

# MINUTES OF THE REGULAR MEETING OF THE OHIO STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS

Tuesday July 16, 2013

## Members Present:

James D. Mawhorr, P.E., P.S.	Chair
Frank D. Snyder, Jr., P.S.	Secretary
Keith Swearingen, P.E., P.S.	Vice Chair
Bert Dawson, P.E., P.S.	Member
Nelson E. Kohman, P.E.	Member

## Staff Present

John F. Greenhalge	Executive Director
Amanda Ault	Assistant Executive Director
Jason P. McLean	Enforcement Supervisor
Karen Schick	Program Administrator
James E. Evans	Assistant Attorney General

## CALL TO ORDER

The State Board of Registration for Professional Engineers and Surveyors held its regular meeting on Tuesday July 16, 2013 at 50 West Broad Street, Suite 1820, Columbus Ohio 43215 in the Board conference room. Chairman Mawhorr called the meeting to order at 9:30 a.m.

### **1. APPROVAL OF MINUTES**

The minutes of the May 28, 2013 Board meeting were presented for approval.

***Motion by Mr. Snyder, second by Mr. Dawson, to approve the May 28, 2013 meeting minutes as presented. Motion carried.***

### **2. RECOGNITION OF GUESTS AND PUBLIC COMMENTS**

Present at the meeting:

Melinda Gilpin, Executive Director, Professional Land Surveyors of Ohio  
Holly Ross, Executive Agent and Public Relations Manager, Ohio Society of Professional Engineers  
Akida Parikh, Graff & McGovern  
Luther Liggett, Luper, Neidenthal & Logan

### **3. BOARD REVIEW OF APPLICATIONS**

#### **A. Kelly Mailey Jones- Comity Applicant**

Jones is applying for registration as a professional engineer in Ohio. Jones is currently licensed in Maryland and Pennsylvania. Jones has a B.S. in Environmental Resource Management from Penn State University and an M.S. in Transportation Engineering from Villanova. Neither degree program is ABET

accredited. Jones had NCEES evaluate her undergraduate and graduate degrees. NCEES has determined that Jones's education meets the NCEES Education Standard.

***Motion by Mr. Dawson, second by Mr. Kohman, to approve Ms. Mailey Jones's application for registration. Motion carried.***

**B. James Koppenhaver- Comity Applicant**

Koppenhaver is applying for registration as a professional engineer in Ohio. Koppenhaver is licensed in Pennsylvania and New Jersey. Koppenhaver was disciplined by the PA Board for maintaining a website in which he offered customers virtually overnight service in sealing documents requiring an engineer's seal. He was placed on a 60-day suspension, ordered to pay a \$250.00 fine and take an ethics course. His license was eventually reinstated in Pennsylvania. In April 2004 the Ohio Board received a complaint that Koppenhaver's website listed Ohio as a state where he could perform services. There was no evidence that he performed work in Ohio. A warning letter was sent and the complaint was closed.

***Motion by Mr. Dawson, second by Mr. Swearingen, to approve Mr. Koppenhaver's application for registration. Motion carried.***

*The staff will also send Mr. Koppenhaver a letter advising him of Ohio's seal requirements.*

**C. CHR Solutions- COA Applicant**

On June 10, 2013 the Board received a late Certificate of Authorization (COA) renewal application from CHR Solutions, Inc. (CHR) CHR's COA expired on June 30, 2012. The Board received a letter in which CHR stated that they completed two projects while their license was expired.

*The staff will pursue a settlement agreement for unlicensed practice while the COA was expired.*

**D. AAA Engineering, LLC and Contract Lumber, Inc.- COA Applicants**

Alan Albrect, P.E. is the owner and sole employee of AAA Engineering, LLC (COA #03966). He was recently hired by Contract Lumber, Inc. (COA # 02788) as their full-time Senior Structural Engineer. In a letter to the Board Mr. Albrect requested Board approval to be listed as the professional engineer responsible for the engineering activities and decisions for AAA Engineering and Contract Lumber.

