Oregon

STATE BOARD OF EXAMINERS
FOR ENGINEERING &
LAND SURVEYING

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LAW ENFORCEMENT COMMITTEE

Minutes of Meeting
October 22, 2014

Members present:
Jason Kent, Ad Hoc Chair
Ron Singh
Dave Van Dyke

Members absent:
William Boyd (excused)

Staff present:
Mari Lopez, Board Administrator
Jenn Gilbert, Executive Assistant
Adaira Floyd, Social and Communications Media Specialist
Monika Peterson, Investigator
James R. (JR) Wilkinson, Investigator

Others present:
Katharine Lozano, Assistant Attorney General

The meeting of the Law Enforcement Committee was called to order at 8:05 a.m. in the OSBEELS Conference Room at 670 Hawthorne Avenue SE, Suite 220, Salem, OR 97301.

Public Comment
There was no public comment.

Case Disposition
Did Not Contest: Recommend Approval of Default Final Order:

2860 – Jonathan Oakes
A complaint was received by Greg Zartman on September 30, 2013, alleging that Jonathan A. Oakes failed to provide right of entry notice as required by ORS 672.047, when he entered upon his property. Oakes admitted to mistaken failure to provide proper notice. During the August 14, 2014 Committee meeting, the Committee recommended a $250 civil penalty.

Staff update: A vote was not taken during the LEC meeting to proceed; as a result, the Board will be required to make a decision during the next Board Meeting in November.

2895 – Eric C. Johnson

Eric C. Johnson submitted an application for registration by comity on May 23, 2014. Johnson failed to disclose prior disciplinary action on his license in violation of OAR 820-020-0045(4), in the form of a Public Reprimand from the State of Nevada in June 2000. Johnson apologized and acknowledged his error. He stated that he had misunderstood the question to be addressing his California license (the one on which his comity application was based). During that August meeting, the Committee recommended a $100 civil penalty.

> **Staff update:** A vote was not taken during the LEC meeting to proceed; as a result, the Board will be required to make a decision during the next Board Meeting in November.

Staff presented status reports on case 2863 – David C. Popescu and 2826 – Commstructure Consulting. There was no further discussion.

Informal Conferences

2833 – Francisco Silva

On July 20, 2012, the Board sent Silva a letter requesting his participation in an audit of his PDH units for the period of July 1, 2010 through June 30, 2012. However, Silva did not respond to the audit request. A second letter was sent to the same address on September 11, 2012, followed by a letter sent via certified mail to a second address on October 8, 2012. A fourth letter was sent via certified mail to the first address on October 29, 2012. Staff reported that efforts to reach Silva telephonically on November 16, 2012, were unsuccessful. However, on January 7, 2013, a corrected Registrant Information Update was received and subsequent Final Notices were sent to Silva on February 14, 2013, and by certified mail on March 20, 2013. Silva signed for the last audit notice, but failed to respond. In response to a Board investigator on March 27, 2013, Silva submitted a CPD Organizational Form showing 2.10 PDH units for the audit period. He wrote that he "cannot afford to take time off to take seminars (including webinars) to keep up with the Board's PDH unit requirements." As a result, Silva did not provide any supporting documentation showing completion of 30 PDH units for the audit period July 1, 2010 through June 30, 2012. Silva failed to respond to the Board's CPD audit requests multiple times and over a period of eight months. When contacted, Silva was unable to submit documentation demonstrating compliance with CPD requirements under former OAR 820-010-0635. The Board proposed to suspend the engineer registration of Silva for 60 days and to assess a $1,500 civil penalty for the violations of former OAR 820-010-0635, OAR 820-020-0015(7), and OAR 820-020-0015(8). The LEC met with Silva and his attorney in a telephonic informal conference. Silva's attorney offered an explanation for events, and Silva requested that he be permitted to voluntarily surrender his Oregon License, in lieu of the discipline proposed. **The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on a contested case. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was noted that no decisions were made and no votes were taken.** The Committee and Silva agreed that Silva would accept and the Committee would recommend that the Board accept Silva's permanent retirement with no possibility of reinstatement, as disciplinary action, and that Silva admit to violations of OAR 820-010-0635 and 820-020-0015(7) and (8), all in lieu of the civil penalty and suspension of registration.

2810 – Francisco Meneses

A Notice of Intent had been issued against Meneses for multiple violations of ORS 672.020(1), 672.045(2), and OAR 820-010-0720, because he, from approximately February 2011 to the current date: offered on his website www.fireescapeengineers.com to perform fire escape inspections and certifications, including engineering work such as load tests and calculations to verify compliance with established fire codes, and used the firm name Fire Escape Engineers, when Meneses was not registered as an engineer, and did not employ a full time engineer. Meneses, through his attorney, had promised throughout the investigation that Meneses used Oregon registrants for the actual engineering work and would change his business website, but the website was not changed and it was unknown whether Meneses did in fact use an Oregon registrant to perform engineering for the company in Oregon. The Board proposed to assess Meneses a $3,000 civil penalty for the violations described above.

