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Oregon State Board  
of Geologist  
Examiners

BEFORE THE  
BOARD OF GEOLOGIST EXAMINERS  
STATE OF OREGON

In the matter of	)	Case No. 06-12-010
	)	
Charles R. Lane, PE	)	<b>STIPULATED FINAL ORDER</b>
Respondent.	)	<b>ASSESSING CIVIL PENALTY</b>

**FINDINGS OF FACT**

The Board makes the following findings of fact:

1.

The Oregon State Board of Geologist Examiners (Board) is the state agency responsible for regulating the public practice of geology and for registering and disciplining geologists within the State of Oregon, pursuant to ORS 672.505 to 672.705 and OAR Chapter 809. At all times material herein, Respondent Charles R. Lane, PE (hereafter "Respondent") was not registered or certified by the Board to engage in the public practice of geology or the activities of an engineering geologist. At all times material herein, "R.G." refers to a "Registered Geologist" pursuant ORS 672.505(10), and "C.E.G." refers to a "Certified Engineering Geologist" pursuant to ORS 672.505(3), 672.505(9), and 672.565, and OAR 809-005-0000.

2.

On or about April 3, 2006, R. Warren Krager, R.G., C.E.G., (hereafter "Krager") and Respondent, while working for Professional Service Industries, Inc. (hereafter "PSI"), submitted to Tillamook County a cover letter along with a Geologic Hazard Report (PSI Report No. 704-65101-1) for the proposed project of town homes on tax lot 2603 (Map 1S 10 30 CD Avalon) Tillamook County, Oregon. Respondent signed the cover letter as "Charles R. Lane, PE, Senior Geotechnical Engineer" and Krager signed the cover letter as "R. Warren Krager, R.G., C.E.G., Senior Engineering Geologist." Krager stamped and signed the report as a Certified Engineering Geologist and Respondent stamped and signed the report as a Registered Professional Engineer. In the cover letter and report, Krager and Respondent provide their professional opinion that the subject property

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1 had no geologic hazards, other than possible concern with erodible sand soils and slight concern for  
2 local instability of slopes, and was generally suitable for the proposed construction with proper  
3 engineering design.

4 3.

5 Tillamook County Land Use Ordinance Section 4.070 (hereafter "Section 4.070"), requires  
6 all developments within geologic hazard areas have a geologic hazard report completed and  
7 submitted prior to approval that is prepared, stamped, and signed by both an Oregon Registered  
8 Geologist and a qualified Oregon Registered Engineer or by an Oregon Certified Engineering  
9 Geologist.

10 4.

11 On or about April 20, 2006, Krager left employment with PSI.

12 5.

13 Due to modifications in the original development proposal from town homes to single  
14 family residences in October, 2006, Tillamook County required a geologic hazard report for the  
15 revised proposal.

16 6.

17 In November, 2006, Tillamook County received a cover letter and Engineering Geologic  
18 Hazard Report for Proposed Single Family Dwellings on Tax Lot 2603 (Map 1S 10 30 CD Avalon)  
19 Tillamook County, Oregon, dated "April 3, 2006, *Revised November 10, 2006*" (emphasis original)  
20 (PSI Report No. 704-65101-1-R1) purportedly submitted by Krager and Respondent. Respondent  
21 signed the November, 2006, cover letter as "Charles R. Lane, PE, Senior Geotechnical Engineer."  
22 On the November 2006 cover letter, prepared by Antoine Rocca (Rocca), the departmental manager  
23 for PSI's Portland office and Respondent's direct supervisor, Rocca signed Rocca's own name over  
24 and wrote "for" next to the typed signature block of "R. Warren Krager, R.G., C.E.G., Senior  
25 Engineering Geologist." Respondent, when he signed the November, 2006, cover letter did not  
26 realize that Rocca would thereafter sign for Krager without Krager's knowledge or permission even

1 though Respondent knew Krager was no longer employed for PSI. The November, 2006, cover  
2 letter states, in relevant part, that:

3 "It is our professional opinion that the subject property has no apparent geologic hazards,  
4 other than possible concern with erodible sand soils and slight concern for local instability  
5 of slopes. It is our opinion that the subject lot and proposed home site is generally suitable  
6 for the proposed construction with proper engineering design for foundations and retaining  
7 walls."

8 The last page of the November, 2006 report (PSI Report No. 704-651010-1-R1), assembled by  
9 Rocca, is the same as the original April, 2006 report (PSI Report No. 704-0651010-1), including the  
10 purported C.E.G. stamp and signature of Krager, but does not contain the "Revised November 10,  
11 2006" date. The November, 2006, cover letter and report (PSI Report No. 704-65101-1-R1) are  
12 very similar to the original April, 2006 cover letter and report (PSI Report No. 704-65101-1) except  
13 that they refer to "single family dwellings" whereas the original report refers to "town homes."

