

PROFESSIONAL CONDUCT MEETING MINUTES



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup Professionals
ONE WINTER STREET, 3rd Floor
BOSTON, MA 02108

PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on August 16, 2017

Approved on September 20, 2017

Prepared by: Beverly Coles-Roby

Meeting Location:

MassDEP CERO
8 New Bond Street
Worcester, MA 01606

List of Documents Used at the Meeting:

1. Agenda
2. Draft Minutes of Meeting on June 21, 2017
3. Active Case List

1. Call to Order: Chairperson Maria Pinaud called the meeting to order at approximately 1:05 p.m. The Board members in attendance were Debra Listernick, Dr. Gail Batchelder, Farooq Siddique, David Austin, Gregg McBride, Marc J. Richards, and Kathleen Campbell. Board members Kirk Franklin and James N. Smith were absent. Staff members present were Beverly Coles-Roby and Lori Williamson. Wendy Rundle, Executive Director of the LSP Association (“LSPA”), Wes Stimpson of WES Associates, and Rebecca Woolley of MassDEP were also present. Andrew Eckhardt and Mike Penzo arrived at 1:37 p.m.

2. Previous Minutes: The draft minutes of the meeting held on June 21, 2017, were approved as written. Board members Gregg McBride and Marc J. Richards abstained from voting to approve the minutes.

3. Old Business:

4. Status of Complaint Review Teams and Active Case Table

At Ms. Pinaud’s request, the Complaint Review Teams (“CRT”) reported on progress made since the June 21, 2017 meeting. Ms. Coles-Roby gave the reports on the status of each case as reflected in the Active Discipline Case List.

PROFESSIONAL CONDUCT MEETING MINUTES

Ms. Coles-Roby explained that due to the press of other Board matters she would need more time to prepare the reply brief in 05C-07.

Ms. Coles-Roby indicated that the Board is still awaiting the Presiding Officer's Recommended Final Decision ("RFD") in 08C-03.

Ms. Coles-Roby reminded the Committee that the Massachusetts Superior Court, Roach, J., held a Status Conference on June 20, 2017 in 10C-01, and the case should be resolved by cross-motions for judgment on the pleadings no later than September 22, 2017.

Ms. Coles-Roby stated that she met with the LSP's attorney in 11C-04 to discuss the Board's offer of settlement on July 7, 2017. The attorney will respond no later than September 20, 2017.

In the matter of 12C-01, Ms. Coles-Roby informed the Committee that the LSP was interviewed on August 9, 2017. The LSP has until September 25, 2017, to file any supplemental documents.

The CRT interviewed the LSP in 16C-01 on July 19, 2017. The LSP has until September 20, 2017, to file any supplemental documents.

Ms. Coles-Roby stated that 17C-01 would be discussed during the Quasi-Judicial Session after the Board meeting. Ms. Rundle asked why the case would not be discussed in the public session of the Board's meeting. Dr. Batchelder asserted that in the past Screening Team matters were discussed in the public portion of the meeting. Accordingly, Ms. Coles-Roby gave a brief recitation of the facts, explaining that the complainants were private homeowners and a LSP. She noted that the LSP as well as a tank removal company were named as respondents. She went on to say that the central issue was the adequacy of a December 5, 2013, Immediate Response Action Plan, ("IRA Plan").

The Screening Team found that the actions of the tank removal company were beyond the Board's jurisdiction. The Team also agreed that the LSP, who supervised or managed the assessment that was conducted, should have expressed the limitation of the data submitted by the tank removal company in the IRA plan.

Ms. Campbell added that the work involved an underground storage tank and that the homeowners got bad advice. She added that there was much fault blaming between the parties. Ms. Pinaud commented that had the LSP reviewed the tank removal company's work carefully, it would have been fairly obvious that there were flaws that he/she should have recognized. Mr. Siddique thought that it was helpful to know the background of the case. He added in response to a question by Mr. Richards regarding the tank removal company, that the LSP was responsible for writing up response actions. Ms. Pinaud indicated that a member of the Team would follow up with MassDEP because of the issues with the tank removal company.

PROFESSIONAL CONDUCT MEETING MINUTES

Dr. Batchelder moved to accept the Screening Team's recommendation that the Board issue a written warning to the LSP. The motion was seconded and passed. Mr. Richards and Mr. McBride abstained from voting on the motion. The Board will review a draft of the warning letter.

After the vote was taken, Ms. Campbell said that the complainant LSP advised the homeowners and in her opinion ended up harming them. She concluded by telling the Committee that based on the complainant LSP's allegations MassDEP conducted a site visit.

5. New Business:

No new business was discussed.

6. Future Meetings: [September 20, 2017—MassDEP WERO](#)

7. Adjournment: The meeting was adjourned at approximately 1:38 p.m.