

FILED 1/21/05 (Date)

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

Board/Commission

Signature, Executive Officer

IN THE MATTER OF:)	
)	Case No. 02-13
ROBERT L. HOLZE,)	
)	CONSENT ORDER
)	
Respondent.)	

The Iowa Engineering and Land Surveying Examining Board (Board) and Robert L. Holze (Respondent) enter into this Settlement Agreement and Consent Order (Order), pursuant to Iowa Code section 17A.10 (2003) and 193 Iowa Admin. Code 7.42:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 542B, and 272C (2003).
2. Respondent is a licensed professional land surveyor in Iowa.
3. The Board has charged Respondent with professional incompetence, careless acts and omissions, and practices harmful or detrimental to the public in the practice of and surveying in violation of Iowa Code sections 272C.3(2)(b), 272C.4(6), 272C.10(2), 272C.10(3), 542B.21(2) and (3), and 193C Iowa Admin. Code 4.3, when he prepared plats of survey and corner certificates without complying with the minimum land surveying standards set forth in Iowa Code chapters 354 and 355 (2001, 2003) and 193C Iowa Admin. Code chapters 11 and 12.
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 (2003).

8. Failure to comply with the provisions of this Agreement shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2003). 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 hereby reprimanded for repeatedly failing to adhere to minimum land surveying standards in numerous plats and corner certificates.

B. Voluntary Surrender. Respondent shall voluntarily surrender his license to practice professional land surveying in the State of Iowa effective April 15, 2005. Respondent shall submit his certificate and renewal card to the Board's office no later than April 15, 2005. Respondent may file an application to reinstate using the procedures set forth in 193 Iowa Admin. Code 7.38 on or after April 15, 2006. The Board retains full discretion to determine at the time of application to reinstate whether (1) the basis for the voluntary surrender no longer exists, and (2) it would be in the public interest to reinstate Respondent's license to practice professional land surveying in Iowa, upon such conditions as the Board then feels are appropriate, in light of the peer review report findings and any additional information then available to the Board.

C. Civil Penalty. Respondent shall pay a civil penalty of \$1,000 as a condition of reinstating his license.

D. Desk Review. Commencing February 1, 2005, Respondent shall not practice land surveying in Iowa except under a desk review arrangement with a licensed land surveyor pre-approved by the Board. This mandatory condition of continuing practice shall continue until Respondent voluntarily surrenders his license on or before April 15, 2005. While applicable, the following terms and conditions shall apply:

1. Respondent shall provide the Board with a written desk review agreement which shall incorporate by reference the terms and conditions of this Consent Order.

2. After the Board has approved the agreement, Respondent may practice land surveying as long as all work product is reviewed by the desk reviewer and corrected as needed before any plats, corner certificates or other land surveying documents are supplied to a client or filed of record.
3. The reviewing land surveyor must agree to review each plat, corner certificate or other land surveying document for minimum compliance with all applicable land surveying standards. The review will be for facial compliance with land surveying standards. The reviewer will not be expected to perform field work or to warrant the accuracy of Respondent's work product, but the reviewer will review filed notes, calculations, and any other documents reasonably needed to adequately perform desk review.
4. The reviewer shall prepare a separate written report on Respondent's compliance with minimum land surveying standards for each separate plat, corner certificate or other land surveying document prepared by Respondent. The reviewer shall directly forward a copy of all such written reports to the Board. Respondent shall not submit work product to a client or for filing until all requested changes and corrections have been made to the satisfaction of the desk reviewer.
5. Respondent agrees to forward to the Board within 7 days of written request, copies of all land surveying documents (both initial and revised versions) with supporting field notes.
6. In the event Respondent makes any corrections to any of the land surveying documents previously reviewed by the peer review committee during this desk review process, he shall provide copies of all such corrections to the Board. The Board shall forward the corrections to the peer review committee. Such remedial efforts are not required under this Order given Respondent's agreement to voluntarily surrender his certificate on or before April 15, 2005, but any such efforts will be taken into consideration in Respondent's favor should he ever seek to reinstate in the future.
7. The Board will consider as very serious any violation of the desk review arrangement, or any other provision of this Consent Order. Any such violation may result in new charges and will be taken into consideration if Respondent applies to reinstate in the future.