The LEC met in a telephonic informal conference with Meneses and his attorney. After an explanation from Meneses's attorney regarding the violations and comments from Meneses, Meneses proposed the Board drop all charges and civil penalty, and renewed his assurance that Fire Escape Engineers would no longer conduct business under that name in Oregon. However, as of the date of the LEC, Fire Escape Engineers's website was still active and listed the City of Portland as a model city for Fire Escape Engineers. **The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on a contested case. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was noted that no decisions were made and no votes were taken.** The Committee and Meneses agreed that Meneses would accept and the Committee would recommend that the Board accept the assessment of a $3,000 civil penalty, $2,000 of the penalty to be suspended and considered dismissed, suspension and dismissal of the penalty conditioned upon Meneses refraining from committing any additional violations for the next five years, Meneses registering a fire escape inspection business under a lawful name with the Oregon Secretary of State and so documenting to the Board by October, 31, 3014, and Meneses paying the unsuspended $1,000 of the civil penalty in full by December 1, 2014.

> **Staff Update**: On October 31, 2014, the Board received documentation showing that Meneses registered Fire Escape Inspectional Services with the Secretary of State Corporate Division.

2793 – Richard Drewelow

Drewelow's case was previously discussed at the April 10, 2014, Committee meeting. During the August 14, 2014 Committee meeting, Drewelow participated in his informal conference by telephone. Drewelow explained that he took the required CPD hours during the audit period and that the issue was his lack of documentation, which has been submitted since his audit was transferred to the regulation department. However, registration staff still found him deficient by 3 CPD hours. He said that he did not receive the three notices sent by auditors in early 2012, explaining that he didn't understand that he needed to update the Board with his work address when his company was bought out. During that August Committee meeting, Hoffine pointed out that the first two notifications were sent to his home address, and Drewelow affirmed his home address has been the same for 18 years; he does not remember seeing the audit letters and asked that the case be dismissed as he has completed the CPD requirement. After private deliberation

pursuant to ORS 192.690 during the August Committee meeting, the Committee offered Drewelow a settlement agreement with a $750 civil penalty, which he did not accept. He then proposed permanent retirement without the possibility of reinstatement in lieu of a civil penalty. After additional private deliberation pursuant to ORS 192.690 during the August Committee meeting, the Committee agreed to Drewelow's proposal of a settlement agreement with permanent retirement in lieu of a civil penalty. Upon reviewing the Settlement Agreement, Drewelow submitted a letter, dated August 28, 2014, requesting modification the language of the Settlement Agreement, which request was forwarded to the October Committee meeting.

In the October 2014 Committee meeting, Drewelow appeared by phone. AAG Lozano addressed the Chair to note that staff clarification occurred after the October meeting packet was distributed, which revealed that Drewelow is now in CPD compliance, having recently submitted documentation of the 3 CPD hours previously undocumented, and also noting that, upon further review of the file, it was discovered that Drewelow only failed to respond to two board notifications (not three) and did not, therefore, trigger a civil penalty under the Committee's current penalty matrix for failing to cooperate. AAG Lozano clarified that it now appeared that the only remaining issue was Drewelow's failure to report an address change (business address). Drewelow admitted to failing to change his business address with the Board, but stated that he did not realize he had to update the business address when his home address had not changed and he had always received all Board mailings at his home address, and felt he cooperated with the Board and complied with his CPD requirements. **The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on a contested case. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was noted that no decisions were made and no votes were taken.** After deliberation, the Committee acknowledged that staff errors were fundamentally at the heart of this case. The Committee decided to withdraw the notice of intent, with the recommendation that the case be closed as compliance met. Ms. Lopez directed Drewelow to the form online if he is still interested in retiring his license in good standing.

<u>2865 – Michael J. Peterson</u>
Addressed during the August 14, 2014 Committee meeting, OSBEELS received a signed renewal form from Peterson, a PE, certifying that he had completed the required PDHs for the previous biennial renewal period of January 1, 2012 to December 31, 2013, which he claimed as a condition of the last biennial renewal period of January 1, 2013 through December 31, 2014. According to the August Committee meeting minutes, On July 25, 2013, Peterson was sent a letter requesting his participation in an audit of his PDHs; the letter was sent to the address of record and was returned by the US Postal Service on August 5, 2013, as "unable to forward." A second notification letter was sent on September 6, 2013, to the address of record. The letter was not returned by the US Postal Service and Peterson did not respond. Final notification was sent by certified mail on October 2, 2013, to the same address of record. The final notification letter was returned on October 11, 2013, by the US Postal Service as "unable to forward." A respond to allegations letter was sent December 17, 2013, to the last address of record and to a more recent address that was located through the website PeopleSmart. Peterson called investigators on December 27, 2013, and explained that he had a lot of address changes over the last few years. Through email correspondence, Peterson complied with the audit request by submitting a

CPD Organizational Form and supporting documentation for 36 PDH; compliance was met in terms of CPD documentation. During that August meeting, the Committee determined to issue a NOI to assess a $250 civil penalty for violation of OAR 820-020-0605 – failure to update address with the Board.

