

**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. 2007-48159

Agency Clerk No. A65518

DEL WILLIAM HAYNER,

Respondent,

CORRECTED 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 January 12, 2010, in the City of Tallahassee, Leon County, State of Florida, via teleconference, for consideration of a previous Final Order. The Board was represented by Mr. Bennett M. Miller, Esquire.

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

1. The Board entered a previous Final Order in this cause on September 8, 2009.
2. A copy of the previous Final Order is attached hereto and incorporated herein as Exhibit “A”.
3. Due to a clerical error, terms and conditions were omitted from the Final Order.
4. The Department has the authority to correct clerical errors and errors arising from mistake or inadvertence which are contained in its final orders. *Taylor v. Dept. of Professional Regulation*, 520 So. 2d 557, 560 (Fla. 1988); *Johnson v. Terry Hunt Construction Company*, 878 So. 2d 1282, 1284 (Fla. 1st DCA 2004).


THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. All of the terms and conditions of the previous Final Order are readopted and incorporated into this Final Order.
2. Respondent shall comply with the terms and conditions as stated in the previous Final Order, including the **RESTRICTION ON PRACTICE** to the assessment and issuance of Federal Emergency Management Agency (FEMA) elevation certificates or any documents relating thereto, or in support of, elevation certificates, including the filing of a letter of map amendment application or flood zone determination form.
3. The Respondent shall provide to the Executive Director a quarterly report demonstrating the types of surveys performed during the previous quarter. Said report shall be delivered to the Executive Director no less than four (4) times each year and cover a time period of no less than ninety (90) days. The first report is due on the first day of the month following the entry of this Final Order, unless the Final Order is filed on or after the twentieth (20) day of the month. In such a case, the report shall be due on the first day of the month following the next calendar month. The report shall provide sufficient detail so that the Executive Director can determine the name of the person requesting the survey, the location of the real property surveyed, and the type of survey performed.
4. The Respondent shall deliver the reports to the Executive Director of the Board of Surveyors and Mappers, 2005 Apalachee Pkwy., Tallahassee, FL 32399-6500.
5. Failure to provide the quarterly report may result in an order to appear in front of the Probation Committee to show cause why licensure suspension is not appropriate in

this case. In addition, failure to provide the quarterly report may result in subsequent disciplinary action against the Respondent's license.

6. 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.

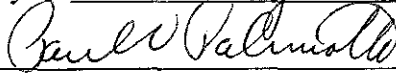
DONE AND ORDERED this 15th day of January, 2010.


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 1st day of February, 2010.


Agency Clerk

Copies by Certified U.S. Mail, RRR, # 7006 0100 0003 1115 9451 :
Respondent Name & address:
Del William Hayner, 1603 Adrian Street, Port Charlotte, FL 33952

By hand delivery:
Bennett Miller, Board Counsel
Eric H. Miller, Prosecuting Attorney

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	9/8/2009
File #	2009-07384

STATE OF FLORIDA
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
Petitioner,

-vs-

CASE NO.: 2007-048159

LICENSE NO.: LS 4058

DEL WILLIAM HAYNER,
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 July 30, 2009 in Tallahassee, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A), in the above-styled case. The Board had considered a settlement stipulation at the April 2009 meeting of the Board. That stipulation was rejected. Respondent submitted a letter requesting an appearance before the Board, stating he wanted to explain his extenuating circumstances. Respondent was present at the hearing. Petitioner was represented by Eric R. Hurst, Esquire.

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

1. No material facts are in dispute.

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

3. 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.

4. 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 shall pay a fine in the amount of seven hundred fifty dollars (\$750), and investigative costs in the amount of seven hundred forty eight dollars and twenty five cents (\$748.25). 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 of the date of filing of the Final Order.

(b) 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.

(c) Respondent's license is RESTRICTED to assessment and issuance of Federal Emergency Management Agency (FEMA) elevation certificates only.

(d) Respondent is prohibited from correspondence and advertisement which indicate he is qualified for land surveying and mapping, other than for the limited purpose of assessment and issuance of Federal Emergency Management Agency (FEMA) elevation

certificates.

(e) Respondent shall complete a Minimum Technical Standards (MTS) continuing education course within one year 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, P.O. Box 5377 Tallahassee, Florida 32314-5377, within 14 days of the course completion.

(f) Respondent shall complete a FEMA certification course within one year 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, P.O. Box 5377 Tallahassee, Florida 32314-5377, within 14 days of the course completion.