AGREED AND ACCEPTED:

The Respondent

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

[Redacted Signature]
Robert Holze

[Redacted Signature], Chair

JANUARY 3, 2005
Date _____

January 20, 2005
Date _____

FILED 12/1/04 (Date)

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

IELSEB

[Redacted Signature]
Signature, Executive Officer

IN THE MATTER OF:

ROBERT L HOLZE
LS 8656
456 10th Avenue NE
Hampton, IA 50441

RESPONDENT

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CASE NO. 02-13

Statement of Charges

COMES NOW the Complainant, Gleen 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 (2003).
3. On April 14, 1978, the Board issued the Respondent, Iowa professional land surveying license number 8656.
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 and corner certificates without complying with the minimum land surveying standards set forth in Iowa Code chapters 354 and 355 (2001,2003) and 193C IAC Chapters 11 and 12.

Circumstances

1. The Board received a complaint on September 16, 2002, alleging that the Respondent did not comply with the minimum standards for property surveys and corner certificates as established in 193C IAC Chapters 11 & 12 when preparing plats of survey in Cerro Gordo County.

2. The Board has investigated three similar complaints filed against the respondent in 1984, 1998 and 2001. As a result of those investigations, the Board filed charges and signed a Settlement Agreement and Consent Order with the Respondent in 1985, filed charges and signed a Settlement Agreement and Consent Order in 2000, and required the Respondent to make corrections to the plat in question in 2001. The Respondent has been reprimanded twice for failure to adhere to the minimum land surveying standards in the Iowa Code and Iowa Administrative Code; has twice signed Settlement Agreements with the Board; and has once been ordered to develop a desk review consultation agreement with an Iowa licensed land surveyor for pre-release review all surveys he prepared after the date of the agreement and until released by the Board from this requirement. Furthermore, both Settlement Agreements stated that the current agreements shall be part of the permanent record of the 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.

4. The Board informed the Respondent of the most recent complaint in a letter dated December 11, 2002, informing 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 to review the documents submitted by the complainant. In a letter dated February 24, 2003, the Board transmitted the documents to the Peer Review Committee for review.

6. The Board received an additional complaint on May 29, 2003, alleging violations of the minimum standards for a plat of survey and failure to file related corner certificates in Kossuth County, Iowa. This complaint and supporting documents were transmitted to the Peer Review Committee on August 25, 2003.

7. The Peer Review Committee final report was received by the Board on August 9, 2004. The Peer Review Committee report concluded that the Respondent's work does not meet the minimum standards per the Iowa Code or adhere to professional quality standards of the reasonable and prudent surveyor.

8. The following summary of the Iowa Code and Iowa 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 report 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 Review Committee include but are not limited to:

- (a) No point of terminus identified. 193C IAC 11.5(5)
- (b) Plat does not explain how right-of-way was established. 193C IAC 11.5(5)
- (c) No reason given for preparing Corner Certificate. Iowa Code §355.11.2(c)
- (d) Monument on plat differs from that shown on Corner Certificate. New Corner Certificate should have been filed. Iowa Code §355.11.1(c)

- (e) Center monument shown as found on Plat of Survey but no identification of the monument. 193C IAC 11.5(3)
- (f) No government measure shown on the North line of fractional section. 193C IAC 11.5(2)
- (g) Corner Certificates not prepared as required. Iowa Code §355.11.1(a)
- (h) Monument descriptions on plat and corner certificate do not match.
- (i) Used fences for boundary lines instead of monumenting the logical termini of section lines. 193C IAC 11.5(5)
- (j) Plat does not identify the name(s) of the proprietor(s). Iowa Code §354.4 1(b)
- (k) No monumentation on the North terminus of the line. 193C IAC 11.5(5)
- (l) Used fence corner as center of section without justification as to position. Iowa Code §355.6.1
- (m) Corner certificate shows no evidence of detailed procedures for the position of the monument. Iowa Code 355.11.2(c)
- (n) Corner certificate show no evidence as to why the monuments were accepted as being correct. Iowa Code §355.11.2(c)
- (o) Four corners of the block were not monumented to justify the excess of deficiencies for lot corner placement. 193C IAC 11.5(6)
- (p) Dimensions necessary to determine block corners missing. 193C IAC 11.5(6)
- (q) Missing dimensions between found monuments. Iowa Code §355.4
- (r) No bearing on north line of street to justify south line of street. Iowa Codes §355.4
- (s) Monument descriptions are vague. 193C IAC 11.5(3)
- (t) Failure to show recorded versus measure distances. Iowa Code §355.7(7)

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.

Signed and dated this 30th day of November 2004

[REDACTED]

Gleean M. Coates, Executive Officer
Iowa Engineering and Land Surveying Examining Board

FINDING OF PROBABLE CAUSE

On July 29, 2004, 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.

[REDACTED]

Lyle G. TeKippe, PE/PLS, Chair

cc: Engineering and Land Surveying Examining Board
Pamela Griebel, Assistant Attorney General
Department of Inspections and Appeals