***Motion by Mr. Kohman, second by Mr. Snyder, to approve the COA applications from AAA Engineering, LLC and Contract Lumber, Inc. Motion carried.***

**E. Chadan Engineering, Inc. and Jack A. Hamilton and Associates, Inc.- COA Applicants**

On June 26, 2013 the Board received an email from James Deitrick stating that he no longer worked for Jack A. Hamilton and Associates. Mr. Deitrick was listed as the only full-time professional engineer for

the engineering decisions and activities for the firm. The Board received a letter from Charles Garvick, P.E. stating that he accepted a full-time position with Jack A. Hamilton and Associates as the V.P. of Engineering and requested that he be listed as the professional engineer responsible for the engineering activities and decisions for Jack A. Hamilton and Associates. Mr. Garvick is also the owner and sole employee of Chadon Engineering Inc. (COA #03262). In his letter to the Board Mr. Garvick is requesting Board approval to be listed as the professional engineer responsible for the engineering activities and decisions for Chadon Engineering, Inc. and Jack A. Hamilton and Associates, Inc.

Mr. Snyder observed that the letterhead from Mr. Garvick, Chadon Engineering is offering civil and mechanical engineering and surveying, yet Mr. Garvick is claiming to be the sole employee. On the COA application for Chadon Engineering there is a Daniel W. Garvick of Westland, Michigan listed as an owner. Chadon Engineering is located in Moundsville, West Virginia.

No action taken. The staff will collect additional information.

F. Richard Pohana- Reinstatement Request

On July 1, 2013 Mr. Pohana contacted the Board and requested reinstatement forms. Mr. Pohana reported that while his license was lapsed he offered and provided engineering services in Ohio. The Board's records indicate that Mr. Pohana's professional engineer license expired on December 31, 2011. On July 11, 2013 the Board received Mr. Pohana's reinstatement documents in which he stated that he works for the City of Cincinnati Department of Transportation and Engineering and his position as a Geotechnical Engineer requires a professional engineer's license. Mr. Pohana reported that he signed and sealed five engineering projects in Ohio while his registration was expired. Mr. Pohana is requesting that his professional engineer license be reinstated.

No action taken.

G. Gulf Interstate Engineering

At 10:00 a.m. attorney Luther Liggett appeared before the Board representing Gulf Interstate Engineering to discuss the firm's involvement in the Rockies Express Pipeline prior to obtaining a Certificate of Authorization to provide engineering services in Ohio. Mr. Liggett stated that he did not believe that Gulf Interstate Engineering needed a COA at that time since they had no presence in Ohio, did not perform engineering in Ohio and were involved in interstate commerce.

No action taken.

**4. APPROVAL OF CREDENTIALS REVIEW COMMITTEE REPORTS**

The Credentials Review Committee (CRC) Report of July 15, 2013 was presented for approval.

***Motion by Mr. Snyder, second by Mr. Dawson, to approve the Credentials Review Committee Report of July 15, 2013. Motion carried.***

## 5. RATIFICATION OF REGISTRATIONS ISSUED

The Board reviewed the registrations issued since the last Board meeting. The names and registration numbers of all approved applicants since the last meeting were presented on paper and electronic media.

***Motion by Mr. Swearingen, second by Mr. Kohman, to approve the registrations issued since the last meeting. Motion carried.***

## 6. EXAMINATIONS

### A. Proposed Schedule for April 2014 Examinations

Proposed schedule for the Principles and Practice of Engineering (PE) and Principles and Practice of Surveying (PS) examinations to be administered by NCEES Exam Administration Services on April 11, 2014. The fundamentals exams will only be offered via computer beginning January 1, 2014.

DECEMBER 2, 9, 16, 23, 30, 2013	CRC
DECEMBER 13, 2013	APPLICATION DEADLINE (OH BOARD)
JANUARY 13, 2014	DEADLINE FOR RE-EXAMS
JANUARY 6, 13, 20, 27, 2014	CRC
FEBRUARY 3, 10, 17, 2014	CRC
FEBRUARY 20, 2014	NCEES DEADLINE

***Motion by Mr. Snyder, second by Mr. Dawson, to approve the April 2014 exam schedule. Motion carried.***

### B. April 2013 Examination Statistics

Mr. Greenhalge provided exam statistics for the April 2013 examinations.

Type	Applied	Approved	Examined	Passed	% Passed	Failed	% Failed
FE	1061	1043	811	611	75%	200	25%
FS	23	22	19	15	79%	4	21%
			830	626	75%	204	25%
PE	359	352	277	157	57%	120	43%
PS	19	16	13	5	38%	8	62%
			290	162	56%	128	44%
Totals	1462	1433	1120	788	70%	332	30%

Note- 1214 candidates were scheduled with NCEES to take exams, 94 were no shows.