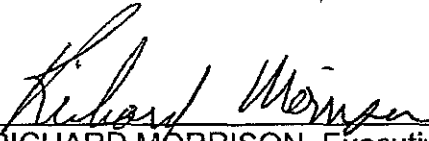
2. Respondent must petition the Board for removal of license restriction. The Board reserves the right to impose conditions upon license at that time.

3. 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.

4. A change in licensure status, including the suspension, revocation, voluntary relinquishment, or involuntary relinquishment of your 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 _____, 2009.



RICHARD MORRISON, Executive Director
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: DEL WILLIAM HAYNER, 1603 Adrian Street, Port

Charlotte, FL 33952 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 Surveyors and Mappers, P.O. Box 5377 Tallahassee, Florida 32314-5377; and Diane L. Guillemette, Senior Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on or before 5:00 p.m., this 8th day of September, 2009.

Brandon M. Nichols

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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.

DBPR Case No. 2007-048159

DEL WILLIAM HAYNER,

Respondent.

SETTLEMENT STIPULATION

DEL WILLIAM HAYNER, hereinafter referred to as "Respondent," and the Department of Business and Professional Regulation, hereinafter referred to as "Department," hereby stipulate and agree to the following joint Stipulation and Final Order of the Board of Professional Surveyors and Mappers, hereinafter referred to as "Board," incorporating this Stipulation and agreement in the above-styled matter.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed Surveyor and Mapper in the State of Florida, license number LS 4058. Respondent's address of record is 1603 Adrian Street, Pt. Charlotte, FL 33952.

2. Respondent is charged by an Administrative Complaint with three (3) violations of chapter 472, Florida Statutes, and/or the rules enacted pursuant thereto. A true and correct

copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit "A."

3. Respondent neither admits nor denies the matters of fact alleged in the Administrative Complaint attached hereto as Exhibit "A."

STIPULATED CONCLUSIONS OF LAW

4. Respondent in his capacity as a licensed Surveyor and Mapper admits that in such capacity he is subject to the provisions of chapters 455 and 472, *Florida Statutes*, and the jurisdiction of the Department and the Board.

5. Respondent admits that the facts set forth in the foregoing stipulated facts, if proven, would constitute a violation of chapter 472, *Florida Statutes*, as alleged in the Administrative Complaint.

6. Respondent agrees that the Board's acceptance of the Stipulation constitutes disciplinary action within the meaning of sections 472.033(1) and 455.227(1)(f), *Florida Statutes*.

STIPULATED DISPOSITION

7. Respondent shall not, in the future, violate chapters 455 and 472, *Florida Statutes*, or the rules promulgated pursuant thereto.

8. FINE: Pursuant to Rule 61G17-9.0025(3) and (18), *Florida Administrative Code*, the Board shall impose an

administrative fine in the amount of seven hundred fifty dollars (\$750.00). Said fine shall be paid by the Respondent 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 the Final Order by the Board of Professional Land Surveyors and Mappers, which Final Order incorporates this Stipulation. Respondent's failure to pay the fine by the time it is due may result in further disciplinary action by the Board.

9. COSTS: Respondent shall pay administrative costs, excluding attorney's fees, of seven hundred forty eight dollars and twenty five cents (\$748.25). Said costs shall be paid by the Respondent 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 the Final Order by the Board of Professional Surveyors and Mappers, which Final Order incorporates this Stipulation. Respondent's failure to pay the costs by the time due may result in further disciplinary action by the Board.

10. PROBATION: Respondent's license to practice surveying and mapping is hereby suspended. However, the suspension shall be stayed as long as the Respondent complies with the terms of probation. If the Respondent fails to comply with any term of probation, the stay shall be lifted and the matter shall be

deferred to the Department of Business and Professional Regulation for further disciplinary action.

Terms of probation shall be as follows: _____

A. Respondent shall submit proof of professional liability insurance 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 the Final Order by the Board of Professional Surveyors and Mappers, which Final Order incorporates this Stipulation.

B. Respondent shall attend and complete a Minimum Technical Standards (MTS) continuing education course within ninety (90) days from the date of entry of the Final Order by the Board of Professional Surveyors and Mappers, which Final Order incorporates this Stipulation. Respondent shall submit proof of completion of the above-mentioned course to the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0750, within the allotted time frame.

11. FUTURE SURVEY WORK: Respondent hereby attests that he does not perform boundary survey work in the state of Florida. Should Respondent decide to resume performing boundary surveys in the future, he shall notify the Board prior to beginning such work. At that time, Respondent's probation shall be reinstated.

