



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

Minutes of Meeting on August 13, 2015

Approved on October 15, 2015

**Prepared by:** Beverly Coles-Roby

**Meeting Location:** MassDEP NERO  
205 Lowell Street  
Wilmington, MA 01887

**List of Documents Used at the Meeting:**

1. Agenda
2. Draft Minutes of Meeting on June 18, 2015
3. Active Case List
4. *Talkington v. Board of Registration of Hazardous Waste Site Cleanup Prof.*,--Scheduling Order

**1. Call to Order:** James Smith called the meeting to order at approximately 1:00 p.m. The Board members in attendance were Benjamin Ericson, Robert Rein, Debra Listernick, David Austin, and Farooq Siddique. Kathleen Campbell arrived at 1:03 p.m. Board members Kirk Franklin, Gail Batchelder, and John Guswa were absent. Staff members present were Beverly Coles-Roby and Lori Williamson. Also present was Wendy Rundle, Executive Director of the LSP Association ("LSPA").

**2. Previous Minutes:** The draft minutes of the meeting held on June 18, 2015, were approved as amended. David Austin and Farooq Siddique abstained from voting to approve the minutes.

**3. Old Business**

**Status of Complaint Review Teams & Active Case Table**

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At Mr. Smith's request, the Complaint Review Teams ("CRT") reported on progress made since the June meeting. Ms. Coles-Roby gave the reports on the status of each case as reflected in the Active Discipline Case List.

Ms. Coles-Roby stated that the Final Decision in 05C-07 was not completed in time for this meeting due to an Order from the Secretary of State's office to comply with a Public Records request that will be discussed in more detail at the Board meeting later today. She added that with respect to the other matters listed, the Active Case Table accurately reflects the each case's procedural posture. Mr. Siddique asked whether the case had already been through an administrative hearing. Ms. Rundle asked whether the case was heard by the Division of Administrative Law Appeals ("DALA"). Ms. Coles-Roby informed her that for the past five years or so the Office of Appeals and Dispute Resolution ("OADR") through a specially designated Presiding Officer, Timothy Jones, tried LSP cases. Ms. Rundle asked whether the OADR and DALA are two separate entities. Ms. Coles-Roby responded that while separate and distinct, DALA and the OADR, an agency within MassDEP, function in the same manner: a full evidentiary hearing with witnesses and cross examination that results in a Recommended Final Decision which the Board can elect to accept, reject or accept in part.

In response to Mr. Smith's inquiry she reported that she had a settlement conference on August 7, 2015, via telephone with the LSP in 08C-03 as dictated by Presiding Officer Timothy Jones' Scheduling Order. Ms. Coles-Roby represented that she extended the same offer recommended by the Complaint Review Team and later approved by the Board in Quasi-Judicial Session on June 25, 2015: eighteen (18) month suspension of his/her license and twenty-four (24) hours of Continuing Education in the subject areas of Risk Assessment sixteen (16) hours and eight (8) hours of Professional Responsibility. The LSP rejected the offer.

Ms. Coles-Roby also reported that a Scheduling Order had been set by the Suffolk Superior Court in 10C-01. Ms. Coles-Roby explained that the deadlines are set by the Court based on the parties, and because the Board is a state agency it is on the "A" Track as opposed to the "F" or "Fast" Track for motor vehicle cases. Ms. Listernick asked whether the stages of litigation, particularly the date by which the matter will be resolved, April 6, 2018 are due to the Court's crowded calendar. Mr. Ericson asserted that this is the Standard Track set by the Court, and the case could be resolved before that time.

She repeated last month's report regarding 11C-04, i.e., that it is a much more complicated matter with numerous sites and recently added CRT members, again adding that she would prepare to interview the LSP after the LSP exam in July.

Ms. Coles-Roby repeated that given the LSP's rejection of the Board's offer of settlement for both 12C-01 and 05C-07 which involved the same LSP the CRT would have to resume its investigation.

Ms. Coles-Roby noted that the LSP was interviewed on June 23, 2015 in 13C-01 as scheduled. The Complaint Review Team was currently reviewing a draft report prepared by

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Lori Williamson. The case will be presented to non-recused Board members in Quasi-Judicial Session at the September 17, 2015 meeting.

- 4. New Business:** None
- 5. Future Meetings:** September 17, 2015 MassDEP Boston.
- 6. Adjournment:** The meeting was adjourned at approximately 1:12 p.m.