

**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. 97-25</b>
<b>HARLAN K. SCHUCK</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 Harlan K. Schuck (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 February 18, 1999, the Board filed a Statement of Charges alleging Respondent failed to comply with minimum land surveying standards when preparing numerous plats of survey, based on a Peer Review Report dated January 18, 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 September 30, 1999, Respondent shall submit to the Peer Review Committee (comprised of Gary G. Brown, Chair, Lyle G. TeKippe, and J. William Waddingham) corrected plats of survey with associated corner certificates and affidavits, as more fully described in the Statement of Charges and attached Peer Review Reports.

(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) 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 July 16, 1999, one day after the Board's July, 1999, meeting.

**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**

  
**Harlan K. Schuck**

6/14/99  
**Date**

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

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

6/17/99  
**Date**

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

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IN THE MATTER OF:	)	
	)	CASE NO. 97-25
HARLAN K. SCHUCK	)	
L.S.# 9962	)	STATEMENT OF CHARGES
903 Wemple	)	
Parkersburg, IA 50665	)	

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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 (1997).
3. On August 17, 1982, the Board issued Harlan K. Schuck, the Respondent, Iowa professional land surveying license number 9962.
4. Respondent's land surveying license is in good standing until December 31, 1999.

**Count I**

Respondent is charged with professional incompetency, 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 Code chapters 354 and 355 (1997).

**Circumstances**

5. The Board received a complaint regarding Respondent's land surveying practices in July, 1997.

6. A number of the surveys at issue were submitted to peer review. The Peer Review Committee issued one report on March 6, 1998, and a second report on January 18, 1999.

7. Both reports concluded that Respondent has failed to perform within satisfactory standards of professional competency in the practice of land surveying.

8. Respondent has failed to adhere to minimum land surveying standards mandated by Iowa Code chapters 354 and 355, and Board rules, 193C IAC chapter 2.

9. 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.

10. The following surveys are deficient for reasons including, but not limited to:

(a) Section 10-86-23

- (1) Control monuments not set at all corners. Iowa Code § 355.6(2)(a).
- (2) Monuments not set at all right of way boundaries where parcel lines intersect. Iowa Code § 355.6(2)(b).
- (3) Bearings and angles not shown on parcel lines thereby preventing determination of boundary closure error. Iowa Code § 355.7(6).
- (4) No evidence provided to support use of fence post as center of Section 10, and failure to make monument record. Iowa Code § 355.11(1), (2).

(b) Section 20-88-23

- (1) Control monuments not set at all corners. Iowa Code § 355.6(2)(a).
- (2) Monuments not set at all right of way boundaries where parcel lines intersect. Iowa Code § 355.6(2)(b).
- (3) Bearings and angles not shown on parcel lines thereby preventing determination of boundary closure error. Iowa Code § 355.7(6).

- (4) No evidence provided to support use of fence post as center of Section 20, and failure to make monument record. Iowa Code § 355.11(1)(c), (2).
- (c) Section 34-89-23
- (1) Control monuments not set at all corners. Iowa Code § 355.6(2)(a).
  - (2) Monuments not set at all right of way boundaries where parcel lines intersect. Iowa Code § 355.6(2)(b).
  - (3) Bearings and angles not shown on parcel lines thereby preventing determination of boundary closure error. Iowa Code § 355.7(6).
  - (4) Insufficient evidence to support resetting center of Section 34. Iowa Code § 355.11(2)(c).
- (d) Section 27-89-23
- (1) Bearings and angles not shown on parcel lines thereby preventing determination of boundary closure error and preventing retracement in the future. Iowa Code § 355.7(6).
  - (2) Failure to document curve in railroad tracks. Iowa Code § 355.7(11).
  - (3) Precise closing distance not set for north line of Parcel C. Iowa Code §§ 355.7(10), 355.5(4).
  - (4) Survey not tied to two government land corners. Iowa Code § 355.7(5).
- (e) Section 27-87-24
- (1) Survey not tied to two government land corners. Iowa Code § 355.7(5).
- (f) Section 11-86-26
- (1) Inconsistency between plat of survey title and references within the plat of survey. Iowa Code § 355.9.

(g) Section 4-89-26

- (1) Failure to document use of fence as center of Section 26, and failure to make monument record. Iowa Code §§ 355.11(2)(c), 355.6(3).
- (2) Failure to file corner certificates. Iowa Code § 355.11.

(h) Section 5-89-26

- (1) Failure to document use of corner post as center of section and failure to set center monument with appropriate monument record. Iowa Code § 355.11(2)(c).
- (2) Failure to show a distance from the center to the N 1/4 corner. Iowa Code § 355.7(6).
- (3) Failure to show bearings or interior angles for any of the section or 1/4 section lines. Iowa Code § 355.7(6).
- (4) Failure to show setting a cap on the W 1/4 corner. Iowa Code § 355.7(7).
- (5) Failure to label NW corner. Iowa Code § 355.7(7).
- (6) Failure to note setting a cap on the bar. Iowa Code § 355.6(1).

(i) Section 16-86-23

- (1) Failure to document use of corner post as center of section and to otherwise properly document setting of W1/4 corner, and failure to set center monument with appropriate monument record. Iowa Code § 355.11(2)(c).

(j) Section 27-87-26

- (1) Failure to properly document re-setting of a 1/4 corner. Iowa Code § 355.11(1)(c).

(k) Section 9-89-26

- (1) Failure to document evidence of E 1/4 corner and center of Section 9, and make monument record. Iowa Code § 355.11(2)(c).

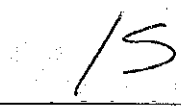


- (2) Failure to show bearings and distances or angles on the lines used to control the survey (section and 1/4 section lines). Iowa Code § 355.7(6).
- (l) Section 12-87-24
  - (1) Failure to document evidence of center of Section 12, and make monument record. Iowa Code § 355.7(6).
  - (2) Continued failure to provide evidence of establishing corners indicates improperly methodology has been used. Iowa Code § 355.11.
- (m) Section 25-86-24
  - (1) Failure to document evidence of center of Section 25, and make monument record. Iowa Code § 355.11(2)(c).
  - (2) Control monuments not set at all corners. Iowa Code § 355.6(2)(a).
  - (3) Failure to provide appropriate dimensions and directions. Iowa Code § 355.7(6).
  - (4) Failure to utilize existing survey to complete current survey. Iowa Code § 355.4.
- (n) Section 34-89-23
  - (1) Failure to label iron stake as SW corner of NE 1/4 NE 1/4, and label the west line of the NE 1/4 NE 1/4. Iowa Code § 355.7(8).
  - (2) Bearings and angles do not agree. Iowa Code § 355.7(6).
  - (3) Failure to properly document distances and directions, complicating future retracement. Iowa Code § 355.9.
- (o) Section 34-87-24
  - (1) Ties not shown to government land corners. Iowa Code § 355.7(5).
  - (2) Failure to provide sufficient information to permit retracement in the future. Iowa Code § 355.9.

(3) Failure to include complete curve data. Iowa Code § 355.7(11).

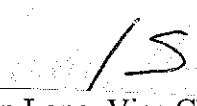
11. Respondent has consistently failed to adhere to very basic minimum standards in many of the plats of survey, such as failure to identify the proprietor's name, date of survey, whether monuments were found or set, and monument descriptions.

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.

  
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Glean Coates, Executive Secretary

**FINDING OF PROBABLE CAUSE**

On February 18, 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.

  
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Susan Long, Vice Chair