Within one hundred twenty (120) days of resuming boundary survey

work, Respondent shall complete and submit one (1) set of six (6) surveys to the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0750, for review by the Board's Probation Committee in accordance with rules 61G17-9.006 and 61G17-9.007, Florida Administrative Code. The survey review shall be conducted in accordance with rules 61G17-9.006 and 61G17-9.007, Florida Administrative Code. If all six surveys meet minimum levels of competency and Respondent is in compliance with all terms of the Final Order, Respondent's term of probation shall be terminated. If such surveys fail to meet minimum levels of competency, Respondent shall submit a second set of six (6) surveys to the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0750, within thirty (30) days prior to the next regularly scheduled Board meeting for review by the Board's Probation Committee in accordance with rules 61G17-9.006 and 61G17-9.007, Florida Administrative Code. If such surveys again fail to meet minimum levels of competency, the matter shall be referred to the Department of Business and Professional Regulation for further disciplinary action.

12. Failure to comply with any of the terms of the stipulated agreement as modified by this Counter-Stipulation shall be considered a violation of probation.

13. It is expressly understood that a violation of the terms of this Stipulation shall be considered a violation of

chapter 472, *Florida Statutes*, for which disciplinary actions may be taken.

14. It is expressly understood that this Stipulation is subject to the approval of the Board and has no force and effect until the Board enters a Final Order adopting same.

15. This Stipulation is executed by Respondent for the purpose of avoiding further administrative action in this matter. In the event that the Stipulation is not approved by the Board, then neither party may use this Stipulation against the other, and the Stipulation shall be deemed null and void.

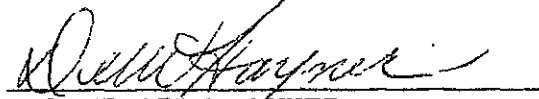
16. Respondent and the Department fully understand that this Stipulation, and the subsequent Final Order incorporating same, will not in any way preclude additional proceedings by the Board and/or Department against the Respondent for acts or omissions not specifically detailed in the investigative findings of probable cause.

17. Respondent and the Department expressly waive all further procedural steps, and Respondent expressly waives all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Stipulation and the Final Order of the Board, if said Stipulation is accepted by the Board and incorporated in the Final Order.


18. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this

disciplinary proceeding.

WHEREFORE, the parties hereto request the Board of Professional Surveyors ~~and Mappers~~ to enter a Final Order accepting and implementing the terms contained herein.


DEL WILLIAM HAYNER
Respondent

Approved this 2nd day of December 2008.


Eric R. Hurst
Assistant General Counsel

Counsel for the Department:

Eric R. Hurst
Assistant General Counsel
Florida Bar Number 0879673
Department of Business and
Professional Regulation
Office of the General Counsel
Northwood Centre
1940 North Monroe Street, Suite 42
Tallahassee, Florida 32399-2202

ERH/kem
Case Number: 2007-048159

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. 2007-048159

DEL WILLIAM HAYNER

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 DEL WILLIAM HAYNER ("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 4058.

3. Respondent's address of record with Petitioner is 1603 Adrian Street, Pt. Charlotte, FL 33952.

4. A complaint was filed by Stuart C. Rhodes alleging that a survey performed by Respondent, doing business under the name of Crest Engineering Associates of Florida, Inc., contained incorrect elevation measurements.

5. Section 472.033(1)(h), Florida Statutes, states in pertinent part:

Failing to perform any statutory or legal obligation placed upon a licensed surveyor and mapper constitutes grounds for which the disciplinary action in subsection (2) may be taken.

6. A review of Respondent's survey using the Minimum Technical Standards (MTS) pursuant to Chapter 61G17-6, Florida Administrative Code, revealed the following:

(1) 61G17-6.003(2)3- Field notes did not contain sufficient data to determine accuracy requirements were met.

(2) 61G17-6.003(3)(b)11.b- Abbreviations SI, CM, AC, Sly are not defined.

(3) 61G17-6.003(4)(2)(b)7 - Boundary monuments are not located by redundant measurement.

COUNT I

7. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.003(2)3, Florida Administrative Code, by failing to

include sufficient data in the field notes to determine accuracy requirements were met.

COUNT II

8. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.003(3)(b)11.b, Florida Administrative Code, by failing to define the abbreviations SI, CM, AC, and Sly in the survey.

COUNT III

9. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.003(4)(2)(b)7, Florida Administrative Code, by failing to locate boundary monuments by redundant measurements.

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 6th day of October, 2008.



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

ERH/kem
Case No. 2007-048159

PCP: Mastronicola, Echezabal, Rappell

9/30/08

FILED
Department of Business and Professional Regulation
DEPUTY CLERK

CLERK Brandon M. Nichols
DATE 10-27-2008