

# PROFESSIONAL CONDUCT MEETING MINUTES



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

## PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on September 23, 2019

Approved on October 8, 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 August 6, 2019
- Docket Nos.: 05C-07; 08C-03; 12C-01; 18C-01; and 18C-02
- *Decoulos v. LSP Board*, Middlesex Superior Court Docket No. 19-663 Affidavit
- *Decoulos v. LSP Board*, Middlesex Superior Court Docket No. 19-663 Motion to Set Aside Judgement of Dismissal with Assent
- *Decoulos v. LSP Board*, Middlesex Superior Court Docket No. 19-663 Amended Complaint
- *Decoulos v. LSP Board*, Middlesex Superior Court Docket No. 19-663 Docket Entry

- 1. Call to Order:** Co-chairperson James N. Smith called the meeting to order at approximately 1:31 p.m. Board members present were Millie Garcia-Serrano, David Austin, Dr. Gail Batchelder, Kathleen Campbell, Debra Listernick, Gregg McBride, Marc J. Richards, and Kirk Franklin. Board member Farooq Siddique was absent. Staff member present was Beverly Coles-Roby.
- 2. Previous Minutes:** The draft minutes of the meeting held on August 6, 2019, were approved as written. Mr. Franklin and Mr. Richards abstained from voting to approve the minutes.
- 3. Old Business: None**

## PROFESSIONAL CONDUCT MEETING MINUTES

### 5. Status of Complaint Review Teams and Active Case List

Ms. Coles-Roby reported on progress made since the June 19, 2019 meeting, giving reports on the status of each case.

Ms. Coles-Roby said that with respect to 05C-07, she had turned over thousands of pages of documents to the Assistant Attorney General (“AAG”) assigned to the case currently pending in Middlesex Superior Court. She indicated that the Administrative Record, a compilation of those documents, should now be complete. She then distributed documents forwarded by the AAG on September 17, 2019. She explained that she received them after asking for a status update. They included: Motion to Set to Set Aside Judgment of Default with Assent; Affidavit; Amended Complaint; and Docket Entry. Mr. Smith asked whether a motion to dismiss the individual defendants would be filed. Dr. Batchelder added that this had been requested by the Board members. Ms. Coles-Roby reported that she had explained the Board members’ concerns about liability to the AAG. There was some discussion about the lawsuit being against the Board members in their official capacity, although that is not explicitly stated in either the Complaint or the Amended Complaint. Dr. Batchelder asked what the members’ options were if they felt that the AAG was not providing adequate representation. Ms. Coles-Roby indicated that they could ask to hire their own legal counsel and seek reimbursement or file pro se, representing themselves. There was a discussion of the allegations in the Amended Complaint. Mr. Smith suggested that the members hold a conference call with the AAG, but the members decided to invite her to the next Board meeting.

Ms. Coles-Roby indicated that 12C-01 would be discussed during the Executive Session at the conclusion of today’s Board meeting.

In 08C-03, 18C-01, and 18C-02, Ms. Coles-Roby reported no progress had been made in the past month due to staff shortages.

### 6. Future Meetings: October 8, 2019 MassDEP CERO

7. **Adjournment:** The meeting was adjourned at approximately 2:16 p.m.