

**STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS**

**DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES,**
Petitioner,

vs.

Case No. 2006-067399

CHARLES ROBERT DEFOOR
Respondent,

AMENDED FINAL ORDER APPROVING SETTLEMENT STIPULATION

THIS CAUSE came before the Board of Professional Surveyors and Mappers (“Board”) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, at a meeting held on February 17, 2010, in Tallahassee, Leon County, State of Florida, for determination of the status of the Respondent’s progress in completing the probationary sentence imposed in the previous Final Order and consideration of a payment plan in the above styled cause. Respondent was present at the hearing. Petitioner was represented by Mr. Bennett M. Miller, Esq.

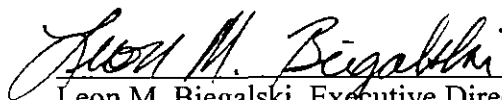
Upon consideration of the previous Final Order and the presentation of the parties, and being otherwise fully advised of the premises, **IT IS HEREBY ORDERED AND ADJUDGED:**

1. The previous Final Order is hereby re-approved and re-adopted, except as specifically amended herein. A copy of the Final Order is attached hereto as Exhibit “A” and incorporated herein.
2. Paragraph 1(b) of the Final Order is hereby stricken.
3. Respondent shall pay a fine in the amount of three thousand dollars (\$3,000.00) and investigative costs in the amount of Four Hundred and Eighty Three Dollars and

Ninety-Eight Cents (\$483.98). The Respondent shall submit a payment of no less than \$200.00 each month, no later than the 1st day of each calendar month, until such time as the balance is paid in full. Payment shall be made by personal check, certified funds or money order and shall be mailed or otherwise delivered to the Executive Director of the Florida Board of Professional Surveyors and Mappers, 2005 Apalachee Pkwy., Tallahassee, FL 32399-6500.

4. All other terms and conditions of the Final Order shall remain in full force and effect. In the event, the language in this Amended Final Order conflicts with the previous Final Order, this Amended Final Order shall control.
5. Failure to comply with the terms of this Amended Final Order, including timely payment of any fines and/or costs assessed may cause the Respondent to be subjected to further discipline.
6. This Amended Final Order shall be placed in and become a part of the Respondent's official records and shall take effect upon being filed with the Agency Clerk of the Department of Agriculture and Consumer Services, whose seal is affixed hereon.

DONE AND ORDERED this 7th day of April, 2010.



Leon M. Biegalski, Executive Director,
Board of Professional Surveyors and Mappers
For JEFFERY COONER, Chair

NOTICE OF RIGHT JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review, pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of appeal with the Agency Clerk of the Department of Agriculture and Consumer Services and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the appellate district where the party resides. The Notice of Appeal must be filed within thirty (30) days of rendition of the Order to be reviewed.

Filed with the Clerk, this 14th day of April, 2010.



Agency Clerk

Copies by Certified U.S. Mail, RRR# 7009 0080 0002 4471 2154
Charles "Rob" DeFoor & Associates, Inc., P.O. Box 1763, Apopka, FL 32704-1763

By hand delivery:
Bennett M. Miller, Board Counsel

Final Order No. BPR-2008-04789 Date: **6-2-08**
FILED

Department of Business and Professional Regulation
AGENCY CLERK
Sarah Wachman, Agency Clerk

By: *Brenda M. Hiedel*

**STATE OF FLORIDA
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS**

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
Petitioner,

-vs-

CASE NO.: 2006-067399

LICENSE NO.: LS 4189

CHARLES ROBERT DEFOOR,
Respondent.

FINAL ORDER

THIS MATTER came before the Board of Professional Surveyors and Mappers (Board) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on April 9-10, 2008 in Orlando, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A), in the above-styled case. Respondent was served with the Administrative Complaint by certified mail. Respondent did not return an election of rights. Respondent was present with Counsel, Hans Kennon, Esq. Petitioner was represented by Eric R. Hurst, Esquire.

Upon consideration and review of the evidence presented, the Board **FINDS:**

1. Respondent has waived his right to dispute the material facts and is not entitled to a 120.57, F.S. hearing.

2. No material facts are in dispute.

3. The allegations of fact set forth in the Administrative Complaint are approved.

4. The conclusions of law alleged and set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference, as the conclusions of law of the Board.

5. Mitigation exists as follows:

- a. The degree of harm to the consumer,
- b. The degree of financial hardship upon the licensee,
- c. The length of time the licensee has practiced, and
- d. The deterrent effect of the discipline imposed.

6. The violations set forth warrant disciplinary action by the Board.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent is placed on probation.

(a) Respondent's license is suspended. However, the suspension is stayed so long as Respondent complies with the terms of probation. If Respondent successfully completes probation, the suspension shall terminate. If Respondent fails to comply with the requirements set forth, then the stay shall be lifted. Once the stay is lifted, the license shall remain in suspended status until Respondent appears before the Board to demonstrate compliance with the Final Order.

