

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 March 20, 2019

Approved on April 24, 2019

Prepared by: Beverly Coles-Roby, Esq.

Meeting Location:

**MassDEP CERO
8 New Bond Street
Worcester, MA 01606**

1. List of Documents Used at the Meeting:

- Agenda
- Draft Minutes of Meeting on February 27, 2019
- Active Disciplinary Cases Table
- Docket Nos.: 05C-07; 08C-03; 10C-01; 11C-04; 12C-01; 18C-01; and 18C-02.

2. Call to Order: Dr. Gail Batchelder, Board member, called the meeting to order at approximately 12:47 p.m. The Board members in attendance were, Maria Pinaud, Kathleen Campbell, David Austin, Farooq Siddique, Debra Listernick, and Gregg McBride. Board members Kirk Franklin, Marc J. Richards, and James N. Smith were absent. Staff members Beverly Coles-Roby and Richard Friend were present. Wendy Rundle, Executive Director of the LSP Association (“LSPA”), Jason Ward, Matthew Carey, and Rachel Stevens of MassDEP were also present.

3. Previous Minutes: The draft minutes of the meeting held on February 27, 2019 were approved as amended.

4. Old Business: None

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5. Status of Complaint Review Teams and Active Case List

Ms. Coles-Roby reported on progress made since the February 27, 2019 meeting, giving reports on the status of each case as reflected in the Active Discipline Case List. She prefaced her comments by stating that all recent developments were catalogued in the Active Case List.

Ms. Coles-Roby reported that on February 12, 2019, the LSP in 05C-07, filed a Motion to Extend the Effective Date of the Final Order. The motion sought an additional fifteen days extension. The non-recused members of the Board voted to deny the motion on February 27, 2019. On March 8, 2019, the LSP filed a complaint pursuant to G.L. c. 30A, § 14 (7) in Middlesex Superior Court. He also filed a Motion for Stay Pending Judicial Review. An assistant attorney general (“AAG”) was appointed by the Massachusetts Attorney General’s Office on or about March 11, 2019. The LSP scheduled a hearing on the motion for March 19, 2019. Ms. Coles-Roby agreed to stay enforcement of the provisions of the Board’s Final Order. In turn, the LSP spoke with the AAG and agreed to withdraw his request for a hearing on the motion.

She said 08C-03 would be discussed in the Quasi-Judicial Session at the end of today’s Board meeting.

Ms. Coles-Roby indicated that the Board-approved press release in 10C-01 was sent to the MassDEP press office with minor changes on March 7, 2019.

She also reported that the Board-approved press release in 11C-04 was sent to the MassDEP press office with minor changes on March 7, 2019. The Board’s staff will continue to monitor the LSP’s additional continuing education credits pursuant to the terms of the Administrative Consent Order (“ACO”).

Ms. Coles-Roby said that the Order to Show Cause in 12C-01 will be signed and served on the LSP in April 2019.

In 18C-01, Ms. Coles-Roby informed the Committee that the Complaint Review Team (“CRT”) conducted the LSP Interview on March 13, 2019. She said further updates on the matter would be provided during the Quasi-Judicial Session at the conclusion of today’s Board meeting.

In 18C-02, Ms. Coles-Roby reported that the CRT continues to review documents and will set a date for its initial CRT conference in April 2019.

Mr. Siddique asked whether 10C-01 and 11C-04 could be deleted from the Active Discipline Case List. Mr. Austin noted that the press releases were disseminated. Ms. Listernick commented that the Board staff keeps track of the continuing education requirements for the LSP in 11C-04. Ms. Coles-Roby added that the LSP submits the courses to her and Richard

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Friend who verifies that they are Board-approved. Ms. Listernick said there is only one ACO among the pending cases, and the matter remains under the Board's jurisdiction, and the Board needs to know what is going on once the case is removed from the Active Discipline Case List. Dr. Batchelder stated that in the past these cases were deleted from the list. The cases will be deleted.

Mr. Siddique asked about confidentiality with respect to the identity of the LSP in 12C-01. Ms. Coles-Roby reminded the Committee that Board members know the identity of the LSP because of past efforts to settle both this case and another disciplinary matter pending against the LSP. Ms. Pinaud, who is recused, stated that she will not neither vote nor participate in the discussions of this matter.

Ms. Rundle asked whether it was possible for the press releases to be made available. She went on to say that the LSPA's Loss Prevention Committee monitors the Board's cases, and they like to know the outcome. Ms. Coles-Roby gave Ms. Rundle copies of the press releases for 10C-01 and 11C-04. Ms. Coles-Roby said she would prepare summaries of the cases to be posted on the Board's website.

6. Future Meetings: April 24, 2019--MassDEP Boston

7. Adjournment: The meeting was adjourned at approximately 1:07 p.m.