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**BEFORE THE ENGINEERING AND LAND SURVEYING EXAMINING BOARD
OF THE STATE OF IOWA**


Signature, Executive Officer

IN THE MATTER OF:)	
)	
PAUL C. BRASHAW)	CASE NO. 01-02
LS 10134)	
4413 W. Stagecoach Trail)	Statement of Charges
Galena, IL 61036)	
)	
RESPONDENT)	

COMES NOW the Complainant, Glean Coates, and states:

1. The Complainant is the Executive Secretary of the Iowa Engineering and Land Surveying Examining Board and files these charges solely in her official capacity.
2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C and 542B (2001).
3. On May 18, 1983, the Board issued the Respondent, Iowa professional land surveying license number 10134.
4. Respondent's professional land surveying license is currently in active status.

Count I

Respondent is charged with professional incompetence, careless acts and omissions, and practice harmful or detrimental to the public in the practice of land surveying in violation of Iowa Code sections 272C.3(2)(b), 272C.4(6), 272C.10(2), 272C.10(3), 542B.21(2) & (3), and 193C IAC 4.3, when he prepared plats of

survey without complying with the minimum land surveying standards set forth in Iowa Code chapters 354 and 355 (1999) and 193C IAC Chapter 2 and by failing to record U.S. Public Land Survey Corner Certificates in violation of Iowa Code 355.11 and IAC 193C – 2.8.

Circumstances

1. The Board received a complaint on January 19, 2001, alleging that the Respondent did not comply with the minimum standards for property surveys as established in Chapter 2, IAC 193C when preparing plats of survey in Clayton County.
2. The Board had investigated a previous similar complaint filed against the respondent in 1987. As a result of that investigation, the Board filed charges and held a hearing on August 29, 1990, and issued an order on December 6, 1990, revoking Respondent's license to practice professional land surveying in Iowa for a period of two years.
4. Respondent complied with the order and his license was reinstated on January 1, 1995.
5. The Board received another similar complaint filed against the respondent in July 1999. The Board opened an investigation and conducted an informal conference with the Respondent. Respondent amended the plat in question and submitted the necessary corner certificates for review by the Board. The Board reviewed the amended plat and corner certificates and closed the case with a

caution to the Respondent to ensure that, in the future, corner certificates are prepared and recorded as appropriate.

6. The Board informed the Respondent of the most recent complaint in a letter dated March 14, 2001, and informed him that a Peer Review Committee had been established to investigate the complaint and prepare a report to the Board.

5. The Board established a Peer Review Committee of one to review the documents submitted by the Respondent. In a letter dated March 14, 2001, the Board transmitted the documents to the Peer Reviewer for review.

6. The Peer Reviewer issued his report on March 26, 2001. The Peer Review report concluded there have been numerous violations of the Iowa Code and Iowa Administrative Code and recommended that the Board pursue disciplinary action against the respondent.

7. The Board accepted this report and requested that the Peer Reviewer select a sampling of five of the surveys inventoried in Jackson County to review for compliance with minimum standards requirements. The Board also asked the Peer Reviewer to review the related corner certificates.

8. The Board received the second report from the Peer Reviewer on May 23, 2001, and reviewed the report at its regular meeting on June 21, 2001. Based upon the Peer Review reports as summarized below, the Board found probable cause to file this statement of charges.

9. The following summary of the Iowa Code and Administrative Code violations identified by the Peer Review Committee demonstrate professional incompetence

and practice harmful to the public. A copy of the Peer Review Committee reports containing more detailed information regarding the violations and errors for each plat of survey and corner certificate reviewed will be provided to the Respondent with this Statement of Charges. Violations of the minimum standards of land surveying identified by the Peer Reviewer include but are not limited to:

(a) Document sheets do not have the required 8½ inch by 2-inch space at the top of the sheet reserved for use by the county recorder. **Iowa Code § 331.602.1**

(b) No specific proprietor(s) information shown. **Iowa Code § 354.4.1.b**

(c) Plat does not contain either a statement of scale or a graphical scale. **Iowa Code § 355.7.3 and 193C IAC -- 2.5(1)**

(d) No date of survey found on plat. **Iowa Code § 355.7.14 and 193C IAC – 2.5(4)**

(e) Survey creates two lots or parcels without a surveyed line between them. **Iowa Code §§ 354.4.1.c, 355.4, 355.6, 355.7.6, .7, .8, & .9, 355.9 and 193C IAC – 2.5(2), (3), &(5)**

(f) Recording date for US Public Land Survey Corner Certificate is more than 30 days after the recording date of the associated survey. **Iowa Code § 355.11.2 and 193C IAC – 2.8(4)**