(b) Respondent shall pay a fine in the amount of Three Thousand Dollars (\$3,000), and investigative costs in the amount of Four Hundred Eighty Three Dollars and Ninety Eight Cents (\$483.98). Respondent shall remit the fines and costs to the Executive Director of the Board of Professional Surveyors and Mappers. Said costs shall be paid within thirty

(30) days after the date of filing of the Final Order.

(c) Respondent shall submit proof of professional liability insurance or a statement that professional liability insurance is not required pursuant to Section 472.015(5), Florida Statutes, to the Executive Director of the Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida 32399-0750, within thirty (30) days of the entry of this Final Order.

(d) Respondent shall complete a Minimum Technical Standards (MTS) continuing education course within ninety (90) days of the date of entry of the Final Order. Respondent shall submit proof of completion of the course directly to the Executive Director of the Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida 32399-0750, within 14 days of the course completion.

(e) Respondent shall complete a Boundary continuing education course within ninety (90) days of the date of entry of the Final Order. Respondent shall submit proof of completion of the course directly to the Executive Director of the Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida 32399-0750, within 14 days of the course completion.

(f) Respondent shall provide the Board with a list of all signed and sealed surveys within 120 days of the date of the filing of this Final Order. The Board's Probation Committee Chair will randomly select six (6) of the Respondent's surveys for review from the list. Within five (5) calendar days of being notified by the Board which surveys have been selected, Respondent shall have posted and submit to the Board office the selected signed and sealed surveys, along with copies of the relevant field notes, the relevant full size record plats, all measurement and computation records, and all other documents

necessary for a full and complete review of the surveys, in accordance with Rules 61G17-9.006 and 61G17-9.007, Florida Administrative Code.

(g) Respondent is required to appear before the Probation Committee of the Board at such times as directed by the Executive Director. In connection with each probation appearance, Respondent shall answer questions under oath. In addition, Respondent shall provide such other information or documentation as is requested by either the Department, the Board, or the Probation Committee. Respondent shall forward said documentation to the Board in advance of the probation appearance.

(h) The burden shall be solely upon Respondent to remember the requirement for said appearance, and to take the necessary steps in advance of said appearance to contact the Board office and ascertain the specific time, date, and place of said appearance. Respondent shall not rely on getting notice of said appearance from the Board or the Department.

(i) Should Respondent's license to practice surveying and mapping be suspended or otherwise placed on inactive status, or if Respondent leaves the practice of surveying and mapping for thirty (30) days or more, the probation period shall be tolled and shall resume running at the time Respondent reactivates the license or returns to the active practice of surveying and mapping. Respondent shall then serve the time remaining in the term of probation.


2. Should Respondent violate any condition of the probation, it shall be considered a violation of Section 472.033(1)(h), F.S., and shall result in further disciplinary action by the Board.

3. A change in licensure status, including the suspension, revocation,

voluntary relinquishment, or involuntary relinquishment of Respondent's license does not relieve Respondent of the obligation to pay fines or costs imposed in this Order.

This Final Order shall become effective upon filing with the clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this _____ day of _____, 2008.



RICHARD MORRISON, Executive Director
For JEFFERY COONER, Chair
Board of Professional Surveyors and Mappers

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by Certified Mail to: CHARLES ROBERT DEFOOR, P.O. Box 1763, Apopka, FL 32704-1763, and Hans Kennon, Esq., 10th Floor, 20 North Orange Avenue, Orlando, FL 32801, and by hand/interoffice delivery to: Eric R. Hurst, Esq., Office of the General Counsel, 1940 N. Monroe St., Ste. 60, Tallahassee, Florida 32399-2202; The Office of the Board of Professional Surveyors and Mappers, 1940 N. Monroe Street, Tallahassee, Florida 32399; and Diane L. Guillemette, Senior Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050, on or before 5:00 p.m.; this 2nd day of June, 2008.



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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2006-067399

CHARLES ROBERT DE FOOR.,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION ("Petitioner"), files this Administrative Complaint before the Board of Professional Surveyors and Mappers ("Board") against CHARLES ROBERT DE FOOR d/b/a CHARLES "ROB" DEFOOR & ASSOCIATES INC. ("Respondent"), and alleges:

1. Petitioner is the state agency charged with regulating the practice of land surveying and mapping, pursuant to Section 20.165, Florida Statutes, and Chapters 455 and 472, Florida Statutes.
2. At all times material hereto, Respondent was a licensed professional surveyor and mapper in the State of Florida, having been issued license number LS 4189.
3. Respondent's address of record with Petitioner is P. O. Box 1763, Apopka, FL 32704.
4. On November 8, 2006, Robert T. Andrews ("Andrews") alleges that Respondent provided a survey for a Real Estate transaction.