C. Education Evaluation Policy

Mr. Greenhalge distributed a draft policy concerning the evaluation of non-accredited degrees for Board review and discussion.

***Motion by Mr. Dawson, second by Mr. Snyder, to approve the Education Evaluation Policy presented by Mr. Greenhalge. Motion carried.***

7. REPORTS

A. Executive Director's Report

A.1 Contracts

Mr. Greenhalge requested Board approval for the following personal service contract for FY 2014:

Consultants

Ralph Marrone, P.E.	\$3,000
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***Motion by Mr. Kohman, second by Mr. Swearingen, to approve the personal service contract with Mr. Marrone. Motion carried***

A.2 2014 Board Meeting Schedule

Board meeting dates are scheduled on the third Tuesday of the month (except August).

JANUARY 21	BOARD MEETING
FEBRUARY 18	BOARD MEETING
MARCH 18	BOARD MEETING
MAY 15-17	NCEES CENTRAL ZONE MEETING (Lincoln, NE)
MAY 20	BOARD MEETING
JULY 15	BOARD MEETING
AUGUST 12	BOARD MEETING
AUGUST 20-23	NCEES ANNUAL MEETING (Seattle, WA)
OCTOBER 21	BOARD MEETING
NOVEMBER 18	BOARD MEETING

*Note: There are no meetings scheduled in April, June, September or December.*

***Motion by Mr. Kohman, second by Mr. Swearingen, to approve the 2014 Board meeting schedule. Motion carried.***

### A.3 NCEES Annual Meeting

Mr. Mawhorr, Mr. Greenhalge and Ms. Ault will attend the 2014 NCEES Annual Meeting August 21-24, 2013. Mr. McLean will attend the Friday and Saturday Law Enforcement programs. Mr. Greenhalge will distribute the topics to be discussed at the annual meeting to Board members before the August meeting.

### A.4 Miscellaneous

Mr. Greenhalge distributed a draft performance evaluation for Board review.

Mr. Greenhalge distributed the June 2013 performance measures and the 4<sup>th</sup> quarter financial statement for FY 2013.

## **8. ENFORCEMENT**

### **A. Review of investigation report**

Mike Fisher

Case No. 10-098

On May 20, 2010 the Ohio Architect's Board forwarded a complaint to the Board regarding allegations an unlicensed individual misused an engineer's seal. The complainant stated that Fisher affixed complainant's engineering seal and signature to engineering drawings submitted for a building permit and that he was planning on filing a criminal complaint against Fisher.

On August 12, 2010 the Board received a letter wherein complainant indicated that he had no prior involvement with Fisher or the construction group and only spoke with the construction contractor when complainant received a fax to secure his original embossed plans for the project in question. Complainant explained he was shocked when he noticed that the date and his signature on the plans were not his handwriting. He further explained that Fisher gave a blue ink signature copy of the plan to the construction contractor to submit to the building department in lieu of the embossed original.

On March 11, 2011 the Board received documents from Hamilton County Court of Common Pleas containing Fisher's guilty plea to one count of *Forgery*, a felony, for forging complainant's professional engineer seal, signature and registration number on structural engineering plans. In addition to Fisher's felony conviction for forgery, his actions and use of complainant's seal indicate that Fisher engaged in the illegal practice of engineering by offering and providing engineering services in Ohio without being registered by this Board.

On June 13, 2013 Fisher was interviewed by Board staff. During the meeting Fisher admitted to forging complainant's seal and signature to engineering plans without complainant's knowledge and that he offered and provided engineering services in Ohio without being registered to do so.

Fisher signed a settlement agreement admitting to the above allegations and agreed to accept a \$500.00 fine and to cease and desist from offering and providing engineering services or to represent himself or

any company to the public as qualified to offer, contract for, and/or provide engineering services on Ohio.

Theodore A. Lapponi, P.E. Case No. 13-061

Mr. Lapponi contacted the Board and requested reinstatement forms. He reported that while his license was expired he offered and provided engineering services on two projects. The Board's records indicate that Mr. Lapponi's professional engineer license expired on December 3, 2011. Mr. Lapponi agreed to enter into a settlement in which he will pay a \$250.00 fine and receive a reprimand for violations of Ohio Revised Code.

