

Department of Commerce
Professional Licensing Bureau
FILED 8/4/08 (Date)
IEUSER



Signature, Executive Officer

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

IN THE MATTER OF:

**John R. Sommers, PLS
#08996**

RESPONDENT

CASE NO. 07-32

**COMBINED STATEMENT OF CHARGES
AND CONSENT ORDER**

A. Statement of Charges

1. The Iowa Engineering and Land Surveying Examining Board ("Board") has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 542B (2007).

2. Respondent is a licensed professional land surveyor in Iowa. He was issued license number 08996 on April 6, 1979. The respondent's professional land surveying license is currently in active status and is scheduled to expire on December 31, 2008.

3. On November 6, 2007, the Board received a complaint alleging that the Respondent had failed to meet the minimum standards for Property Surveys and PLSS Corner Certificates when preparing plats of survey in Webster County, Iowa.

4. On December 5, 2007, the Board requested an explanation from the Respondent.

5. At its regular meeting on January 10, 2008, the Board reviewed the explanation from the Respondent and established a Peer Review Committee of one to investigate the allegations of the complaint, review the explanation from the Respondent and provide a report to the Board with the Peer Reviewer's opinion as to whether the matter has been resolved, needs further investigation or warrants any disciplinary action.

6. Following the investigation by the Peer Review Committee, the Board charges Respondent 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 9.3,

when he prepared plats of survey in Webster County (as detailed in the Peer Review Committee report dated March 14, 2008) that did not comply with the minimum standards for land surveying and corner certificates as set forth in Iowa Code chapters 354 and 355 (2007) and 193C IAC Chapters 11 and 12.

7. Respondent is in the process of retiring and plans to allow his license to lapse. Other than the steps needed to comply with this Consent Order, Respondent has agreed he will not practice land surveying in Iowa.

8. The Board and Respondent have agreed to fully resolve these charges through the following Consent Order, rather than proceed to contested case hearing.

B. Settlement Agreement and Consent Order

9. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. This Consent Order constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4.

10. 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.

11. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations.

12. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2007).

13. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2007). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

14. This Order is subject to approval of the Board:

(a) If the Board fails to approve this Order, 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 Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Reprimand. Respondent is reprimanded for failure to adhere to the minimum land surveying standards in Iowa Code chapters 354 and 355 and 193C IAC Chapters 11 and for failure to record U.S. Public Land Survey Corner Certificates per Iowa Code chapter 355 and 193C IAC Chapter 12.

B. Remedial Action.

1. **By August 15, 2008**, Respondent shall submit to the Peer Review Committee corrected plats of survey and associated corner certificates as more fully described in the Peer Review Report dated March 14, 2008. Respondent may either personally perform the land surveying work or may comply with this consent Order through the services of another licensed land surveyor. Respondent remains fully responsible for complying with the consent Order under either approach.

(a) 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 Peer Review Report dated March 14, 2008, have been addressed in conformance with Iowa Code chapters 354 and 355 (2007) and 193C IAC Chapters 11 and 12.

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

(c) 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. Retirement.

Respondent shall not perform land surveying services in Iowa, except the services described in section B. Respondent will accordingly not renew his license in active status and will instead either allow his license to lapse or renew as an inactive, retired licensee.

D. Future Compliance.

Respondent shall in the future adhere to all statutes and administrative rules in the practice of land surveying.

AGREED AND ACCEPTED:

[Redacted]

Respondent

Date 7/28/08

The Iowa Engineering and Land Surveying Examining Board

[Redacted]

By: Christy VanBuskirk, PE, Chair

Date 8/1/2008