5. The survey prepared by the Respondent for Robert T. Andrews did not meet the Minimum Technical Standards (MTS).

6. Section 472.033(1)(h), Florida Statutes, states in pertinent part that "failing to perform any statutory or legal obligation placed upon a licensed surveyor and mapper," constitutes ground for disciplinary actions.

7. Section 472.033(1)(g), Florida Statutes, states in pertinent part:
Upon proof that the licensee is guilty of fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of surveying and mapping constitutes grounds for which disciplinary action may be taken.

8. The survey prepared by Respondent was reviewed using the Minimum Technical Standards (MTS) pursuant to Chapter 61G17-6.003 through 6.004, Florida Administrative Code. They revealed the following:

(1) 61G17-6.003(1)(c)- No calculations are provided for processed data.

(2) 61G17-6.003(1)(c)- No closed figure and no redundancy are shown in field notes provided.

(3) 61G17-6.003(3)(j)- Survey says the bearing was based upon the record plat, but the plat shows angles and not bearings.

(4) 61G17-6.003(3)(c)- LB number of the corporation cannot be found on the survey.

(5) 61G17-6.003(3)(d)- The field notes are dated 8-10-06 and the survey is dated 8-12-06.

(6) 61G17-6.004(2)(a)2- No ties to plat PRM's or block corner of plat were shown.

Without these ties, a determination of boundary position cannot be made.

(7) 61G17-6.004(2)(a)9 a- No tie to PRM or other identifiable property marker.

(8) 61G17-6.004(2)(a)9 b- POB and other calls in description not noted on survey.

(9) 61G17-6.004(2)(a)9 c- No comparison between deed, plat and field measurements shown.

(10) 61G17-6.004(2)(a)8 d- The remainder of lots 8 and 9 are not dimensioned.

(11) 61G17-6.004(2)(c)3- Improvements not tied or dimensioned on the survey map.

COUNT I

9. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of Rule 61G17-6.003(1)(c), Florida Administrative Code, by failing to provide sufficient data in measurements and computation records to ensure that the accuracy portion of the Minimum Technical Standards are met.

COUNT II

10. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of Rule 61G17-6.003(1)(c), Florida Administrative Code, by failing to provide a closed figure in the field notes.

COUNT III

11. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of Rule 61G17-6.003(3)(j), Florida Administrative Code, by failing to reference all bearings on the survey.

COUNT IV

12. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.003(3)(c), Florida Administrative Code, by failing to put business information on the survey.

COUNT V.

13. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of, Rule 61G17-6.003(3)(d), Florida Administrative Code, by failing to provide all field work and revision dates.

COUNT VI

14. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of, Rule 61G17-6.004(2)(a)2, Florida Administrative Code, by failing to make a determination of the position of the boundary on real property.

COUNT VII

15. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of, Rule 61G17-6.004(2)(a)9 a, Florida Administrative Code, by failing to establish a relationship between the parcel and at least one other identifiable real property corner.

COUNT VIII

16. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of, Rule 61G17-6.004(2)(a) 9 b, Florida Administrative Code, by failing to not calls in description.

COUNT IX

17. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of, Rule 61G17-6.004(2)(a)9 c, Florida Administrative Code, by failing to compare the deed, plat and field measurements.

COUNT X

18. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of , Rule 61G17-6.004(2)(a)8 d, Florida Administrative Code, by failing to provide dimensions for the remainder of lots 8 and 9.

COUNT XI

19. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of , Rule 61G17-6.004(2)(c) 3, Florida Administrative Code, by failing to provide ties or dimensions for improvements on the survey map.

COUNT XII

20. Based on the foregoing, Respondent violated Section 472.033(1)(g), Florida Statutes, by failing to adhere to the requirements of the "Minimum Technical Standards," Florida Administrative Code.

WHEREFORE, Petitioner respectfully requests the Board enter an order imposing one or more of the following penalties: revocation or suspension of Respondent's license, imposition of an administrative fine not to exceed one thousand dollars (\$1,000.00) for each count or separate offense, issuance of a reprimand, placement of Respondent on probation, restriction of Respondent's authorized scope of practice, assessment of costs associated with investigation and prosecution, imposition of any or all penalties delineated within Section 455.227(2), Florida Statutes, and/or any other relief that the Board is authorized to impose pursuant to Chapters 455 and/or 472, Florida Statutes, and/or the rules promulgated thereunder.

Signed this 12th day of October 2007.



Eric R. Hurst
Assistant General Counsel

Counsel for the Department:
Eric R. Hurst
Assistant General Counsel
Florida Bar No. 0879673
Department of Business and
Professional Regulation
1940 North Monroe Street
Tallahassee, FL 32399-2202
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Case No. 2006-067399
ERH/jas/ecb

FILED
Department of Business and Professional Regulation
DEPUTY CLERK

CLERK *Brandon M. Nichols*
DATE *3-6-2008*

PCP: 10/9/07
Nobles, Echezabel, Poppell