Peterson attended the October 2014 conference by phone and requested that the Committee take into account the medical conditions that existed during the time he was moving before making the action a permanent part of his record. Peterson submitted documentation of the medical issues and the Committee received and reviewed the documentation. Peterson proposed to pay the $250 civil penalty but requested the case not be included as discipline or a permanent part of his record. **The Committee exited its public meeting pursuant to ORS 192.690(1) for private deliberation on a contested case. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was noted that no decisions were made and no votes were taken**. After discussion, the Committee passed a motion to recommend to the Board to withdraw the NOI and close the case.

2898 – Jaime Lim

The Informal Conference scheduled for 3:00 p.m. was cancelled. Staff will attempt to reschedule for a later date with the LEC.

Cases Subject to OAR 820-010-0617

2795 – Shoji Hamaya / OSBEELS

Staff reported that Shoji Hamaya is a non-resident Oregon registrant and was selected to participate in an audit of his PDH units for the period of July 1, 2009 to June 30, 2011. Hamaya did not respond to the audit notices from the Account Specialist or to letters from the Regulation Department. Staff reported that Hamaya failed to cooperate with the Board by not responding to multiple requests to gain his participation in an audit for continuing professional development. In addition, Staff reported that Hamaya failed to provide verification that he completed the required 30 PDH for the audit period as well as continue professional development during his career. **After discussion, the Committee determined to issue a NOI to assess a $1,500 civil penalty and 60-day suspension for the violations of OAR 820-020-0015(8), the former OAR 820-010-0635(1) & (5) and OAR 820-020-0015(7), which is consistent with the CPD Penalty Matrix established by the Committee. There was no further discussion.**

2802 – Chang Woo Lee / OSBEELS

Staff reported that Lee is a non-resident Oregon registrant (delinquent) and was selected to participate in an audit of his PDH units for the renewal period of January 1, 2009 through December 31, 2010. Lee failed to provide sufficient supporting documentation to prove his claimed PDH units. **After discussion, the Committee determined to issue a NOI to assess a $1,500 civil penalty and 60-day suspension for the violations of OAR 820-020-0015(7), OAR 820-020-0015(8) and the *former* OAR 820-010-0635 (f. & cert. ef. 9-20-07; BEELS 1-2009), which is consistent with the CPD Penalty Matrix established by the Committee. There was no further discussion.**

2840 – Sung Ho Kim / OSBEELS

Staff reported that Kim applied for registration and was issued an Oregon Professional Engineers registration number 80089PE on September 8, 2009. Kim's registration is in delinquent status with an effective date of June 30, 2013. Kim did not respond to multiple requests during an audit of his CPD for the period of July 1, 2009 through June 30, 2011. On June 12, 2013, the Regulation Department sent another letter to Kim by mail and also by email, requesting his response to the audit. Kim responded by email on June 19, 2013, and stated he had not received any of the prior correspondence because he had moved. Kim submitted CPD documentation for the audit period and met compliance with the audit. However, Kim had failed to notify the Board of an address change, in violation of OAR 820-010-0605. Based on the CPD matrix, staff recommended a $250 civil penalty for Kim's failure to update his addresses with the Board within 30 days as required by OAR 820-010-0605. **After discussion and case packet review, the Committee determined to issue a NOI to assess a $250 civil penalty for the violation of OAR 820-010-0605 for failure to report an address change within 30-days, which is consistent with the CPD Penalty Matrix established by the Committee. There was no further discussion.**

2862 – Itaru Sano / OSBEELS

Staff noted in the case evaluation that Sano is a resident of Japan and active registrant at all relevant times. Sano was selected to participate in an audit of PDH units for the period of July 1, 2010 to June 30, 2012. Sano did not respond to numerous letters sent to both his home and employer addresses on record. Staff reported that Sano additionally failed to provide verification that he completed the required 30 PDH for the audit period. **After discussion, the Committee determined to issue a NOI to assess a $1,500 civil penalty and 60-day suspension for the violations of OAR 820-020-0015(8), *former* OAR 820-010-0635(1) & (5), and OAR 820-020-0015(7), which is consistent with the CPD Penalty Matrix established by the Committee. There was no further discussion.**