(g) The narrative portion of the corner certificate fails to mention the reason for preparing the certificate, does not mention any reason for placing the corner in the location shown on the plan view, and does not address the possible

existence of the stone found by a previous survey. **Iowa Code §**

355.11.2.c and 193C IAC -- 2.8 (3) b

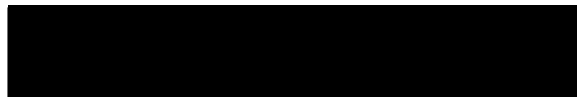
(h) There is no assurance given on the corner certificates recorded for the center of a section that the set monument is on a straight line between the north and south quarter corners of said section. The narrative should explain the situation that prevails. **Iowa Code §§ 355.11.2.c and 193C**

IAC -- 2.8 (3) b

(i) Total absence of U.S. Public Land Survey Corner Certificates related to surveys recorded by the respondent in Jackson County. **Iowa Code §**

355.11.1 and 193C IAC – 2.8

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it deems appropriate under the law.



Gleean M. Coates, Executive Secretary

Iowa Engineering and Land Surveying Examining Board

FINDING OF PROBABLE CAUSE

On June 21, 2001 the Iowa Engineering and Land Surveying Examining Board found probable cause to file this Statement of Charges and to order a hearing be set in this case.



Randall R. Beavers, Chair

cc: Engineering and Land Surveying Examining Board

Pamela Griebel, Assistant Attorney General

Department of Inspections and Appeals

**BEFORE THE ENGINEERING AND LAND SURVEYING EXAMINING BOARD
OF THE STATE OF IOWA**

IN THE MATTER OF:)	
)	CASE NO. 01-02
Paul C. Brashaw)	
LS 10134)	SETTLEMENT AGREEMENT AND
4413 W. Stagecoach Trail)	CONSENT ORDER
Galena, IL 61036)	
)	
RESPONDENT)	

The Iowa Engineering and Land Surveying Examining Board (Board) and Paul C. Brashaw (Respondent) enter into this Settlement Agreement and Consent Order (Agreement), pursuant to Iowa Code section 17A.10 (2001) and 193C IAC 4.10:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 542B, and 272C (2001).
2. Respondent is a licensed land surveyor in Iowa.
3. A Statement of Charges alleging violations of land surveying standards will be filed with this Consent Order.
4. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights by freely and voluntarily entering into this Agreement. The Consent Order is the final agency order in the contested case.
5. Respondent agrees the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.
6. This Agreement shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations. In addition, the Board shall advise the National Council of Examiners of Engineering and Surveying of the disposition of this matter.
7. This Agreement and the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2001).
8. Failure to comply with the provisions of this Agreement shall be considered prima facie evidence of a violation of Iowa Code section 542B.21(3) (2001) and 193C IAC 4.2, and shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2001). However, no action may be taken against Respondent for violations of these provisions without a hearing as provided in Iowa Code section 542B.22, or waiver of hearing.
9. This Agreement is subject to approval of the Board:

(a) If the Board fails to approve this Agreement, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Board approves this Agreement, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Reprimand

Respondent is reprimanded for failure to adhere to the minimum land surveying standards in Iowa Code chapters 354 and 355 and for failure to record U.S. Public Land Survey Corner Certificates per Iowa Code chapter 355.

B. Probation

Respondent's license is hereby placed on probation until such time as all terms of this agreement are fully completed and the Board acknowledges his compliance and reinstates his license to non-probationary status at the next regular Board meeting.

C. Civil Penalty

Respondent shall pay a civil penalty of seven hundred fifty dollars (\$750.00) to the Board within thirty (30) days of the Board approval of this order.

D. Remedial Action

SEPTEMBER 20, 2001 [REDACTED]
1. By ~~August 20, 2001~~, Respondent shall submit to the Peer Reviewer (Donald Wall) corrected plats of survey with associated corner certificates and affidavits, as more fully described in the attached Peer Review Report, dated March 26, 2001.

(a) These documents shall be in final form, although not signed, when submitted to the Peer Reviewer. The documents shall not be signed or recorded until the Peer Reviewer determines the corrections identified in the attached Report have been addressed in conformance with Iowa Code chapters 354 and 355 (2001).

(b) Respondent shall provide the Peer Reviewer field notes, calculations, and such other documents as the Committee may reasonably request.

