

SUMMARY OF LSRP BOARD COMPLAINT NO. 005-2012

LSRP

David L. Poling, License No. 587232

Nature of Complaint

On November 26, 2012, Complainant Larry Costa submitted a letter and Complaint Form to the Board Secretary asserting a “breach of contract and fraud” related to the invoices issued for a cleanup at a service garage located in Morris County. The Complainant is the RP and owner of the service garage. No Code of Conduct provision was identified.

Synopsis

- The complaint included invoices from the identified LSRP. Also submitted was a Proposed Scope of Work for 10 tasks associated with the removal of a below-ground hydraulic lift and remediation of soils and ground water for ultimate issuance of a Response Action Outcome at the service garage, signed by the LSRP and dated March 3, 2012.
- Various conversations were conducted with the Complainant over the next several months in an effort to elicit more information about the nature of the complaint. More documents were provided which included additional invoices and correspondence between the Complainant and the LSRP. This complaint was essentially a fee dispute as stated by the Complainant in his correspondence. The Complainant also stated the following:
 - He paid a sum of money to the LSRP for site remediation work but did not receive any work product. The LSRP is unwilling to provide the Complainant with the file until he is paid the balance of the outstanding invoices.
 - The LSRP was unresponsive in answering questions about the cleanup.
 - The LSRP submitted duplicate invoices for regulatory compliance reviews which the Complainant asserted constitutes fraud.
- The LSRP was later contacted in an effort to obtain further information that would help the Professional Conduct Committee determine if a Complaint Review Team should be convened to undertake an investigation.
- The LSRP spoke at length about his involvement with the site and the Complaint, and he submitted a letter detailing the work he performed at the site. Upon his initial site visit, the LSRP identified several Areas of Concern on the property and informed the Complainant of the need to remove a hydraulic lift on the site. He also conveyed to the

Complainant the need to conduct sampling of the groundwater monitoring wells on the site and the soil underneath two above ground storage tanks. He stated the following with regard to his involvement with the Complainant:

- The LSRP confirmed that he did not provide any work product to the Complainant.
- The LSRP said that the Complainant did not want to pay for certain remediation tasks, specifically that the Complainant stated that several required tasks were not necessary.
- The LSRP noted the various measures he took to save the Complainant money including performing certain excavation work himself rather than hiring a contractor.
- The LSRP says the multiple regulatory compliance review charges included time he spent monitoring DEP regulations and guidance pertaining to this cleanup.

The Board's Decision

The Professional Conduct Committee was unable to identify a potential code of conduct violation that would constitute grounds for convening a Complaint Review Team. The Complainant was unable to substantiate or provide additional information to support his assertion that the LSRP committed fraud by charging for multiple regulatory compliance reviews. The Committee therefore recommended that the Board dismiss the complaint. After careful consideration and review of this matter, the Board accepted the Committee's recommendation and dismissed the complaint. A fee dispute between an RP and an LSRP by itself, without further credible evidence of misconduct, does not constitute grounds for investigation of a potential code of conduct violation.