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

Signature, Executive Officer

IN THE MATTER OF:

**GARY M PELISEK
LS 11422
3737 Hwy. 27 N Lot C41
Haines City, FL 33844**

RESPONDENT

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**CASE NO. 00-18
Statement of Charges**

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 January 11, 1989, the Board issued the Respondent, Iowa professional land surveying license number 11422.
4. Respondent's professional land surveying license is currently in active status.

Count I

Respondent is charged with 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 (1997) and 193C IAC Chapter 2.

Circumstances

1. The Board received a complaint on November 15, 2000, alleging that the Respondent did not comply with the minimum standards for property surveys as established in Chapter 2, 193C IAC when preparing plats of survey in Mary Ann Park and V & C Estates, both in West Okoboji, Dickinson County.
2. The Board informed the Respondent of the complaint in a letter dated January 22, 2001 and informed him that the Board was establishing a Peer Review Committee to investigate the complaint and prepare a report to the Board.
3. The Board requested more specific information from the complainant in a letter dated December 22, 2000. The complainant responded with a summary of the Iowa Code and Iowa Administrative Code requirements that were allegedly violated by the Respondent in the preparation of the plats in question.
4. The Board established a Peer Review Committee to review the documents submitted by the complainant. In a letter dated January 29, 2001, the Board transmitted the documents to the Peer Review Committee for review.
5. On May 24, 2001, the Board received a summary report from the Peer Review Committee. The Board then requested that the Peer Review Committee submit a more detailed report including a plat specific itemization of the Iowa Code and Iowa Administrative Code violations that were discovered in their review.
6. On September 6, 2001, the Board received an addendum to the Peer Review Committee's report that includes the following Iowa Code and Administrative Code violations identified by the Peer Review Committee. These violations demonstrate professional incompetence and practice harmful to the public. A copy of the Peer Review Committee report 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 are:

(a) On Mary Ann Park Plat

- i. It appears the Surveyor did not perform a careful examination of the existing records when researching the location of the IDOT right-of-way along the southerly boundary. Also, the westerly line of lot 2 was incorrectly located on the original survey and plat.

Iowa Code § 355.4

- ii. A complete description of the monuments found or placed was not on the original plat. **Iowa Code § 355.6**
- iii. The subdivision was tied into only one previously recorded subdivision corner. Plat did show another corner of Government Lot 1, but no dimension or bearing tied it to the new subdivision. **Iowa**

Code § 355.8.7

(b) On Plat for V & C Estates

- i. A complete description of the monuments found or placed was not on the original plat. **Iowa Code § 355.6**
- ii. Subdivision not tied into section corners or any recorded subdivision corners. The corners of Lot 10 were not labeled on original plat.

Iowa Code § 355.8.7

- iii. Unadjusted error of closure does not meet the required 1 in 5000 for the interior lots. **Iowa Code § 355.8.15**

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 15th day of January, 2002

A solid black rectangular redaction box covering the signature of Glean M. Coates.

Glean M. Coates, Executive Secretary

Iowa Engineering and Land Surveying Examining Board

FINDING OF PROBABLE CAUSE

On October 18, 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

IELSEB

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

Signature. Executive Officer

IN THE MATTER OF:

GARY M PELISEK
3737 Hwy. 27 N Lot C41
Haines City, FL 33844

RESPONDENT

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CASE NO. 00-18

SETTLEMENT AGREEMENT
and CONSENT ORDER

The Iowa Engineering and Land Surveying Examining Board (Board) and Gary M. Pelisek (Respondent) enter into this Settlement Agreement and Consent Order (Order), 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. On January 11, 1989, Respondent was issued Iowa professional engineering license number 11422.
3. Respondent's license is currently in active status.
4. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following contested case hearing.
5. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.
6. This Order 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. In addition, the Board shall advise the National Council for Examiners of Engineering and Surveying of the disposition of this matter.

7. This Order 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 Order 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 by the Iowa Engineering and Land Surveying Examining Board as follows:

1. **Reprimand**

The Respondent is reprimanded for failure to adhere to the minimum land surveying standards in Iowa Code chapters 354 and 355.

2. **Remedial Action**

Respondent shall take all steps necessary to rectify each of the issues identified in the Statement of Charges included with this Order and shall submit to the Board no later than April 1, 2002, a file-stamped copy of the corrected plats of survey, with associate affidavits and corner certificates, demonstrating compliance with all applicable surveying standards, including, but not limited to

those set forth in Iowa Code chapters 354 and 355 and 193C IAC Chapter 2. The Board shall submit these documents to the Peer Review Committee for a follow-up report on the Respondent's compliance with applicable land surveying standards.

Agreed and Accepted:

Iowa Engineering and Land Surveying Examining Board

[Redacted Signature]

Date 1/10/02

By: Randall R Beavers, Chair

Respondent

[Redacted Signature]

Date 12-3-01

Gary M Pelisek

FILED 3/28/03 (Date)

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


Signature, Executive Officer

IN THE MATTER OF:)
)
GARY M. PELISEK, LS) **CASE NO. 00-18**
2350 Paulette Drive)
Haines City, FL 33844) **Statement of Charges**
)
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 (2003).
3. On January 11, 1989, the Board issued the Respondent, Iowa professional land surveying license number 11422.
4. Respondent's professional land surveying license is in active status with an expiration date of December 31, 2004.

