



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup Professionals
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PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on June 20, 2013

[Approved on August 29, 2013]

Prepared by: Lynn P. Read

Meeting Location: Massachusetts Department of Environmental Protection, One Winter Street, Boston, MA

List of Documents Used at the Meeting:

1. Agenda
2. Draft Minutes of Meeting on April 17, 2013
3. Active Case List
4. Case Summary for Complaints Nos. 99C-017, 99C-019, and 00C-007

- 1. Call to Order:** Benjamin Ericson called the meeting to order at approximately 1:03 p.m. Also present were John Guswa, Debra Listernick, Kelley Race, Robert Rein, and Farooq Siddique. Board members Deborah Farnsworth and Kirk Franklin were absent. Dr. Batchelder joined the meeting at approximately 1:17 p.m. Staff members present were Beverly Coles-Roby, Lynn Read, and Allen Wyman. Also present were Wendy Rundle, Executive Director of the Licensed Site Professional Association (LSPA); David Austin of the LSPA Technical Practices Committee; Rick Kowalski of Arcadis; Brian Klingler, LSP, of Coneco Engineers & Scientists, Inc.; and James Berberian.
- 2. Announcements:** Mr. Ericson introduced and welcomed Mr. Rein as the newest member of the Board, who fills the seat designated by the Board's enabling statute for a full-time employee of a manufacturing firm that utilizes hazardous material.
- 3. Previous Minutes:** The draft minutes of the meeting held on April 17, 2013, were approved as written.
- 4. Old Business**

A. Status of Complaint Review Teams

At Mr. Ericson's request, each Complaint Review Team (CRT) reported on progress made since the February meeting.

Ms. Coles-Roby, Ms. Race, and Ms. Listernick, as the members of the Screening Team for Complaint No. 12C-02, reported that they reviewed the allegations today, and materials related to the complaint. Regarding the alleged violation of the Board's regulation 309 CMR

4.04(1), which prohibits an LSP from accepting compensation for professional services for a site from more than one person having adverse interests unless the circumstances are fully disclosed to all clients for the site, the Screening Team reported they believed the LSP disclosed the required information. Regarding the alleged violation of the Board's regulation 309 CMR 4.04(2), which requires an LSP to disclose to his or her client any interest that might create an appearance of influencing the LSP's judgment, the Screening Team reported the LSP did not do anything directly or indirectly to create an impression of influence on the LSP's professional responsibilities. The Screening Team recommended that the Committee vote to dismiss the Complaint. **A motion was made and seconded to accept the Screening Team's recommendation and dismiss Complaint 12C-02 without further action by the Board. The motion passed unanimously.**

During the discussion of Complaint 12C-02, it was explained that when the Board receives a new Complaint, it has three options available: dismiss the Complaint because the facts, even if true, would not warrant discipline; accept the Complaint for a full investigation and report by a Complaint Review Team; or appoint a Screening Team to make a preliminary review and make a recommendation to the Board whether the Complaint should be accepted for a full investigation by a CRT.

Mr. Siddique and Mr. Franklin were appointed to serve on the CRT for Complaint No. 12C-01, due to the retirement of Ms. Race and Ms. Farnsworth; and Dr. Guswa and Mr. Ericson were appointed to serve on Complaint Review Team 13C-01, to replace Ms. Race and Dr. Batchelder, who has also announced her intention to retire from the Board.

The members present also requested that the staff add a separate section to the Active Case List for complaints under review by a Screening Team.

5. New Business

Complaints Nos. 99C-017, 99C-019, and 00C-007: Ms. Coles-Roby reported that the LSP whose work was at issue in Complaints Nos. 99C-017, 99C-019, and 00C-007 contacted the Board because he had missed the deadlines in his Administrative Consent Order ("ACO") with the Board to renew his license. Ms. Coles-Roby said under the ACO, the LSP was suspended for three years, and the ACO said the LSP should renew his license not more than one year after the suspension ended, or take and pass the LSP examination not more than two years after the suspension ended. She said the ACO imposed penalties for failure to comply with any of its terms. Board members stated that the ACO offered the LSP a path to renew renewing his license without re-applying, but the LSP did not use that path, and therefore, the staff should inform the LSP that he must submit a full application for a new license, and such application would be reviewed by an Application Review Panel ("ARP") like other applications. The members present discussed the requirement of three years of relevant professional experience within the last five years prior to submitting the application, and factors to be considered by the ARP.

Ms. Coles-Roby reported that she is establishing a tracking system to observe how the disciplinary complaints are moving through the Board's investigative process, using the flow chart previously approved by the Board for the Board's investigative and adjudicatory process

for disciplinary complaints. **The members present requested that such tracking include the date the MassDEP site documents are sent to the CRT, work by the CRT members on other Board complaints, and other factors that affect the progress of a case.**

6. Future Meetings

The Committee tabled discussion of dates for future meetings, which will be addressed at the Board meeting later today.

7. Adjournment: The meeting was adjourned at approximately 1:55 p.m.