

**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. 2006-067400

CHARLES "ROB" DEFOOR & ASSOCIATES, INC.
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 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 2 of the Final Order is hereby stricken.
3. Respondent shall pay 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 \$100.00 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 0060 0002 4471 2161
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-2008-04790 Date: **6-2-08**

FILED

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

By:

Brandon M. Nichol

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

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
Petitioner,

-vs-

CASE NO.: 2006-067400

CHARLES "ROB" DEFOOR & ASSOCIATES, INC.,

LICENSE NO.: LB 4983

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. Charles Defoor was present at the hearing with Counsel, Hans Kennon, Esq., on behalf of Respondent. 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 is found as follows:

- a. The degree of harm to the consumer or public,
- b. The disciplinary history of the licensee,
- c. The length of time the licensee has practiced,
- d. The licensee's efforts at rehabilitation, and
- e. *The degree of financial hardship incurred by the licensee.*

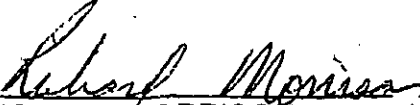
6. The violations set forth warrant disciplinary action by the Board.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent's license No.: LB 4983, is hereby **REPRIMANDED**.
2. Respondent shall pay investigative costs in the amount of Four Hundred Eighty Three Dollars and Ninety Eight Cents (\$483.98). Said costs shall be paid within thirty (30) days after the date of filing of the Final Order.
3. 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 _____, 2008.


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: CHARLES "ROB" DEFOOR & ASSOCIATES, INC., 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 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.

Brandon M. Nible

F:\Users\ADMIN\ Diane\administrative law\ S & M\Orders\2008\April.wpd\Defcor& ass.wpd

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. 2006-067400

CHARLES "ROB" DE FOOR & ASSOCIATES INC.,

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 "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 business in the State of Florida, having been issued license number LB 4189.
3. Respondent's address of record with Petitioner is P. O. Box 1763, Apopka, FL 32704.
4. On November 8, 2006, 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
Telephone: (850) 921-8656
Case No. 2006-067400
ERH/jas/ecb

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

FILED
Department of Business and Professional Regulation
DEPUTY CLERK
CLERK *Brandon M. Nichols*
DATE 3-6-2008