Technical Surveying Services, LLC (TSS) Case No. 13-063

On April 18, 2013 the Board's records indicated that James Marsh, PS retired and his license was made inactive. Mr. Marsh was listed as the only full-time professional surveyor for Technical Surveying Services, LLC. The Board staff sent TSS a letter stating they no longer had a professional surveyor listed as being responsible for the surveying activities and decisions for the firm and that they must cease and desist offering surveying services until they meet the requirements of R.C. 4733.16.

On May 21, 2013 the Board staff received a telephone call from Ken Shaffer, owner of TSS, in which he explained that he just opened up the Board's letter and neglected to send the Board information regarding changes in his staffing. He explained that he hired Jesse Newburn, P.S. a couple of years ago and he is the full-time professional surveyor for TSS. The Board staff requested a list of projects completed while unlicensed, a letter of explanation and the affidavit of responsibility for the professional surveyor. The Board received Mr. Shaffer's letter in which he stated that TSS performed 2 Boundary Surveys and 9 mortgage location surveys while TSS's COA was inactive.

Mr. Shaffer agreed to enter into a settlement agreement in which the firm agreed to pay a \$250.00 fine and receive a reprimand for violations of R.C. 4733.

***Motion by Mr. Snyder, second by Mr. Kohman to open an investigation, accept the settlement agreement and close the investigation in cases 10-098, 13-061 and 13-063. Motion carried.***

***Motion by Mr. Snyder, second by Mr. Kohman to reinstate Mr. Lapponi's professional engineer license. Motion carried.***

Frank Knapp Case No. 13-028

On February 24, 2012 Frank Knapp was notified by mail that he was selected for the continuing education audit. On March 1, 2012 the Board received incomplete documentation verifying attendance and completion of the continuing professional development hours from Mr. Knapp. On March 7, 2012 the Board sent Mr. Knapp a 6 month notice letter via certified mail. Service was made on March 13, 2012.

The Board did not receive acceptable evidence verifying completion of Mr. Knapp's CPD hours. On October 2, 2012 the Board sent Mr. Knapp another notice and he was given 30 days to respond. No response was received.

On December 3, 2012, after the Board attempted for 11 months to obtain the required documentation from Mr. Knapp, charges were filed with the Board Secretary citing violations of Ohio Revised Code 4733 and Ohio Administrative Code 4733.

On January 24, 2012 a hearing was held and the Hearing Examiner found Mr. Knapp guilty of the violations cited in the charges filed by the Board and recommended that Mr. Knapp's registration as a professional engineer be revoked.

***Motion by Mr. Snyder, second by Mr. Dawson, to accept the hearing examiners findings of fact, conclusions of law and recommendation to revoke Mr. Knapp's registration as a professional engineer. Motion carried.***

Gregory R. Weis, P.E.

Case No. 05-016

On September 2, 2004 the Board received a telephone call from Mr. Weis who stated he wanted to self-report his felony convictions for rape and gross sexual imposition. Mr. Weis stated that his father had continued to renew his Professional Engineer registration while he was incarcerated. Mr. Weis stated that he had been convicted in November 2000 and had recently been released from prison. Mr. Weis was advised to send the information in writing. On September 7, 2004 the Board received certified documents from Franklin County Courts showing Mr. Weis was convicted of one (1) count of *Rape* and 7 counts of *Gross Sexual Imposition*. Weis was sentenced on November 16, 2000 to prison for 10 years. Mr. Weis was paroled on July 15, 2004.

On October 14, 2004 the Board charged Mr. Weis with violations of Ohio Revised Code Section 4733.20 (A) (4) and (5) and Ohio Administrative Code Section 4733-35-08. Pursuant to Ohio Revised Code Chapter 119, a hearing was held on November 30, 2004. The hearing examiner found Mr. Weiss guilty of the charges filed by the Board and recommended that his professional engineer registration be revoked. On March 10, 2005 the Board voted to accept the hearing examiner's recommendation and issued a final order.

On June 7, 2013 the Board received an email from Mr. Weis requesting that his professional engineer license be reinstated.