2864 – Lawrence Fischer / OSBEELS

Staff explained that Fischer faced discipline in two different states for two different substantive violations. The first was in Oklahoma in 2001 and a second in Arkansas in 2010. Both of these acts resulted in reciprocal disciplinary actions by a multitude of other states. It was noted that Fischer's conduct in Oklahoma did not result in suspension or revocation of his Oklahoma license, and so was not punishable in Oregon, but that his Arkansas license was surrendered in lieu of the discipline proposed, and that because the conduct in Arkansas resulted in loss of registration, he could be disciplined for it in Oregon under OAR 820-020-0015(6). Staff noted that Fischer's failure to disclose his prior discipline, including the numerous counts of out of state reciprocal discipline, added up as many as 17 separate violations of OAR 820-020-0045(4) (failure to disclose discipline in other states). However, OAR 820-020-0045(4) was not adopted until January 2005 and therefore would not apply to his first five failures to disclose disciplinary actions taken against him. **After discussion and review of the case packet, the Committee applied OAR 820-010-0617 to determine to assess a $2,000 civil penalty and a 120-day suspension against Fischer for a violation of OAR 820-020-0015(6) regarding the substantive conduct committed in Arkansas, and of OAR 820-020-0045(4) for multiple failures to give written notification to the Board of disciplinary actions or sanctions imposed on him by other jurisdictions.**

Staff Update: The Board received original documentation from Arkansas and found that the Arkansas Board did not issue a proposed sanction of suspension or revocation. As a result, the LEC will need to revisit this case in December.

2871 – Emery & Sons / OSBEELS
On about April 2, 2014, staff for the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) came across the Web site for Emery & Sons Construction, Inc. The firm is an active construction contractor that was first licensed on July 1, 1972. However, the firm listed two individuals as Project Engineers who are not registered with OSBEELS. Staff reported that both individuals are certified as engineers in training. Staff reported that Emery & Sons Construction, Inc. had changed the titles to comply with ORS 672 prior to an investigation being formally opened. **The LEC recommended closing the case as compliance met. There was no further discussion.**

2872 – Nick M. Kerber / OSBEELS
Staff reported to the Committee that Kerber chose not to renew his professional engineering registration in response to his law enforcement case no. 2846 for failure to comply with CPD requirements. This was Kerber's effort to avoid further conflict with the CPD requirements. However, Kerber continued to operate under Quicksilver Engineering, as well as to use the professional title of "Engineer." Kerber's registration was in delinquent status for eight months while he continued these practices, but after speaking with staff about the Board's title act and its distinction from the practice act, he renewed his registration on May 14, 2014. **After discussion, the Committee determined to issue a Letter of Concern to Kerber regarding use of the title "Engineer" while not in active status, and to re-emphasize the Board's regulation of both practice and use of title.**

2873 – Michael Elsberry / OSBEELS
The case was removed from the agenda for further investigation.

2874 – Wesley Culver / OSBEELSDuring a prior investigation of different potential respondents (Structural Components, LLC/ Stephen Dorau PE, case closed without discipline), documentation was provided to the Board, which suggested Wesley Culver had violated the Board's statutes and rules. The LEC directed that a case be opened against Culver because he was listed as a PE on the Preliminary Modification Drawings for a Structural Components, LLC/ Dorau project in Oregon, but Culver was not an Oregon registrant. However, although the preliminary plan sheet did name Culver as PE, the final plan sheet, offered to the public, was correctly signed and sealed by Dorau, who was the engineer in responsible charge of the project. **After further discussion, the Committee recommended closing the case as allegation unfounded.**

2875 – Harvey Carlisle / OSBEELS
During a prior investigation of different potential respondents (Structural Components, LLC/ Stephen Dorau PE, case closed without discipline), documentation was provided to the Board, which suggested Harvey Carlisle had violated the Board's statutes and rules. The Board was provided with a report done by NorthWest Tower Engineering ("NWTE"), Everett, WA. The report's introduction indicated that NWTE visited the site "to visually observe the tower's

current physical condition and to obtain pertinent information to perform a structural analysis," and purported not to be an engineering report. However, the report also included opinions on the tower's stability and compliance with engineering standards, and made recommendations to replace the tower, based on its specific condition. Upon review, the Committee determined that the report was an engineering report as it included specific engineering knowledge (professional opinions, design standards, feasibility, etc.). However, it was not signed and sealed by Carlisle who asserted responsible charge during the investigation. **The Committee determined to issue a Letter of Concern to Carlisle containing guidance as to where the report included engineering and that a seal is required under ORS 672.020.**