(c) The Peer Reviewer will not duplicate field work or determine the accuracy of Respondent's work product, but will review the documents for facial compliance with relevant surveying standards. Respondent shall be solely responsible for his work product and shall take such steps as are necessary to correct and finish field work, locate and set monuments, prepare corrected documents, and record the corrected plats of survey, corner certificates and affidavits.

NOVEMBER 20, 2001 [REDACTED]

2. By ~~October 20, 2001~~, Respondent shall submit to the Peer Reviewer (Donald Wall) all missing corner certificates for Respondent's work in Jackson County, as more fully described in the attached Peer Review Report dated May 19, 2001.

(a) These documents shall be in final form, although not signed, when submitted to the Peer Reviewer. The documents shall not be signed or recorded until the Peer Reviewer determines that the corner certificates have been prepared in accordance with Iowa Code chapter 355 (2001).

(b) Respondent shall provide the Peer Reviewer field notes, calculations, and such other documents as the Reviewer may reasonably request.

(c) The Peer Reviewer will not duplicate field work or determine the accuracy of Respondent's work product, but will review the documents for facial compliance with relevant surveying standards. Respondent shall be solely responsible for his work product and shall take such steps as are necessary to correct and finish field work, locate and set monuments, prepare corrected documents, and record the corrected plats of survey, corner certificates and affidavits.

FEBRUARY 1, 2002 [REDACTED]

3. By ~~January 1, 2002~~, Respondent shall determine all corners not certified by him in conjunction with his survey work in all Iowa counties that were not identified by the Board's investigation, shall prepare and record said certificates, and provide to the Board a certified list of said certificates and where they are recorded.

C. Costs

Respondent shall be responsible for the costs incurred by the Peer Reviewer solely for the review described in Section B above. These costs shall be determined and assessed upon the Board's receipt of time and expenses by the Peer Reviewer. The Peer Reviewer is entitled to a per diem of \$50.00, plus expenses. Once assessed, Respondent shall pay these costs in full to the Board within 60 days.

D. Desk Review

Respondent shall develop a desk review consultation agreement with an Iowa licensed land surveyor in good standing and pre-approved by the Board on the following terms and conditions:

(1) Respondent shall submit for pre-release review all corner certificates he prepares after the date this agreement is accepted by the Board for the time period described below. The Respondent will also provide copies of relevant plats and any other documents that the reviewer may need to properly review the corner certificates.

(2) An executed copy of the agreement shall be submitted to the Board prior to implementation of the agreement. The desk review agreement may be in letterform, but shall attach a copy of the Consent Order.

(2) The reviewing land surveyor shall perform a desk review of each corner certificate before the final documents are signed and recorded. The review shall be for facial compliance with minimum land surveying standards. The reviewer will not perform field work or warrant the

accuracy of Respondent's work product, but will review field notes, calculations and any other documents reasonably needed. The reviewer shall prepare written comments on each corner certificate's compliance with the minimum land surveying standards set forth in Iowa Code chapter 355 and 193 IAC Chapter 2.

(4) The reviewer's recommended revisions or corrections, if any, shall be incorporated into each corner certificate prior recording the corner certificate with county officials. A copy of the reviewer's comments shall be submitted directly to the Board from the reviewer. The comments do not need to be received by the Board prior to the completion of the corner certificate. Respondent shall submit to the Board within ten days of written request copies of draft and final corner certificates which were issued subject to desk review.

(5) Once ten corner certificates have been reviewed, Respondent may petition the Board for release from this requirement. The Board shall release Respondent from desk review of corner certificates if the draft certificates (i.e., those prepared prior to receiving the reviewer's comments) and review comments do not reveal serious deviations from minimum surveying standards. If the draft certificates or review comments do reveal serious deviations from minimum surveying standards, the review process shall continue until further order of the Board. Respondent may petition the Board for release from the desk review process after an additional ten certificates have been reviewed.

(6) This settlement shall not preclude the Board from filing additional charges if one or more of the corner certificates subject to desk review demonstrate probable cause to take such an action. Respondent agrees Board review of desk review reports or corner certificates subject to desk review shall not constitute "personal investigation" or otherwise disqualify a Board member from acting as a presiding officer in any subsequent contested case.

(7) Given Respondent's need to secure an approved reviewer to stay in business once the Board accepts this agreement, the effective date of the desk review portion of the agreement shall be September 1, 2001.

E. Future Compliance

Respondent shall in the future adhere to all statutes and administrative rules in the practice of land surveying.

AGREED AND ACCEPTED:

The Respondent



Paul C. Brashaw

August 13, 2001

Date

**The Iowa Engineering and Land
Surveying Examining Board**



By: Randall R. Beavers, Chair

Sept 6, 2001

Date