



COMMONWEALTH OF MASSACHUSETTS
**Board of Registration
of
Hazardous Waste Site Cleanup Professionals**

ONE WINTER STREET, 3rd Floor
BOSTON, MA 02108
PHONE: (617) 556-1091 FAX: (617) 292-5872

PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on July 10, 2014
[Approved on September 11, 2014]

Prepared by: Lynn P. Read

Meeting Location: Southeast Regional Office
Massachusetts Department of Environmental Protection (MassDEP)
20 Riverside Drive
Lakeville, MA

List of Documents Used at the Meeting:

1. Agenda
2. Draft Minutes of Meeting on May 15, 2014
3. Active Case List

- 1. Call to Order:** Benjamin Ericson called the meeting to order at approximately 1:42 p.m. Also present were David Austin, Gail Batchelder, John Guswa, Robert Rein, Farooq Siddique, and James Smith. Kathleen Campbell, Kirk Franklin, and Debra Listernick were absent. Staff members present were Beverly Coles-Roby, Lori Williamson, and Lynn Read. Also present were Matthew Hackman, President of the LSP Association (LSPA); Wesley Stimpson of WES Associates; Dominic Galluzzo, a member of the public; Attorney Diane Kim; and Carolyn Matthews of EnviroPike, LLC.
- 2. Announcements:** Mr. Ericson announced that Dominic Galluzzo was present and wanted to address the Committee about his Complaint Number 13C-03, which the Board had voted to dismiss at the meeting on April 17, 2014. Mr. Ericson suggested, and the members present agreed, that Mr. Galluzzo be permitted to address the Committee for up to ten minutes during the discussion of active disciplinary cases.
- 3. Minutes of Meeting Held on May 15, 2014:** The draft minutes of the meeting held on May 15, 2014, were discussed. **A motion was made and seconded to approve the May 15, 2014 minutes as written, and the motion passed unanimously.**

3. Old Business

Status of Complaint Review Teams & Active Case Table

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

Mr. Ericson invited Mr. Galluzzo to address the Committee. Mr. Galluzzo introduced himself, thanked the Committee, and said that he is 75 years old and has heart disease and stress. He said last year, when he and his wife began preparing to sell their home, they were required to remove their underground oil storage tank outside the foundation. He said during the excavation, a pinhole leak was found in the tank. Mr. Galluzzo said there was clay under the tank that adhered to the tank, and he knew from experience working in his family's landscaping company that clay does not allow anything to penetrate. He said the first LSP's company appeared during the excavation, and there was a meter reading of 450 parts per million taken in the excavation by a chemist from the LSP's company, which obligated them to report an oil leak from the tank to the Massachusetts Department of Environmental Protection ("MassDEP"). Mr. Galluzzo said pure oil does not give that reading. He said there was no background provided about the chemist, and the chemist was not licensed, yet the Board dismissed Mr. Galluzzo's Complaint against the first LSP and said it would investigate the LSP who Mr. Galluzzo hired. Mr. Galluzzo said that most of the documents filed with his complaint came from his LSP, including pictures of samples taken beyond the tank grave, and samples from the barrels of soil that contained the worst of the contamination. He said he questioned whether there was as much oil as reported by the first LSP's company. He asked why the Board took the word of a chemist when the samples and laboratory readings from Mr. Galluzzo's own LSP were totally contrary.

Mr. Galluzzo said the first LSP gave an estimate for site work that went from \$25,000.00 to over \$100,000.00, and told him that his house had to be jacked up during excavation around the foundation. Mr. Galluzzo said there was no stain on the wall or floor, and he knows from experience that cement is very porous and does not hold back water or vapor. He said the Board took the word of a questionable report, rather than scientific facts presented by his LSP. He asked the Board to explain its methodology, and said the Board was perpetrating fraudulent, unscrupulous behavior by the first LSP, and the Board had lost sight of its mission. He said he cannot sell his house without insurance, and he has to pay double the premium because the first LSP tried to snooker him.