2881 – Ramasurdyal Premsingh / OSBEELS

Staff reported to the Committee that Premsingh submitted an annual report to the Oregon Secretary of State Corporation Division claiming to offer engineering services. This constituted the unauthorized practice of engineering without a license as defined by ORS 672.007(1). However, Premsingh has also submitted a corrected report to the Corporate Division. Staff suggested that in this case, the Committee should discuss potentially issuing a letter of concern as the action was corrected, or assessing a lower civil penalty based on the OAR 820-010-0617 Civil Penalty Factors. **The Committee determined to issue a Letter of Concern to Premsingh, noting the potential violation on Premsingh's annual corporation report, but acknowledging he properly corrected the report with the Secretary of State Corporation Division.**

2882 – Jane Campbell / Shantubhai Narvarlal Shah

On February 20, 2014, a complaint was received by Shantubhai Shah. Shah alleged that Jane Campbell, a non-registered person, was responsible for the coordination of complex engineering projects and supervision of certified engineers as well as presenting project and construction/engineering documents to clients. Campbell is employed as a Technical Specialist/Project Manager with SSOE Group, which provides a variety of services that include engineering, design, project management, and construction supervision. Shah submitted no evidence to substantiate his allegations. Campbell submitted her position description (Technical Specialist), which the Committee reviewed. Campbell also provided a written response to Shah's allegations, in which she that her role was primarily project management, and that any review of designs she conducted was solely to determine whether the project was meeting its requested scope requirements and if there were any misspellings or drafting errors, etc.. She wrote that technical direction was given by the department managers and technical leads for the project. Campbell's supervisor Mark Wilson provided a response that was consistent with Campbell's description of her role. Wilson stated that Campbell's duties were specific to scope, schedule and budget management. He further stated that she did not directly supervise any staff. The attorney for SSOE provided copies of email correspondence between Campbell and the design staff, including Shah, for the project at issue. The emails supported the statements made by both Wilson and Campbell. The Committee determined that Campbell's reviews are of business processes and of adherence to project scope. **After discussion, the Committee determined Campbell's duties were consistent with Project Management, not with the practice of engineering, and recommended dismissing the case as allegations unfounded**.

2883 – David A. Edwards / Delbert Wood

The Board received a complaint on May 19, 2014 against David A. Edwards, from Delbert Wood, the owner of the property adjacent to Edwards's boundary survey client. The complaint included substantive survey complaints, and a complaint of Edwards's failure to provide required right of entry notice. Regarding the right of entry issues, staff reported that Edwards performed a survey for his client Ted Downs and believed that he was performing services for both the Woods and the Downs, though only the Downs were paying for the survey. Edwards claimed he did not provide the notice required for his right to enter the Wood's property, due to this misunderstanding. Edwards stated that he was aware of the requirements for ORS 672.047 but did not feel it was applicable in this case, because he believed the Woods were a party to the survey. However, Edwards also stated the agreement to conduct the survey was a verbal agreement with Ted Downs only, and without a written contract with either party. Additionally, the filed survey map listed only the Downs as clients, and did not list the Woods as clients. Regarding the substantive survey issues, (allegedly ignoring existing monuments), Edwards explained that he did not ignore the existing monuments, but that he clearly documented his reasons for not confirming the positions of two of the existing monuments. The Committee reviewed the survey map and determined Edwards' statement was accurate and reflected on his survey map. **After discussion and review of the case packet materials and Civil Penalty Factors listed in OAR 820-010-0617, the Committee determined to issue a NOI to assess $500 civil penalty for violation of ORS 672.047, right of entry by land surveyor.**

<u>2885 – Sisul Engineering / OSBEELS</u>
During a prior investigation of a different potential respondent (Jordan V. Marlia, case closed without discipline), documentation was provided to the Board, which suggested an investigation of Sisul Engineering was appropriate to determine whether there were violations of the Board's title act. Tom Sisul responded on June 23, 2014, and he specifically mentioned land surveying, geotechnical engineering, traffic engineering and structural engineering as disciplines in which the firm uses licensed sub-consultants. The firm also employs six licensed civil engineers in three offices. Staff explained that Sisul has made business changes to avoid potential title act violations with future new employees, and reported that Sisul Engineering is now in compliance. **The Committee determined to recommend closing the case as compliance met. There was no further discussion.**

<u>2889 – RediPour Wall Systems / Robert C. Lennox</u>
A complaint was received on July 10, 2013, from Robert Lennox, PLS who alleged that Redi Pour was in violation of ORS 672 for the practice of land surveying when they perform Robotic Site Topography. In addition to the allegation made by Lennox, review of the website for Redi Pour also indicated there was a potential violation of OAR 820-010-0715 for the advertisement of engineering services without the identification of a registered professional engineer. Redi Pour is actively registered under the Oregon Construction Contractors Board, CCB#180782. On the website, RediPour described their Robotic Site Topography Services as "*… a detailed measurement of the surface features of your property. This data gives us accurate elevations and positions that we base designs around for your project…"* Staff reported that services offered by RediPour also include a "Dig Out Map" which uses the topo design drawing (measurements and elevations) along with manufacturing information to create the excavation guideline for installing the project. As stated on the RediPour website "*We use a dig out map that marks out the precise elevation the foundation must be at for your wall to be level."*

