

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 April 26, 2018

Approved on May 16, 2018

Prepared by: Beverly Coles-Roby

Meeting Location:

**MassDEP Boston
One Winter Street
Boston, MA 02108**

1. List of Documents Used at the Meeting:

- Agenda
- Draft Minutes of Meeting on April 26, 2018
- Active Case List

2. Call to Order: Co-Chairperson James N. Smith called the meeting to order at approximately 1:11 p.m. The Board members in attendance were Maria Pinaud, Debra Listernick, Farooq Siddique, Gregg McBride, Kathleen Campbell, and David Austin. Board member Dr. Gail Batchelder arrived at 1:23 p.m. Board members Marc J. Richards and Kirk Franklin 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, Michael Penzo of Penzo Consulting, and Lisa Alexander of MassDEP were also present.

3. Previous Minutes: The draft minutes of the meeting held on March 29, 2018 were approved as amended.

4. Old Business: None

5. Status of Complaint Review Teams and Active Case List

At co-chairperson, James N. Smith’s request, the Complaint Review Teams (“CRT”) reported on progress made since the March 29, 2018 meeting. Ms. Coles-Roby gave the reports on the status of each case as reflected in the Active Discipline Case List. She

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prefaced her comments by stating that all recent developments were catalogued in the Active Case List.

Ms. Coles-Roby explained that 05C-07; 08C-03; 10C-01; and 11C-04 would be discussed during Quasi-Judicial Session at the conclusion of today's Board meeting.

With respect to 12C-01, Ms. Coles-Roby indicated that a draft report was prepared by Ms. Williamson and was being reviewed by the Complaint Review Team. She further reported that the matter would be presented to the Board at its May 2018 meeting.

The Committee discussed an April 12, 2018 Addendum to 17C-05, Complaint No. 2. Mr. Smith thought that the Addendum presented no new relevant facts or possible violations. Both Mr. Austin and Mr. Siddique agreed. Ms. Coles-Roby explained that the case is high profile and had received some media attention. She added that because part of the case is pending before MassDEP, Ms. Pinaud recused herself, left the room, and did not participate in discussions about the case. Mr. Siddique noted that there is neither perceived nor actual conflict of interest contained in the Addendum. Ms. Listernick concurred indicating that the dismissal letter laid out the same reasoning. She provided her edits to the letters. Ms. Campbell said that Complaint No. 3 was more complicated. She went on to say that the complainant did not bring the matter to the attention of the town's Conservation Committee. Mr. Smith said that the LSP reported information within the required 120-day time frame, and there was no obligation on the part of the LSP to report this under either the Massachusetts Contingency Plan ("MCP") or the Board's regulations before that time. Mr. McBride added language that the LSP was not performing professional services as those terms are defined in 309 CMR 2.02 to the letter. Accordingly, all of the Committee members voted to recommend that the dismissal letters in 17C-05, Complaints 1, 2, and 3, be approved as amended. Ms. Pinaud abstained from voting.

Ms. Coles-Roby introduced a new case, docketed as 18C-01. She went on to explain that the case was filed by MassDEP on January 31, 2018 and concerned an oil release. MassDEP, she informed the Committee, indicated that among other things, the response actions performed failed to comply with the MCP. Ms. Williamson noted that there were seven different sites. Dr. Batchelder said that further investigation was warranted. After a check for conflict of interest, a Complaint Review Team comprised of Ms. Coles-Roby, Ms. Campbell, and Dr. Batchelder was formed. Mr. Stimpson said that reviewing the LSP's response made him wonder whether the Board should review the LSP's application package, because it was clear that he/she was struggling. Ms. Listernick also said that he/she did not seem to have close supervision from the more senior LSP.

6. New Business:

No new business was discussed.

7. Future Meetings: May 16, 2018—MassDEP CERO

8. Adjournment: The meeting was adjourned at approximately 1:52 p.m.

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