

**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. 98-10</b>
<b>CARL B. SCHOENHARD, JR.</b>	)	
<b>LS #8036</b>	)	<b>Statement of Charges</b>
<b>4155 Pennsylvania Avenue</b>	)	
<b>Dubuque, IA 52002-2618</b>	)	
	)	
<b>RESPONDENT</b>	)	

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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 (1999).
3. On April 9, 1976, the Board issued the Respondent, Iowa professional land surveying license number 08036.
4. Respondent's professional land surveying license is in good standing until December 31, 1999.

**Count I**

Respondent is charged with professional incompetence, and careless acts and omissions, in the practice of land surveying in violation of Iowa Code sections 272C.3(2)(b), 272C.10(2), and 542B.21(2) (1997), and 193C IAC 4.8(1), when he prepared plats of survey without complying with the minimum land surveying standards set forth in Iowa Codes chapters 354 and 355 (1997).

## Circumstances

1. The Board received a complaint regarding Respondent's land surveying practices in May 1998.
2. In a letter dated July 31, 1998, the Board requested that the Respondent submit corrected plats of survey arising from the complaint, a retracement plat of survey filed after July 31, 1998, and a new parcel plat of survey filed after July 31, 1998.
3. Respondent submitted the plats of survey as requested by the Board on September 22, 1998.
4. The plats of survey submitted by the complainant and those submitted by the Respondent were submitted to peer review. The Peer Review Committee issued its report on February 25, 1999.
5. The Peer Review Committee report concluded that the Respondent has committed violations with regard to methods used to set section corners and has repeatedly ignored Iowa Code section 355.11 by failing to record required United States public land survey corner certificates and has, therefore, failed to perform within satisfactory standards of professional competency in the practice of land surveying.
6. Respondent has failed to adhere to minimum standards mandated by Iowa Code chapters 354 and 355, and Board rules, 193C IAC chapter 2.
7. Respondent's land surveying practice has demonstrated such consistent and pervasive careless acts and omissions as to indicate his inability to practice in a manner protective of the public interest.
8. The following surveys demonstrate carelessness and omissions including, but not limited to:
  - (a) Four-lot subdivision requested by Jeff Noack dated June 26, 1998, Section 17, Township 92 North, Range 2 West, Clayton County.
    - (1) The areas of the four lots add up to 6.11 acres, while Lot 2 of Lot 1 equals 6.34 acres.
    - (2) Recorded bearings versus measured bearings are not shown. Iowa Code § 355.8(8)
  - (b) Plat of Survey requested by Jerry Everitt dated July 6, 1998, Section 36, Township 93 North, Range 6 West, Clayton County.
    - (1) Respondent mislabeled the NE Corner of the SW1/4-NW1/4 by calling it NE Corner SE1/4-NW1/4 Section 36-93-6.
    - (2) Respondent has used improper procedure when setting two section corners (SW Corner Section 26, Township 93 North, Range 6 West and SE Corner SW1/4-SW1/4 Section 36, Township 93 North, Range

6W) by projecting two found corners easterly 1 mile and 1.25 miles. He then paralleled this line north about 0.75 mile and set the NE Corner of the SW1/4-NW1/4 Section 36, Township 93 North, Range 6 West at 1320.00 feet on the parallel line easterly of the NW Corner of the SW1/4-NW1/4 Section 36, Township 93 North, Range 6 West. Iowa Code § 355.4.

- (3) Legend indicates "found ½ " iron rod with/cap 10165", but plat has no such symbol.

(c) Plat of Survey requested by Jerry Everitt dated September 14, 1998 Section 18, Township 92 North, Range 5 West Clayton County.

- (1) Respondent found 3" iron rod at the center of Section 18, Township 92 North, Range 5 West while a previously recorded Section Corner Certificate calls for a two inch iron pipe in concrete (fence corner post) recorded on July 9, 1997. The Respondent did not file a corner certificate when he found a 3" rod with no cap. Iowa Code § 355.11(1)(b).
- (2) Respondent set two corners (NW Corner SE1/4-SE1/4 and SW Corner SE1/4-SE1/4 Section 18, Township 92 North, Range 5 West) with no basis. Each corner was set from 23 feet to 24 feet off of recorded distances and without the benefit of any section corners to the east. Iowa Code § 355.4.
- (3) The Southwesterly line of the above referenced plat is not shown as a dark boundary line.
- (4) No curve data is shown for the northerly right-of-way line of Canoe Road. Iowa Code § 355.7(11).
- (5) No section corner certificates recorded for the 3 corners set by the respondent. Iowa Code § 355.11(1)(a)


(d) Plat of Survey with easement requested by Virgil Brockmeyer dated July 10, 1998, Section 32, Township 91 North, Range 3 West Clayton County.