Additionally, during the investigation, it was found that RediPour appeared to be operating as a construction contractor offering engineering services, but without a registered engineer on staff, without disclosing on their website that the contractor was not a registered professional engineer, and without identifying the registered professional engineer that was providing the engineering services. In response, Boydstunexplained that they contracted with a PE for engineering services when required and added that PEs name to the RediPour website. It was determined later in the investigation that the PE worked solely on single family residences. Boydstun stated that RediPour does not do commercial projects, but RediPour's website disclosed several commercial projects. Furthermore, staff reported that RediPour was sub-contracted by the a general contractor to design, manufacture, and install 16 columns (almost ten feet in height) for the City of Corvallis, Willamette Park project. RediPour designed the forms for the columns that would serve as the foundation and roof support for a park structure encompassing 2,210 square feet. Additional documentation raising questions about RediPour failing to follow design specifications that were calculated by the project's engineering firm.
The Committee reviewed the case packet, questioned the investigator, and determined that further investigation is needed, additional information to be reviewed at the next Committee meeting.

2890 – David Young / OSBEELS
During a prior investigation of a different respondent (David Lysne, enforcement case no. 2787), information was provided to the Board, which suggested an investigation of David Young for unlicensed practice of engineering was appropriate. The project at issue is the design of the Berry Creek culvert. Young indicated he staked the location so the contractor could bid for the job and then was present during construction. Staff recommended that the Committee discuss whether there should be further investigation to determine if the staking that was completed by Young meets the definition in ORS 672.005. **After reviewing the investigative evidence collected and questioning the investigator, the Committee determined that more information is needed to understand the details of the staking Young performed for the Berry Creek culvert project, including the staking notes, and decided to hold the case for further investigation.**

2896 – Stephen T. Waring / OSBEELS
Stephen T. Waring contacted the Board office on June 26, 2014, in order to resolve the status of his professional engineering registration when he discovered it was delinquent. As a result of Waring's disclosure to the Board, and along with his ownership of *Emagineered Solutions*, operating in Oregon, and his use of the P.E. title, a law enforcement case was opened on July 17, 2014. Staff reported that Waring likely did not receive his registration renewal because he failed to report an address change. Waring's registration was in delinquent status for two years while he operated *Emagineered Solutions*. Additionally, Waring reported that his company does not practice engineering and has had no projects in Oregon except power companies; however the website refers to the company as an engineering firm. Waring described the nature of the company's services to be the manufacturing of pipe lining equipment and the manufacturing and installation of a gravity dam monolith joint leakage waterstop. Staff recommended the Committee discuss whether a sanction should be assessed for Waring's use of the P.E. title during the two years his engineering registration was in delinquent status and discuss if the product and services offered by "Emagineered Solutions" is the practice of engineering and

therefore in violation of OAR 820-010-0720 during the time Waring's registration was in delinquent status. Staff also recommended the Committee should determine whether to assess a sanction for Waring's failure to report an address change within the required timeframe. The Committee reviewed the website and services offered to determine the practice of engineering. **The Committee determined further investigation is needed regarding the work that was completed during the time Waring's license was inactive.**

Preliminary Evaluations

Discussion occurred between the Committee, AAG Lozano and staff regarding the Preliminary Evaluations procedure and rule, OAR 820-015-0010, Processing Complaints. The Committee recommends that the Board discuss the rule during the November Board meeting.

Kelli Grover / Dale Hult

The Board received a complaint and potential evidence from Dale L. Hult on June 18, 2014. The complaint alleges the unlicensed practice of land surveying by Kelli Grover of the Firwood Design Group. Grover is not now, and never has been a licensed professional land surveyor in Oregon. Evidence submitted with the complaint included an Exhibit Map created by Firwood Design Group and a letter dated May 14, 2014, from Jarrod F. Howard, an Attorney for their client (Sunstone Homes). Dale L. Hult submitted a second complaint on September 15, 2014, regarding Grover's firm, Firwood Design. The complaint alleged that surveyor Richard Niciolek, PLS was no longer employed by Firwood Design and therefore the firm was in violation of OAR 820-010-0720 for the advertisement and offering of land surveying services in Oregon without a registered professional land surveyor on staff. **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation on Ms. Grover (Hult's 1st complaint) and Firwood Design (Hult's 2nd complaint). There was no further discussion.**