Count I

Respondent is charged with failure to comply with a Board order in violation of Iowa Code section 272C.3(2)(a)(2003).

Circumstances

1. On January 10, 2002, the Board signed a Settlement Agreement and Consent Order that had been signed by the Respondent on December 3, 2001.
2. That Consent Order reprimanded the Respondent for failure to adhere to the minimum land surveying standards in Iowa Code chapters 354 and 355.
3. In that Consent Order the Respondent agreed to submit corrected plats of survey with associated corner certificates and affidavits as identified in the Statement of Charges no later than April 1, 2002.
4. On May 23, July 8, and December 20, all in 2002, the Board attempted to correspond with the Respondent to notify him that he was out of compliance with the Consent Order because he had not submitted the required documents.
5. The Respondent contacted the Board by telephone on January 8, 2003, to inform the Board of his new address and to notify the Board that the corrections had been filed and that he would be sending documentation verifying this to the Board.
6. The Board received documentation from the Respondent on February 24, 2003.
7. The Board submitted this documentation to the Peer Review Committee on March 13, 2003, and requested that the PRC report to the Board their

assessment whether the documents submitted verify compliance with the Consent Order.

8. The PRC chair notified the Board on March 28, 2003, that the documents submitted to the Board on February 24, 2003, were identical to the documents reviewed by the PRC in February and March 2001 prior to the issuance of their reports submitted to the Board on May 24 and September 6, 2001, and, therefore, did not contain the changes that had been required by the Consent Order.

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 28th day of March, 2003

A solid black rectangular redaction box covering the signature of Glean M. Coates.

Glean M. Coates, Executive Secretary

Iowa Engineering and Land Surveying Examining Board

FILED 5/8/03 (Date)

IELSEB

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

Signature, Executive Officer

IN THE MATTER OF:)	
)	CASE NO. 00-18
GARY M. PELISEK, LS)	
)	SETTLEMENT AGREEMENT AND
)	CONSENT ORDER
RESPONDENT)	

The Iowa Engineering and Land Surveying Examining Board (Board) and Gary M. Pelisek (Respondent) enter into this Settlement Agreement and Consent Order (Order), pursuant to Iowa Code section 17A.10 (2003) and 193 IAC 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 land surveyor in Iowa.
3. On March 28, 2003, the Board charged Respondent with failure to comply with a Board order in violation of Iowa Code section 272C.3(2)(a).
4. Respondent admits that he did not timely comply with the Consent Order he signed December 3, 2001, which the Board accepted on January 10, 2002. Respondent has requested a second opportunity to comply given his move to Florida and associated difficulty in correcting plats of survey with associated with corner certificates and affidavits. Respondent does not plan to perform any other land surveying services in Iowa. 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

The Respondent is reprimanded for failure to timely comply with an order of the Board.

B. Civil Penalty

Respondent shall pay a civil penalty in the amount of \$500.00 no later than September 1, 2003. In lieu of paying the civil penalty, Respondent may provide proof prior to September 1, 2003, that he has satisfactorily passed the 40-hour ethics and land surveying course created by New Mexico State University and the University of Maine. The course is offered in both correspondence and Internet formats.

C. Compliance with January 10, 2002, Consent Order

Respondent shall fully comply with the January 10, 2002, Consent Order, no later than September 15, 2003.

D. Agreement not to Renew

Respondent shall not renew his Iowa license, which is scheduled to expire on December 31, 2004.

E. Conditional Suspension

Respondent agrees that if he fails to fully comply with the terms of this Consent Order, the Board may place his Iowa land surveying license on suspension until he does fully comply. The Board may issue a written notice to Respondent of its intent to suspend under this provision, providing Respondent with at least 10 days to request a contested case hearing following service of the notice by certified mail to his last known address. If Respondent fails to timely request a contested case hearing, his license shall be suspended until reinstated pursuant to the terms of 193 Iowa Administrative Code 7.38.

F. 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



Gary Pelisek

4-29-03

Date

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



By:  Chair

5/8/03

Date

FILED 9/25/03 (Date)

IELSEB

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

Signature. Executive Officer

IN THE MATTER OF:)

GARY M. PELISEK)
2350 Paulette Drive)
Haines City, FL 33844)

RESPONDENT)

CASE NO. 00-18

NOTICE OF INTENT
TO SUSPEND
LICENSE

YOU ARE HEREBY NOTIFIED that pursuant to the Consent Order effective on the 8th day of May, 2003, the Board finds that the Respondent is out of compliance with the Consent Order and will accordingly be suspended unless Respondent requests a hearing within 10 days from date of service of this notice.

Signed and dated this 25th day of September 2003.


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

FILED 10/16/03 (Date)

I E L S E B

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

Signature. Executive Officer.

IN THE MATTER OF:)

GARY M. PELISEK)
2350 Paulette Drive)
Haines City, FL 33844)

RESPONDENT)

CASE NO. 00-18

NOTICE OF LICENSE
SUSPENSION

YOU ARE HEREBY NOTIFIED that pursuant to the Consent Order effective on the 8th day of May, 2003, the Iowa Engineering and Land Surveying has suspended the land surveying license of the Respondent effective with the issuance of this order.

Signed and dated this 16th day of October 2003.

[Redacted Signature]

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