14 7.

15 At all times material herein, Rocca was not registered or certified by the Board to engage in  
16 the public practice of geology or the activities of an engineering geologist, or exempt therefrom.

17 8.

18 At all times material herein, with regard to the November 2006 cover letter and report (PSI  
19 Report No. 704-65101-1-R1), Krager did not authorize or give permission to either Rocca or  
20 Respondent to: (a) use or attempt to use Krager's certificate of registration, stamp, or seal as an  
21 R.G. or C.E.G.; (b) use or attempt to use Krager's R.G. or C.E.G. stamp; (c) use or sign on behalf of  
22 Krager as an R.G. or C.E.G.; or (d) give the appearance or impression that the cover letter or report  
23 were prepared by, signed, or submitted on behalf of Krager as an R.G. or C.E.G.

24 9.

25 Respondent has been fully cooperative during the Board's investigation of this case and has  
26 agreed to provide his continued cooperation with regard to other ongoing investigations by the  
Board into these matters.

1 **CONCLUSIONS OF LAW**

2 10.

3 Based on the above, the Board concludes that Respondent committed one non-willful  
4 violation or offense of ORS 672.525(5) by using or attempting to use the certificate of registration,  
5 stamp, or seal of Krager.

6 **STIPULATION**

7 11.

8 Respondent and the Board desire to resolve this matter by entry of this Stipulated Final  
9 Order Assessing Civil Penalty (Stipulated Order), pursuant to ORS 183.417(3) and ORS 672.505 to  
10 672.705.

11 12.

12 Respondent, by signing below, stipulates and agrees to the above Findings of Fact and  
13 Conclusions of Law and to issuance and entry of the Final Order below. Respondent, by signing  
14 below, also understands, acknowledges, stipulates, and agrees to the following:

15 12.1 This Stipulated Order will be submitted to the Board for approval and is subject to and  
16 conditioned upon approval by the full Board. This Stipulated Order, once issued by the Board, is a  
17 final order. If issued by the Board, Respondent must pay any civil penalties imposed by this  
18 Stipulated Order within thirty (30) days of issuance and entry;

19 12.2 This Stipulated Order is a public document and must be disclosed, published, and  
20 reported in accordance with Oregon Public Records Law and the Board’s policies and practices;

21 12.3 This Stipulated Order in no way limits or prevents further remedies, sanctions, or  
22 actions which may be available to the Board under Oregon law for conduct or actions of  
23 Respondent not covered by this Stipulated Order, or against a party not covered by the Stipulated  
24 Order, or for Respondent’s failure to comply with the terms of this Stipulated Order;

25 12.4 Respondent has been fully advised of Respondent’s rights to notice and a contested  
26 case hearing under the Oregon Administrative Procedures Act (ORS Chapter 183) and Civil Penalty

1 Procedures of ORS 183.745, and fully and finally waives any and all such rights and any right to  
2 appeal or otherwise challenge this Stipulated Order; and

3 12.5 Respondent has fully read this Stipulated Order and understands it completely.  
4 Respondent voluntarily, without any force or duress, consents to issuance and entry of this  
5 Stipulated Order. Respondent states that no promises or representation has been made to induce  
6 Respondent to sign this Stipulated Order. Respondent has consulted with an attorney regarding this  
7 Stipulated Order and has been fully advised in regards thereto or waives any and all rights to consult  
8 with an attorney prior to issuance and entry of this Stipulated Order.

9 12.6 Respondent shall continue to fully cooperate with the Board regarding other ongoing  
10 investigations and any action by the Board in connection with the above referenced matters.

11 **IT IS SO STIPULATED AND AGREED TO** this 27 day of Feb, 2009, by:

12

13

Charles R. Lane P.E.

14

Charles R. Lane, PE, Respondent

15

16

**FINAL ORDER**

17

18

Based on the foregoing, it is hereby **ORDERED** that a civil penalty in the amount of  
\$500.00 is imposed on Respondent Charles R. Lane for the single non-willful violation or offense  
committed above, pursuant to ORS 672.690(1).

19

20

Dated and Issued this 11 day of March, 2009.

21

**BOARD OF GEOLOGIST EXAMINERS  
STATE OF OREGON**

22

23

By: Susanna R. Knight  
Susanna R. Knight, Administrator

24

25

Date of Mailing: March 11, 2009.

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