Mr. Galluzzo asked the Board to send him any documents created in the investigation. He said he was surprised that the letter dismissing the complaint was not discussed by the full Board before it was sent to him. He said he will not go away and that is not a threat, it's a promise, because he is fighting for his home, his retirement, his peace of mind, his health, and the health of his wife. He said he expects to receive documentation from the Board within ten (10) days.

Mr. Ericson said the Committee appreciated Mr. Galluzzo's time in addressing the meeting. He said the Board was fully briefed and made the decision to support the Screening Team before the dismissal letter was sent. Mr. Ericson said members of the Screening Team were

not present at this meeting, and **the Committee would address Mr. Galluzzo's concerns when they would be present and it would explain why under the Board's rules, no fault could be found with the LSPs who were the subject of Mr. Galluzzo's complaint.**

Mr. Galluzzo said the matter started in June 2013, but the insurance company would not talk with him then. He said the contamination was remediated for less than half what the first LSP estimated, and to jack up the house would have cost \$200,000 to \$300,000, so he came to the LSP Board with his complaint. He said he understood a two-member team dismissed the complaint.

Ms. Coles-Roby asked Mr. Galluzzo to send a written request for documents he was seeking. Mr. Galluzzo said under the Public Records Law he can make the request verbally, and he requested three types of documents: documents generated by the three-member Screening Team; any information the Board received from the first LSP's firm; and any other reports the Screening Team used for validation of information. He said the first LSP indicated he was not the LSP of Record, but he has a document that listed the first LSP as LSP of Record. Mr. Galluzzo said he also had a document that said only meter readings were the basis for taking the extreme action to jack up the house. He said the first LSP did not do any soil borings but instead jumped to conclusions, and the Board accepted that and did not believe the laboratory reports and photos provided by Mr. Galluzzo's LSP. Mr. Galluzzo said he expects a response and a meeting date with the Board. Mr. Ericson thanked him again and said **Mr. Galluzzo would receive notification about the date of the next Board meeting.** Mr. Galluzzo and Attorney Kim left the meeting.

The Committee members present completed their reports on progress made on other cases since the May meeting. Members said they were concerned that people who are angry with their recommendations or decisions could contact them. They also discussed that a Screening Team presents an oral report and recommendation whether a complaint should be opened, but the Screening Team does not vote on the matter. They discussed that the Board has discretion whether to permit Mr. Galluzzo to address another open meeting. The staff said the letter dismissing Mr. Galluzzo's complaint included information about how to request reconsideration, and the 30-day period in which he could request reconsideration of the dismissal had expired. Members stated that the Board follows Robert's Rules of Order, which prohibit disruptions.

The members present also discussed Mr. Galluzzo's request for documents. Ms. Coles-Roby said the Public Records law permits the Board to charge \$0.05 per page for providing copies of its public records, but the staff has not charged anyone for copies during her tenure as Executive Director. The members present instructed the staff to inform Mr. Galluzzo of the potential charges for copies but to waive the charges. The members present agreed that although the time has expired for Mr. Galluzzo to request reconsideration, nevertheless it might be advisable to permit him a second opportunity to address an open Committee meeting. **Mr. Ericson said he would explain to Mr. Galluzzo the rules for participating in the meeting and the amount of time the Committee would allow him. The members present agreed that Mr. Ericson and Ms. Coles-Roby would respond to Mr. Galluzzo on behalf of the Board.**

4. New Business

Co-Chair for Professional Conduct Committee: Mr. Ericson discussed that at the May meeting, the members present agreed to hold a vote at the next meeting as to who would serve as co-chair of the Professional Conduct Committee, and Mr. Smith volunteered to serve as co-chair with Mr. Franklin. **A motion was made and seconded that Mr. Smith serve as Co-Chair of the Professional Conduct Committee, and the motion passed unanimously.**

6. Future Meetings

The Committee's next meeting will be on September 11, 2014, at the Central Regional Office of MassDEP in Worcester.

7. Adjournment: The meeting was adjourned at approximately 2:43 p.m.