***Motion by Mr. Snyder, second by Mr. Dawson, to sustain the revocation of Mr. Weis's professional engineer's registration issued by the Board on March 10, 2005. Motion carried.***

Professional Engineer

Case No. 11-110

On June 20, 2011 the Board received a complaint alleging that while SUBJECT was employed by COMPLAINANT FIRM as Senior Director of Engineering for Nuclear Plant Engineering, SUBJECT pursued a project with a firm to provide them with a Section III Class 1 Design Specification and Design report. After an internal procurement procedure discovered that COMPLAINANT FIRM did not possess a registration to provide engineering in the project state, COMPLAINANT FIRM instructed SUBJECT to not pursue the project any further.

COMPLAINANT FIRM believes it was then that SUBJECT engaged in correspondence with the client to provide engineering services on his own.



According to COMPLAINANT FIRM, an internal investigation produced evidence that SUBJECT performed the engineering services for the client on COMPLAINANT FIRM's time and used COMPLAINANT FIRM's company resources and employees to complete the project.

COMPLAINANT FIRM believes SUBJECT misappropriated COMPLAINANT FIRM's resources, software and equipment, thereby violating the Code of Ethics Sections 4733-35-02 (Integrity) and 4733-35-05 (Conflict of Interest).

On September 30, 2011 the Board received a response from SUBJECT through his attorney. SUBJECT denies the allegations in the complaint.

On February 1, 2012 Board staff received a copy of the purchase order and invoice from the client. The purchase order is from SUBJECT and contains his personal address.

*After reviewing the complaint and responses the Board directed the staff to advise the complainant that this is a civil matter.*

Professional Engineer Case No. 13-035

On January 2, 2013 Board staff received information indicating that SUBJECT's son, an executive of SUBJECT's firm, was sentenced to 3½ years in prison for bribing Medical Center executives in exchange for more than \$51 million in construction contracts with the county hospital over eight years.

On January 31, 2013 the Board received a written response from SUBJECT through his attorney. The response indicates that in 2008 and prior to the investigation of his son, SUBJECT was in the process of winding down his ownership of the construction company and had limited involvement. SUBJECT stated that his son had control of the company's financial accounts and that no one in the company was responsible for auditing the son's account. SUBJECT denies any knowledge or involvement in his son's actions and was not charged for any violations.

*After reviewing the complaint and the response the Board determined that there is no evidence of a violation of R.C. 4733.*

Unlicensed Firm Case No. 13-054

On April 4, 2013 the Board received a new Certificate of Authorization application from SUBJECT FIRM. On or about April 9, 2013 Executive Director John Greenhalge received a telephone call stating that SUBJECT FIRM was offering surveying services in Ohio while unlicensed.

The Board's records indicate that SUBJECT FIRM does not have a Certificate of Authorization (COA) but is registered with the Ohio Secretary of State.

An initial review of SUBJECT FIRM's website indicated that the firm offers high definition 3D laser scanning for a wide variety of settings. The website indicated that SUBJECT FIRM can survey large-scale structures and their landscapes providing high definition 3D data and they can provide topographical scans that are more comprehensive than a traditional survey and/or can be tied to a traditional survey for 3D mapping.

On April 10, 2013 the Board staff sent SUBJECT FIRM a Notice of Apparent Violation. The Board received SUBJECT FIRM's response on April 24, 2013 in which they state that their laser scanning service collects data regarding the measurements of existing spaces. The data is then used by various professionals including engineers and surveyors. They state that they have not provided engineering services and include a disclaimer on their proposals. They have also stated that they will remove the references to surveying and engineering from their website.

On July 2, 2013 the Board staff reviewed SUBJECT FIRM's website and although some of the references to surveying have been removed there are still areas where they use the term 3D Laser Surveying, 3D Laser Mapping and Engineering/Mechanical.

*No action taken.*

Professional Surveyor Case No. 13-060

On April 15, 2013 the Board received a complaint alleging that SUBJECT may have violated R.C. Sections 4733.20 (A) (2) & (5) and A.C. Section 4733-37. The complaint alleges that SUBJECT failed to meet the Minimum Standards for Boundary Surveys on a survey performed for a property located in Franklin, Ohio.