Jesse Davis / Brian Barnett

The Board received a complaint and potential evidence from Barnett on July 28, 2014. The complaint alleges the unlicensed practice of engineering by Davis of Signal Construction Group LLC. Staff noted that Jesse Davis is not now, and never has been a licensed professional engineer in Oregon. Evidence submitted by the complainant includes: Email received by Brian Barnett containing Jesse Davis' signature line. **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation on Davis. There was no further discussion.**

Paul Gregory Scott / Shelly Duquette

On August 22, 2014, Shelly Marie Clark Duquette, SE, submitted a complaint packet to the Board expressing concerns regarding Paul Gregory Scott, PE and his use of a Structural Engineering Seal without registration as a Structural Engineer. In support of her complaint, Duquette submitted the following exhibits: Copy of letter responding to City of Portland check sheet, stamped with SE seal (dated August 8, 2014), partial copy of plan sheet with SE seal (dated June 26, 2013), and a copy of calculation book cover sheet with SE seal (dated August 8, 2014). **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation on Scott. There was no further discussion.**

Paul DeMaggio / Carl Tappert

The Board received a complaint from Carl Tappert, PE on July 21, 2014. He expressed concern that DeMaggio, as depicted on Jackson Soil & Water Conservation District (JSWC) Web site, is engaged in the potential unlicensed practice of engineering. The Web site shows that DeMaggio is a Natural Resource Engineer, which may be a title violation, but staff reported that since this was only a preliminary evaluation it is unclear if the work he is doing is also the practice of engineering, or if an exemption might apply. **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation on DeMaggio. There was no further discussion.**

Jack Watson / Mike Springer

On June 27, 2013, the Board received a complaint from Mike Springer, PLS, and Grant County Surveyor, regarding Jack Watson, PLS. Springer alleged that Watson "either intentionally or unintentionally [was] erroneously identifying objects as original General Land Office (GLO) evidence." Springer wrote that he located monuments marking the NE, East ¼, South ¼, SW, and West ¼ of Section 27, T. 9 S., R. 32 E., W.M. He asserted that the "corner position reported by Watson seemed out of position by over 100 feet." He returned to the area and found the original corner stone that is "much closer" to the GLO position. It also had been relied upon by landowners because three fence lines converged near the found stone. Springer filed his survey as #1978 on May 31, 2013. As noted on the preliminary review, Springer submitted evidence, including maps of survey, corner restoration forms, and photographs. Jason Hatfield also submitted a statement. **The Committee met in executive session for the purpose of discussing written legal advice. The Committee exited its public pursuant to ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was noted that no decisions were made and no votes were taken.**
The Committee reviewed the preliminary evaluation materials and after discussion, it was determined to open an investigation on Watson. There was no further discussion.

Timothy Wolden / OSBEELS

A preliminary evaluation was presented to the Committee regarding the activities of Timothy Wolden, PE, during this most recent suspension period. Staff explained that the evaluation involves practicing engineering during his prior suspensions, starting with case # 2781. In settlement, Wolden's professional engineer registration was suspended for 45 days (**July 9, 2013 to August 23, 2013**) and he was assessed a $16,000 civil penalty for eight violations of negligence and untruthful statements in conjunction with failing to comply with the City of Eugene Fire Marshal's Office Fire Escape Testing and Maintenance Policy 08-08. Also as a term of the settlement, the Board suspended $8,000 of the civil penalty, to be considered satisfied afterfive years pending no further violations. However, during this suspension period Wolden engaged in the practice of engineering. As a result, case #2845 was opened. In settlement, the Board enforced the suspended $8,000 of civil penalties, assessed an additional civil penalty of $2,000 for unlicensed practice, and suspended Wolden's professional engineer registration for 180 days (**July 8, 2014 to January 4, 2015**). In addition, the Board wanted to ensure that no clients were without an engineer in responsible charge of projects. Therefore, Wolden was required to declare his ongoing projects and to list the engineer responsible for them during Wolden's suspension. Once his second suspension period began, however, the Board received

reports of his unlicensed practice. These were compiled and a preliminary evaluation was provided to the Committee for discussion. **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation on Wolden. Furthermore, there was evidence sufficient enough to issue a Notice of Intent to revoke registration and assess a $12,000 civil penalty. There was no further discussion.**

> **Staff update**: The LEC authorized issuing a Notice of Intent to Timothy Wolden. However, upon review of evidence by Counsel it was discovered that the evidence for three of the six instances would not support the proposed violations. Staff proposes to reduce the proposed civil penalty to $6,000 based on the evidence of three instances of unlicensed practice and three settlement agreement violations.

