



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 November 12, 2019

Approved on January 14, 2020

Prepared by: Beverly Coles-Roby, Esq.

Meeting Location:

MassDEP Boston
One Winter Street
Boston, MA 02108

1. List of Documents Used at the Meeting:

- Agenda
- Draft Minutes of Meeting on October 8, 2019
- Docket Nos.: 05C-07; 08C-03; 12C-01; 18C-01; and 18C-02.

2. Call to Order: Board member, James N. Smith, called the meeting to order at approximately 2:14 p.m. The Board members in attendance were, Millie Garcia-Serrano, Debra Listernick, Farooq Siddique, David Austin, Gregg McBride, Dr. Gail Batchelder, and Kathleen Campbell. Board members Kirk Franklin and Marc J. Richards were absent. Staff member Beverly Coles-Roby was present. Additionally, Wendy Rundle, Executive Director of the LSP Association ("LSPA") was present.

3. Previous Minutes: The draft minutes of the meeting held on October 8, 2019, were approved as written. Mr. Smith abstained from voting to approve the minutes.

4. Old Business: None

5. Status of Complaint Review Teams and Active Case List

Ms. Coles-Roby reported on progress made since the October 8, 2019, meeting, giving reports on the status of each case. She prefaced her comments by stating that she hoped to return to cataloging recent developments in the Active Case List by the next meeting.

Ms. Coles-Roby reported that 05C-07 and 08C-03 would be discussed in today's Executive Session.

She also reported that with respect to 12C-01, the Office of Appeal and Dispute Resolution ("OADR") Presiding Officer declined to dismiss the matter. Additionally, she reported that Presiding Officer Jones had set the Pre-Hearing Conference for October 23, 2019, but neither he nor the respondent LSP appeared. Ms. Coles-Roby contacted the OADR Case Administrator, and the Presiding Officer issued a revised Scheduling Order on October 24, 2019. That revised Order set the following dates:

- December 18, 2019--Board's Testimony; Exhibit List and Memorandum of Law
- February 19, 2020--LSP's Testimony; Exhibit List and Memorandum of Law
- March 27, 2020--Board's Rebuttal Testimony
- April 22, 2020--Administrative Hearing

Ms. Coles-Roby said that she has begun meeting with the prospective witnesses and preparing their testimony. Although given the December 2019, schedule which includes administering the December LSP Licensing examination; insuring that Annual Fee invoices as well as January 2020 Renewals are mailed before the holidays; and interviewing prospective General Counsel and Investigator candidates; among other responsibilities, may necessitate a request for an extension of time. The Committee also discussed the history of trials before administrative law bodies including the Division of Administrative Law Appeals "(DALA)", which early on handled the Board's prosecutions against LSPs. Dr. Batchelder said that the Board turned to OADR due to a backlog at DALA. She went on to state that the pursuant to the regulations, hearings do not have to be conducted by DALA or OADR. Ms. Rundle asked whether the LSP can weigh in. She added that the same Presiding Officer hearing a case against the same LSP from another matter, could raise questions about the fairness of the Presiding Officer.

Ms. Coles-Roby noted that the draft Complaint Review Team report was forwarded to the team members. Ms. Campbell indicated that the report will require substantial revision.

Ms. Coles-Roby expressed a desire create a first of draft interview questions in case 18C-02 that could be circulated for review among the Complaint Review Team members in January 2020.

6. Future Meetings: January 14, 2020--MassDEP SERO

7. Adjournment: The meeting was adjourned at approximately 2:36 p.m.