The complainant stated that SUBJECT performed a boundary survey of complainant's property and failed to record the survey when it was completed. Complainant also stated that SUBJECT has refused to testify in court for complainant unless complainant pays him \$500.00.

Attached to the complaint was a marked up aerial photo that complainant said he received from SUBJECT as documentation of the survey performed.

On May 20, 2013 Board staff sent SUBJECT a letter requesting his response to the complaint. SUBJECT's response was incomplete and did not address the allegations.

*No action taken.*

Professional Engineers and Engineering Firm No Case No.

On March 12, 2012 the Board received a complaint alleging SUBJECT's falsely claimed disadvantaged business status on a number of federally-funded transportation projects.

***Motion by Mr. Snyder, second by Mr. Kohman, to open an investigation. Motion carried.***

Paul Dey, PE Case No. 12-074

On January 24, 2013 a hearing was held concerning Dey's conviction in Cuyahoga Common Pleas Court for *Tampering with Records*, a fourth degree felony. The hearing examiner found Dey guilty of the charges filed by the Board and recommended Dey's registration as a professional engineer be suspended for six (6) months, with that suspension stayed on the following conditions:

- Probation for one (1) year with no further convictions or violations of statutes governing Registered Professional Engineers during that time.

At its meeting on May 28, 2013 the Board voted to accept the hearing examiner's recommendation and issued a final order. Mr. Dey did not appeal the Board's order.

***Motion by Mr. Snyder, second by Mr. Dawson, to close the investigation. Motion carried.***

Unlicensed Firm

Case No. 14-001

The Board received a late Certificate of Authorization (COA) renewal application from SUBJECT FIRM. The Board's records show that SUBJECT FIRM's registration expired on June 30, 2011. The Board staff contacted SUBJECT FIRM and requested a letter of explanation and list of projects that SUBJECT FIRM had completed while their COA was expired.

On July 2, 2013 the Board received a letter from SUBJECT FIRM in which they reported that they provided engineering services on three projects in Ohio during the time their COA was expired.

SUBJECT FIRM agreed to enter into a settlement agreement wherein the firm agreed to pay a \$250.00 fine and receive a reprimand for continuing to practice engineering in Ohio after their COA had expired.

***Motion by Mr. Snyder, second by Mr. Kohman, to open an investigation, accept the settlement agreement, close the investigation and grant the Certificate of Authorization. Motion carried.***

#### B. Arc Flash Analysis

Mr. Greenhalge distributed a draft policy statement concerning arch flash analysis for Board review.

### 9. CORRESPONDENCE

None received.

### 10. NEW BUSINESS

The Board discussed the continuing education requirement for individuals that are applying for reinstatement of their registration. Currently applicants for reinstatement must complete continuing education for each year that their registration was expired. Individuals expired more than four years must complete the continuing education requirement and retake the PE or PS exam and obtain a passing score. Mr. Greenhalge pointed out that the continuing education requirement has been in place for eight years and the Board only requires registrants to maintain continuing education records for five years and in some cases it may be difficult for the applicant to come up with records beyond the required retention schedule.

*The Board directed the staff to only require reinstatement applicants to provide evidence of three years of continuing education. For reinstatement applicants that must retake the PE or PS exam, no continuing education evidence will be required.*

## **11. UNFINISHED BUSINESS**

- A. On March 17, 2013 the Board received a letter from Steven L. Gardner, P.S. concerning the taxing of severed mineral rights and if the deeds should comply with existing surface conveyance standards. Mr. Greenhalge contacted other state boards to see if they have experienced this issue and how it was addressed. Mr. Greenhalge will report the results of his survey.

Mr. Greenhalge distributed a draft response and position statement for Board review.

## **12. PUBLIC RELATIONS**

Mr. Greenhalge is scheduled to speak at American Electric Power on July 30, 2013. The certificate ceremony will be held in the Statehouse Atrium on Saturday, August 17, 2013.

## **13. UPCOMING BOARD MEETINGS**

The next meeting is scheduled for Tuesday, August 13, 2013.

## **14. ADJOURNMENT**

The Board adjourned at 12:45 p.m.

These minutes were written on July 17, 2013 and approved by the Board August 13, 2013.

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James Mawhorr, P.E., P.S.  
Board Chair

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Franklin D. Snyder, Jr., P.S.  
Board Secretary

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John F. Greenhalge  
Executive Director