

**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. 2009020534

THOMAS E. JENKINS, JR.,
Respondent,

CORRECT FINAL ORDER APPROVING SETTLEMENT STIPULATION

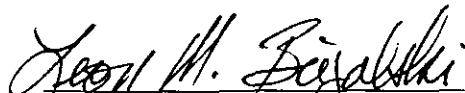
THIS CAUSE came before the Board of Professional Surveyors and Mappers (“Board”) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, at a meeting held on February 17, 2010, in the City of Tallahassee, Leon County, State of Florida, for the purpose of considering a proposed Settlement Stipulation (“Stipulation”) entered into by the parties in the above styled cause. The proposed Stipulation is hereby approved and adopted. A copy of the Stipulation is attached hereto as Exhibit “A” and incorporated herein. Respondent was present at the hearing. Petitioner was represented by Mr. Eric H. Miller, Esquire.

Upon consideration of the Administrative Complaint, the proposed Stipulation, and the presentation of the parties, and being otherwise fully advised of the premises, the Board rejected the stipulation and offered a counterstipulation which was accepted by the parties on the record. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the counterstipulation.

The counterstipulation incorporates the terms of the original stipulation (attached as Exhibit A) with the following amendments:

1. The portion of Paragraph 11 which reads “ ... Two Thousand Seven Hundred and Fifty and No/100 dollars (\$2750.00) ... “ is hereby stricken and replaced with the following “ ... Five Thousand dollars (\$5,000.00) ... ”
2. The Respondent shall pay \$115.81 per month for 48 months toward the payment of fines and costs or until fines and costs are paid in full. Payment is due on the first day of each calendar month. To the extent the terms of the Stipulation conflict with this paragraph, this paragraph shall control.
3. The Respondent shall attend and complete a Boundary Course, which may not be credited towards license renewal requirements within 180 days of this Final Order.
4. All other terms and conditions as stated in the Stipulation must be completed, unless specifically set aside under the terms of this Final Order.
5. Failure to comply with the terms of this Final Order and accompanying Stipulation, including timely payment of any fines and/or costs assessed, shall cause the Respondent to be subjected to further discipline.
6. This 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 28th 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 7th day of May, 2010.



Agency Clerk

Copies by Certified U.S. Mail, RRR# 7009 0080 0002 4471 2192
Thomas E. Jenkins, Jr. 2910 Bonifay Gritney Road, Bonifay, FL 32425

By hand delivery:
Bennett M. Miller, Board Counsel

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

DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES,

Petitioner,

v.

Case No. 2009-020534
Agency Clerk No. A64813

THOMAS E. JENKINS, JR.,

Respondent.

SETTLEMENT STIPULATION

Petitioner, the Department of Agriculture and Consumer Services, ("Department") and Thomas E. Jenkins ("Respondent"), pursuant to §120.57(4), Florida Statutes, stipulate and agree to the following joint Stipulation and Final Order of the Board of Professional Surveyors and Mappers ("Board"):

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed Surveyor and Mapper in the State of Florida, license number LS 4063. Respondent's address of record is 2910 Bonifay Gritney Rd., Bonifay, FL 32425.
2. Respondent was charged by an Administrative Complaint, alleging Respondent violated Chapter 472, Florida Statutes, and/or other applicable statute, 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 admits, without reservation, all facts alleged in the Administrative Complaint. Said facts are incorporated into this Settlement Stipulation by reference.

STIPULATED CONCLUSIONS OF LAW

4. As a licensed Professional Surveyor and Mapper, Respondent admits he is subject to the provisions of Chapter 472, Florida Statutes, and to the jurisdiction of the Department and the Board.

5. Respondent admits the facts set forth in the foregoing stipulated facts, if proven, would constitute one or more violations of Chapter 472, Florida Statutes, as alleged in the Administrative Complaint.

6. Respondent agrees the Board's acceptance of the Stipulation constitutes disciplinary action within the meaning of §§472.033 and 472.0351, Florida Statutes.

STIPULATED DISPOSITION

7. From the date of entering this Settlement Stipulation, Respondent shall not violate Chapter 472, Florida Statutes, or the administrative rules promulgated pursuant thereto.

8. **FINE:** Pursuant to Florida Administrative Code Rules 61G17-9.0015(2)(g) and (2)(h), the Board shall impose total administrative fines in the amount of Two Thousand Seven Hundred Fifty and No/100 Dollars (\$2,750.00). Said fines shall be paid by the Respondent to the Executive Director of the Board of Professional Surveyors and Mappers, Department of Agriculture and Consumer Services, 2005 Apalachee Parkway, Tallahassee, Florida 32301, 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 Five Hundred Fifty Eight and 88/100 Dollars (\$558.88). Said costs shall be paid by the Respondent to the Executive Director of the Board of Professional Surveyors and Mappers, Department of Agriculture and Consumer Services, 2005 Apalachee Parkway, Tallahassee, Florida 32301, 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. **SUSPENSION OF LICENSE; STAY; 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. Probation shall take effect from the date of filing the Board's Final Order in this matter. If Respondent fails to comply with any terms of probation, the stay shall be lifted and the matter shall be referred to the Department for further disciplinary action.