James Elam-George Wiser / Ronald Zwart

Ronald Zwart submitted a complaint packet to the Board. Zwart is a Survey Technician 3 with the Washington County Surveyor's Office. He expressed concerns with James Elam, PLS, Washington County Surveyor, and George Wiser, PLS, and listed several statutes in his complaint, including ORS 209.070(4) and (5), ORS 209.200, and ORS 203.148. Staff explained that the Board's authority for surveying activities includes ORS 209.250(1) to (11), ORS 209.070(4), ORS 209.130, ORS 209.200, ORS 92.050 to ORS 92.080, and county ordinances establishing standards for surveys or plats. However, Zwart's complaint is primarily focused on ORS 203.148, Public Land Corner Preservation Fund. Staff noted that the Board has no regulatory authority over many of the violations Zwart has alleged. Zwart had expressed his concerns to Washington County officials, but an internal review revealed no misuses and no further investigation. At this point, the Committee was asked to determine on whether or not to open a case. **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation. They further directed staff to work with Zwart to refocus his complaint on allegations that are within OSBEELS jurisdiction. There was no further discussion.**

1.Rockwood; 2. Bossard; 3. Garcia; 4. Heck; 5. Kleypas / Jon Proud

During the October 2, 2014, the Joint Compliance Committee (JCC) unanimously recommended that OSBEELS be the lead board on investigations involving #1 Rockwood; #2 Bossard; #4 Heck, and #5 Kleypas. For #3 Garcia, the OSBGE is recommended to be the lead board.

On May 8, 2014, the Board received a complaint packet from Jon Proud regarding five individuals. An access road was constructed above his property in April 2012, which allowed "un-controlled construction site water from a storm" to flood a neighbor's property in June 2012. He was concerned about his property, so he walked the access road and emailed the Jackson County Building Official with his concerns on June 25, 2012. Staff explained that Proud made specific allegations against three professional engineers, one registered geologist, and one professional land surveyor: Thomson Rockwood, PE, TJ Bossard, PE, Geoffrey Garcia, RG, James Heck, PE, and Lawrence Kleypas, PLS.

> #1, Thomson Rockwood, PE: During the preliminary review, staff reported that the initial permit documents prepared by Rockwood appear to be the practice of engineering and Rockwood's signature block indicates he is a PE. However, he did not seal his final documents as per OAR 820-010-0621. Also found in the evidence was a letter wherein

Rockwood admits to practice outside his area of competence, violating OAR 820-020-0020. **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation on Mr. Rockwood. There was no further discussion.**

#2, Timothy J. Bossard, PE: A subsequent set of engineered drawings under a Bossard seal and signature were submitted to Jackson County, dated May 9, 2013. Proud also asserted that Bossard accepted responsible charge when Bossard prepared the letter on July 27, 2012. He alleged Bossard made false and misleading statements in his letter. **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation on Mr. Bossard. There was no further discussion.**

#3, Geoffery Garcia, RG: Proud submitted a complaint against Geoffery Garcia, RG, because Mr. Garcia issued a letter stating the "road showed no obvious signs of differential settling that would impact its use." However, Garcia is a Registered Geologist (RG) and not a Certified Engineering Geologist. It appeared that Garcia is not qualified to offer the opinion as a RG. **The Committee reviewed the preliminary evaluation materials and it was determined to table any decision until the February 2015 LEC meeting pending the decisions made by OSBGE. There was no further discussion.**

#4, James B. Heck, PE: Proud submitted a complaint against Heck alleging that Heck failed to seal final documents. After preliminary review, staff reported that Heck failed to seal and sign a letter wherein he offered his professional engineering opinion violating ORS 672.020(2) & OAR 820-010-0621. **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation on Mr. Heck. There was no further discussion.**

#5, Lawrence Kleypas, PLS: Proud submitted a complaint against Kleypas alleging that Kleypas failed to seal a final document. After preliminary review, staff reported that Kleypas failed to seal and sign a Map of Easement as a final document violating ORS 672.025(2) and OAR 820-010-0621. **The Committee reviewed the preliminary evaluation materials and it was determined to open an investigation on Mr. Kleypas. There was no further discussion.**

Contested Case Updates

2697 – Dale La Forest

The OAH hearing is scheduled for 4/17/2015.

2826 – Commstructure Consulting

Staff informed the Committee that further investigation is currently being conducted.

2846 – Nick M. Kerber

The OAH hearing is scheduled for 1/21/2015.

Case Status Reports

Total Cases Open: 54

Cases Subject to Monitoring: 17

Cases Subject to Collections: 13
Additional discussion occurred regarding the process of collections and the Committee asked AAG Lozano to research collections options, including any options for out of state and out of country respondents. There was no further discussion.

The meeting adjourned at 4:48 p.m.