of Professional Engineers and Land Surveyors (Nevada Board) entered a Stipulated Agreement (Nevada Agreement) against Prockish, finding that he had committed unprofessional conduct by signing and stamping work for which he did not have responsible charge.
3. Prockish was ordered to pay an administrative fine of \$4,000 and reimburse the Nevada Board for legal fees incurred in the amount of \$2,697. Prockish was also ordered to prepare a White Paper and submit it to the Executive Director of the Nevada Board within 90 days of the Agreement. Additionally, Prockish's Nevada license was suspended for two years, with the suspension stayed and probation imposed for the duration of that period
4. The Nevada Agreement is a disciplinary action related to the practice of engineering.

1 5. Prockish failed to notify the Oregon Board of the Nevada Agreement until or around  
2 December 29, 2022—approximately 465 days after the date the Nevada Agreement was  
3 issued.

#### 4 **APPLICABLE LAW**

5 1. OAR 820-020-0045(4), a rule of professional conduct, provides that an applicant or registrant  
6 must give written notification to the Board of any disciplinary action or sanction related to  
7 the practice of engineering, land surveying, or photogrammetric mapping imposed by any  
8 licensing agency within 45 days of the final order being issued.

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10 2. Under ORS 670.325(1), the Board may impose a civil penalty of up to \$1,000 per violation  
11 of its laws and rules.

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

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**CONCLUSIONS OF LAW**

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- 16 1. Because the Nevada Agreement is disciplinary action related to the practice of engineering,  
17 Prockish was required to report it to the Oregon Board within 45 days of the action being  
18 issued.
  - 19 2. Because Prockish failed to report the Nevada Agreement to the Oregon Board within 45 days  
20 of it being issued, Prockish violated OAR 820-020-0045(4).
  - 21 3. The conduct described above is the basis for discipline under ORS 672.325(1) and ORS  
22 672.200(6). Pursuant to ORS 672.200(6), the Board may suspend, revoke, or refuse to issue,  
23 restore, or renew a certificate or permit, or may reprimand an individual holding a certificate  
24 or permit for violating a rule of professional conduct prescribed by the board without  
25 amending its notice. The Board proposes to assess a civil penalty of \$1,000 for Prockish's  
26 violation of OAR 820-020-0045(4) detailed above.

**FINAL ORDER**

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

DATED this 9<sup>th</sup> day of May, 2023.

  
Sean W. St.Clair, PE, President  
Oregon State and 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.