Terms of probation shall be as follows:

a. All documents required to be submitted by Respondent under this paragraph 10 shall be filed with the Executive Director of the Board of Professional Surveyors and Mappers, 2005 Apalachee Parkway, Tallahassee, Florida 32301 ("Board Office").

b. Respondent may commence and complete performance of these terms of probation no earlier than the date on which the Board approved this Settlement Stipulation, which is listed below. Continuing education courses completed as part of this probation shall not

be counted toward the continuing education requirement for renewal of the Respondent's license under Chapter 472, Florida Statutes.

c. Respondent shall 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 within the allotted time frame.

d. Respondent shall provide the Board with a list of all signed and sealed surveys, containing a minimum of six (6) surveys that have been performed by Respondent, for or without compensation, within 120 days of completing any and all continuing education courses required by the Board. The Board's Probation Chair will randomly select (6) of Respondent's signed and sealed surveys for review from the survey list submitted by Respondent. Within five (5) calendar days of being notified by the Board of the surveys that have been selected for review, Respondent shall have post-marked and submitted to the Board Office signed and sealed surveys for the surveyed properties selected for review, along with copies of the relevant field notes, the relevant full size record plats, all measurement and computational records, and all other documents necessary for a full and complete review of the surveys, in accordance with Florida Administrative Code Rules 61G17-9.006 and 61G17-9.007. Respondent must attend the Probation Committee meeting at which the surveys are to be reviewed. Failure to comply with this provision may result in Respondent being referred to the Department for non-compliance with the final order of the Board, and the Board may lift the stay of suspension.

e. Respondent shall submit proof of professional liability insurance pursuant to

§472.015(5), Florida Statutes, to the Board Office 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, or a statement that professional liability insurance is not required.

11. Respondent understands a violation of any term of this Stipulation constitutes a violation of Chapter 472, Florida Statutes, for which disciplinary action may be taken.

12. Respondent understands 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.

13. Respondent executes this Stipulation to avoid further administrative action in this matter. If this Stipulation is not approved by the Board, then neither party may use this Stipulation against the other and this Stipulation shall be deemed null and void.

14. Respondent understands 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.

15. Respondent and the Department expressly waive all further procedural steps, and Respondent expressly waives all rights to seek any hearing on the facts of this matter, including any hearing under Chapter 120, Florida Statutes. Respondent also waives all rights to confront any witnesses against the Respondent, refute any evidence presented against the Respondent, and present any defenses to the Administrative Complaint, as well as 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.

16. Respondent waives the right to seek any attorney's fees or costs from the

Department in connection with this disciplinary proceeding or any appeal thereafter.

17. Respondent carefully read the Administrative Complaint and this Settlement Stipulation. Respondent enters into this Settlement Agreement because the Respondent acknowledges guilt and believes this Settlement Agreement is in Respondent's best interests.

18. Respondent enters into this Settlement Stipulation freely and voluntarily. Respondent acknowledges no promises were made to the Respondent regarding the disposition of this case or any other case that may be pending now or in the future before this Board, except the terms of this Settlement Stipulation.

19. Respondent understands the Counsel for the Department does not represent the Respondent as an attorney in this case, Respondent may hire and be represented by a separate attorney in this matter, and, if represented by a separate attorney, Respondent is satisfied with that attorney's advice and help.

20. Respondent understands the Final Order entered in this case may be used in future cases to seek enhanced penalties if Respondent commits a violation after the filing date of this Settlement Stipulation and Final Order.

21. If Respondent holds any other professional or occupational license, Respondent understands and acknowledges this Settlement Stipulation and Final Order may be used as grounds for discipline against any other license held by the Respondent

22. Venue for any action arising out of this Settlement Agreement and Final Order shall be in Leon County, Florida.

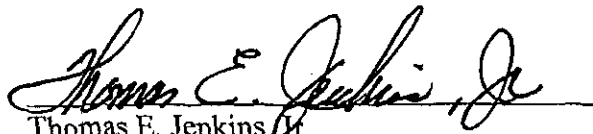
23. This Settlement Stipulation constitutes the entire agreement between the Department and Respondent, including anyone acting for, associated with, or employed by either

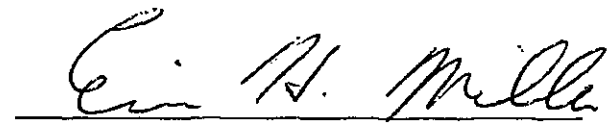
party, concerning only those matters specified above and supersedes any prior discussions, agreements, or understandings. No modification or waiver of any provision is valid unless the parties complete and properly executed a written amendment to the Settlement Stipulation.

24. This Settlement Stipulation is and shall be deemed jointly drafted and written by all parties to it and shall not be construed or interpreted against any party.

25. To the extent any portion of this Settlement Stipulation is prohibited by law for any reason, such prohibition shall not affect any other provision of this Settlement Stipulation.

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


Thomas E. Jenkins, Jr.
LS 4063
Date: 11-25-09


Eric H. Miller, Senior Attorney
Florida Bar No. 0410586
Dept. of Agriculture and Consumer Services
2005 Apalachee Parkway
Tallahassee, Florida 32301
(850) 410-3775
(850) 410-3797 (telefacsimile)
millere1@doacs.state.fl.us
Date: 12/9/2009

Approved by the Board at its General Meeting held on February 17, ~~2009~~ ²⁰¹⁰.