

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. 2008-048586  
Agency Clerk #A64841

LARRY L. EVANS,  
Respondent,

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FINAL ORDER

**THIS CAUSE** came before the Board of Professional Surveyors and Mappers ("Board") pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on October 15, 2009, in Tallahassee, Leon County, State of Florida, for consideration of the Administrative Complaint, in the above styled case. Respondent was not present at the hearing. Petitioner was represented by Mr. Eric H. Miller, Esquire. The Board was represented by Mr. Bennett M. Miller, Esq.

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

1. Respondent was served with the Administrative Complaint.
2. A copy of the Administrative Complaint is attached as Exhibit "A" and incorporated herein.
3. No material facts are in dispute.
4. The Respondent waived his right to a hearing.
5. The case materials were entered into evidence.
6. The allegations of fact set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference, as the findings of fact of the Board.

7. 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.
8. The violations set forth warrant disciplinary action by the Board.

**THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:**

1. Respondent shall pay a fine in the amount of five hundred dollars (\$500.00), and investigative costs in the amount of five hundred and sixty-four dollars and seventy-three cents (\$564.73). Respondent shall remit the fines and costs to the Executive Director of the Board of Professional Surveyors and Mappers, 6500 Apalachee Pkwy., Tallahassee, FL 32399-6500. Said costs shall be paid within thirty (30) days after the date of the filing of this Final Order.
2. To assure payment of the fine and costs, it is further ordered that Respondent's license to practice shall be suspended with the imposition of the suspension being stayed for thirty (30) days from the date of the filing of this Final Order. If the ordered fines and costs are paid within that thirty (30) day period, the suspension imposed shall take effect. Upon payment of the fines and costs after the thirty (30) days, the suspension imposed shall be lifted. If the licensee does not pay the fines and costs within said period, then immediately upon expiration of the stay, he shall surrender his license to the Department of Agriculture and Consumer Services.
3. Respondent's license is hereby suspended. However, the suspension is stayed so long as the Respondent complies with the terms of probation.
  - (a) If the 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 the Respondent appears before the Board to demonstrate compliance with the Final Order.

- (b) 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, 6500 Apalachee Pkwy., Tallahassee, FL 32399-6500, within thirty (30) days of the entry of this Final Order.
- (c) Respondent shall complete a Minimum Technical Standards (MTS) continuing education course within ninety (90) days of the date of the 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, 6500 Apalachee Pkwy., Tallahassee, FL 32399-6500, within fourteen (14) days of the course completion.
- (d) 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 mail 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

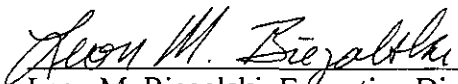
a full and complete review of the surveys, in accordance with Rules 61G17-9.006 and 61G17-9.007, Florida Administrative Code.

- (e) 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.
  - (f) The burden shall be solely upon the 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 Department.
  - (g) Should Respondent's license to practice surveying and mapping be suspended or otherwise placed in delinquent status, the probation period shall be tolled and shall resume running at the time Respondent reactivates the license. Respondent shall then serve the remaining time in the term of probation.
4. Should Respondent violate any condition of the probation, it shall be considered a violation of Section 472.033(1)(h), F.S. and may result in further disciplinary action by the Board.

5. 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 being filed with the Agency Clerk of the Department of Agriculture and Consumer Services, whose seal is affixed hereon.

DONE AND ORDERED this 9<sup>th</sup> day of November, 2009.

  
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 10<sup>th</sup> day of November, 2009.

  
Agency Clerk

Copies by Certified U.S. Mail, RRR, # 7006 0100 0003 1115 8720 :

Respondent Name & address:

Mr. Larry L. Evans, 1460 Beltrees St., Dunedin, FL 34698

By hand delivery:

Bennett Miller, Board Counsel

Eric H. Miller, Prosecuting Attorney

<b>FILED</b>	
<small>Department of Business and Professional Regulation</small>	
<small>Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	8/7/2009
File #	

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. 2008-048586

LARRY L. EVANS,

Respondent.

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ADMINISTRATIVE COMPLAINT

Petitioner, Department Of Business and Professional Regulation, files this Administrative Complaint before the Board of Professional Surveyors and Mappers, against Respondent, Larry L. Evans, 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 to this complaint, Respondent was licensed professional surveyor and mapper in the State of Florida, having been issued license number LS 2937.

3. Respondent's address of record is 1460 Beltrees St., Ste. 9, Dunedin, FL 34689.

4. A complaint was filed by Danielle Wingate alleging that an elevation certificate prepared by Respondent in 2003 was incorrect.

5. Respondent made an error of 1.4 feet on the elevation certificate by measuring from the wrong supporting beam.

6. Section 472.033(1)(g), Florida Statutes, states in pertinent part:

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 the disciplinary action in subsection (2) may be taken.

7. Based on the foregoing, Respondent has violated Section 472.033(1)(g), Florida Statutes, by negligently preparing Ms. Wingate's elevation certificate.

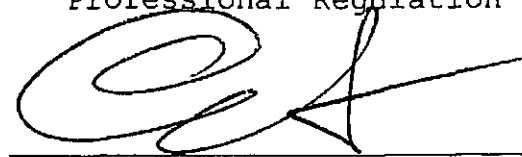
WHEREFORE, Petitioner respectfully requests an order from the Board imposing one or more of the following penalties: imposition of an administrative fine not to exceed one thousand dollars (\$1,000.00) for each count or separate offense, issuance of a reprimand, assessment of costs associated with investigation and prosecution, imposition of any or all penalties delineated within Section 455.227(2), Florida Statutes, and/or any other relief that the Board or the Department is authorized to impose pursuant to Chapters 455

and/or 472, Florida Statutes, and/or the rules promulgated thereunder.

Signed this 30<sup>th</sup> day of July, 2009.

CHARLES W. DRAGO, Secretary  
Department of Business and  
Professional Regulation

By:



Eric R. Hurst  
Assistant General Counsel  
Florida Bar No. 0879673  
Department of Business and  
Professional Regulation  
Office of the General Counsel  
1940 N. Monroe Street, Ste. 42  
Tallahassee, FL 32399-2202  
(850) 921-8656 Telephone  
(850) 414-6749 Facsimile

PCP Date: 7-28-09  
PCP Members: Hastonia, Pappell & Bush

ERH/kem

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoenas and subpoenas duces tecum issued on his or her behalf if a hearing is requested. Rule 28-106.111, Florida Administrative Code, provides in part that if Respondent fails to request a hearing within twenty-one (21) days of receipt of an agency pleading, Respondent waives the right to request a hearing on the facts alleged.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 455.227(3)(a), Florida Statutes, the Board, or the Department when there is no Board, may assess costs related to the investigation and prosecution of the case excluding costs associated with an attorney's time, against the Respondent in addition to any other discipline imposed.