

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

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<b>IN THE MATTER OF:</b>	)	
	)	<b>CASE NO. 97-27</b>
<b>J. CLIFTON FROMAN</b>	)	
	)	<b>SETTLEMENT AGREEMENT AND</b>
	)	<b>CONSENT ORDER</b>
<b>RESPONDENT</b>	)	

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The Iowa Engineering and Land Surveying Examining Board (Board) and J. Clifton Froman (Respondent) enter into this Settlement Agreement and Consent Order (Agreement), pursuant to Iowa Code section 17A.10 (1999) and 193C IAC 4.10:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 542B, and 272C (1999).
2. Respondent is a licensed land surveyor in Iowa.
3. On September 17, 1999, the Board filed a Statement of Charges alleging Respondent failed to comply with: (1) the terms of a Consent Order he signed on March 19, 1999, by failing to satisfactorily complete a basic course in professionalism and ethics within the time provided in the Order, and (2) minimum land surveying standards when preparing numerous plats of survey, based on a Peer Review Report dated June 16, 1999.
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 for 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 (1999).

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) (1999) and 193C IAC 4.2, and shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (1999). 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**

The Respondent is reprimanded for failure to (1) comply with an order of the Board and (2) adhere to the minimum land surveying standards in Iowa Code chapters 354 and 355.

**B. Remedial Action**

By <sup>2007</sup> ~~January 30~~ <sup>MARCH 31, 2000</sup>, Respondent shall submit to the Peer Review Committee (comprised of Donald K. Wall, Chair, Kenneth D. Bucklin, and James N. George) corrected plats of survey with associated corner certificates and affidavits, as more fully described in the attached revised Peer Review Report, dated October 4, 1999, identifying the particular respects in which corrections are required for each affected plat of survey.

(1) These documents shall be in final form, although not signed, when submitted to the Peer Review Committee. The documents shall not be signed or recorded until the Peer Review Committee determines the corrections identified in the attached Report have been addressed in conformance with Iowa Code chapters 354 and 355 (1999).

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

(3) The Peer Review Committee 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.

#### C. Costs

Respondent shall be responsible for the costs incurred by the Peer Review Committee 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 Review Committee. Peer Review Committee members are 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 surveys he prepares after the date this agreement is accepted by the Board for the time period described below.

(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 letter form, but shall attach a copy of the Consent Order.

(3) The reviewing land surveyor shall perform a desk review of each plat of survey before the final documents are signed, submitted to the client, 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 survey's compliance with the minimum land surveying standards set forth in Iowa Code chapters 354 and 355.

(4) The reviewer's recommended revisions or corrections, if any, shall be incorporated into each plat of survey prior to releasing the survey to the client or recording the survey 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 survey. Respondent shall submit to the Board within ten days of written request copies of draft and final surveys which were issued subject to desk review.

(5) Once ten plats of survey have been reviewed which qualify as division surveys under Iowa Code section 354.4, and which are not retracement surveys, Respondent may petition the Board for release from this requirement. The Board shall release Respondent from desk review of surveys if the draft surveys (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 surveys 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 surveys have been reviewed.

(6) This settlement shall not preclude the Board from filing additional charges if one or more of the surveys subject to desk review demonstrate probable cause to take such an action. Respondent agrees Board review of desk review reports or surveys 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 this agreement is accepted by the Board, the effective date of the desk review portion of the agreement shall be January 1, 2000.

**E. Civil Penalty**

Respondent shall pay on or before January 30, 2000, a civil penalty in the amount of \$100.00 for his failure to timely comply with the Consent Order Respondent signed on March 19, 1998.

**F. Ethics Course**

Respondent shall provide evidence to the Board no later than December 31, 1999, that he has satisfactorily completed the course on professionalism and ethics initially ordered in the Consent Order signed by Respondent on March 19, 1998. If Respondent does not timely

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provide such evidence, he agrees his land surveying license shall be suspended as of January 1, 2000 and that he shall not be reinstated until he (1) provides evidence of completion of the required ethics course and (2) pays an additional civil penalty of \$400.

**G. 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**

*JS*  
J. Clifton Froman  
12/2/99  
Date

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

*JS*  
By: Susan M. Long, Chair  
12/16/99  
Date