- (1) The outside boundary of this plat does not close by about 13 feet. Iowa Code § 355.7(12)
- (2) Respondent has ignored a ½" iron rod w/cap 10165 and set a pin for NE Corner NW1/4-NW1/4 Section 32, Township 91 North, Range 3 West. No new section corner was certified for this corner. No new section corner certificate was recorded for the "Re-established N1/4 corner Section 32, Township 91 North, range 3 West." Iowa Code § 355.11(1)(a) and (b).
- (3) Respondent has set 2 corners (NW corner NW1/4-NW1/4 and SW Corner NW1/4-NW1/4) with no basis and has set the corner with the measured versus recorded distances varying by 21 feet. Iowa Code § 355.4

(e) Plat of Survey requested by Dean State dated August 11, 1998, Section 7, Township 90 North, Range 5 West, Delaware County.

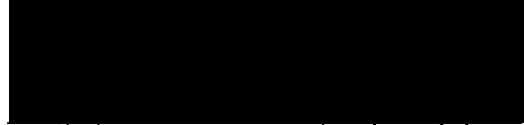
- (1) Measured and recorded distances along the section line between section corners are 46 feet different.
- (f) Survey and Corrective Plat of Survey requested by Randy Backes dated August 14, 1998, Section 31, Township 92 North, range 3 West, Clayton County.
- (1) Respondent set the SW Corner of NE1/4-NE1/4 of Section 31, Township 92 North, Range 3 West by paralleling the south line of the NE1/4-NE1/4 with the North line of the NE1/4-NE1/4 and paralleling the West line with the East line of the NE1/4-NE1/4 all in Section 31. Iowa Code § 355.4.
  - (2) Section corner certificates are missing. Iowa Code § 355.11(1)(a).
- (g) Plat of Survey requested by Century 21 dated July 7, 1998, Section 32 Township 92 North, Range 3 West, and Sections 5 & 6, Township 91 North, Range 3 West.
- (1) Respondent set the N1/4 Corner and NE Corner of the NW1/4-NE1/4 all in Section 32, Township 92 North, Range 3 West without using NE Corner of said Section 32 which was certified by Roger Mohn. Instead the Respondent pushed the line from 2 found corners on the North line of said Section 32. Iowa Code § 355.4.
  - (2) Respondent has set many of the corners and lines by paralleling lines. Iowa Code § 355.4.
  - (3) Many of the section corner certificates are missing. Iowa Code § 355.11(1)(a).
- (h) "Correction Plat" requested by Century 21 Real Estate dated September 3, 1998, Section 20 & 21, Township 92 North, Range 3 West, Clayton County.
- (1) Respondent has used questionable methods to set section corners. Iowa Code § 355.4.
  - (2) Although the plat indicates that 23 section corners or 40 acre corners were set or found, Clayton County has only 6 corner certificates recorded. Therefore, the Respondent failed to certify 17 corners as required. Iowa Code § 355.11(1)(a).

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 May 20, 1999, 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.



Susan M. Long, 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**

---

<b>IN THE MATTER OF:</b>	)	
	)	<b>CASE NO. 98-10</b>
<b>CARL B. SCHOENARD, JR.</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 Carl B. Schoenard, Jr. (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 May 20, 1999, the Board filed a Notice of Hearing and Statement of Charges, setting hearing for July 14, 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 adhere to the minimum land surveying standards in Iowa Code chapters 354 and 355.

**B. Remedial Action**

By August 31, 1999, Respondent shall submit to the Peer Review Committee (comprised of Glen D. Meisner, Chair, William C. Kerndt, and Donald Murphy) corrected plats of survey with associated corner certificates and affidavits, as more fully described in the attached Peer Review Report dated February 25, 1999.

(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, and §331.602(1) (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) The effective date of the desk review portion of the agreement shall be August 1, 1999.


**D. 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**

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

  
\_\_\_\_\_  
**Carl B. Schoenard, Jr.**

  
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**By: Susan M. Long, Chair**

June 24, 1999  
\_\_\_\_\_  
**Date**

7/15/99  
\_\_\_\_\_  
**Date**

