

**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. 2009010764

MONA M. MARTIN,
Respondent,

FINAL ORDER APPROVING SETTLEMENT STIPULATION

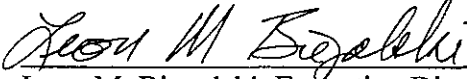
THIS CAUSE came before the Board of Professional Surveyors and Mappers (“Board”) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, at a meeting held on February 17, 2010, in Tallahassee, Leon County, State of Florida, for determination of whether to accept the proposed Settlement Stipulation (“Stipulation”) entered into by the parties in the above styled cause. Respondent was not 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, **IT IS HEREBY ORDERED AND ADJUDGED:**

1. The proposed Stipulation is hereby approved and adopted. A copy of the Stipulation is attached hereto as Exhibit “A” and incorporated herein.
2. The parties shall adhere to and abide by all the terms and conditions of the Stipulation.

3. Failure to comply with the terms of the Stipulation, including timely payment of any fines and/or costs assessed, shall cause the Respondent to be subjected to further discipline.
4. 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 4th day of March, 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 30th day of March, 2010.


Agency Clerk

Copies by Certified U.S. Mail, RRR# 7009 2250 0003, 5751 3335

Mona Martin 2668 Mona Lane, Compass Lake, FL 32420

By U.S. Mail:

Rex. D. Ware, Esq., Fowler, White, Boggs, P.A., 101 N. Monroe Ste. 1090, Tallahassee, FL 32301

By hand delivery:

Bennett M. Miller, Board Counsel

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

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

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DBPR Case No. 2009-010764

MONA M. MARTIN,

Respondent.

SETTLEMENT STIPULATION

MONA M. MARTIN, 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 6111. Respondent's address of record is 2668 Mona Lane, Compass Lake, FL 32420.

2. Respondent is charged by an Administrative Complaint with seven (7) 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 her capacity as a licensed Surveyor and Mapper admits that in such capacity she 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 one thousand seven hundred fifty dollars (\$1,750.00). 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 two hundred eight seven dollars and ninety three cents (\$287.93). 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 provide the Board with a list of all signed and sealed surveys within 120 days of the entry of the Final Order by the Board of Professional Surveyors and Mappers, which Final Order incorporates this Stipulation. 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 sealed surveys, along with copies of the relevant field notes, the relevant full size records 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. If such surveys fail to meet minimum levels of competency, the matter shall be referred to the Department of Business and Professional Regulation for further disciplinary action.

C. 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.

D. Respondent shall successfully complete a boundary control course within ninety (90) days from the date of entry of this final order. Respondent shall submit proof of completion of the above-mentioned course to the Board office within the allotted time frame.

E. Failure to comply with any of the terms of the stipulated agreement shall be considered a violation of probation.

11. 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.

12. 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.

13. 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.

14. 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.


15. 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.

16. Respondent waives the right to seek any attorney's

fees or costs from the Department in connection with this disciplinary proceeding.

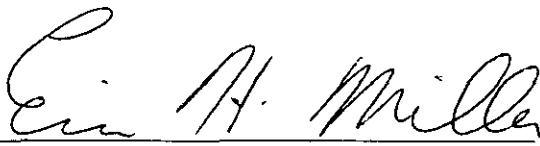
WHEREFORE, the parties hereto request the Board of Professional Surveyors and Mappers to enter a Final Order accepting and implementing the terms contained herein.

Signed this 8TH day of JAN. 2010.



MONA M. MARTIN
Respondent

Approved this 8th day of March 2010.



Eric H. Miller
Senior Attorney

Counsel for the Department:

Eric H. Miller
Senior Attorney
Florida Bar Number 0410586
Department of Agriculture and
Consumer Services
2005 Apalachee Parkway
Tallahassee, Florida 32399-6700

Case Number: 2008-043157

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

DEPARTMENT OF BUSINESS AND
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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, Mona M. Martin, 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 6111.

3. Respondent's address of record is 2668 Mona Lane, Compass Lake, FL 32420.

4. A complaint was filed by Dicie M. Jones alleging that Respondent's survey of the property adjacent to her property, dated June 7, 2007, contained several errors.

5. A review of Respondent's survey dated June 7, 2007 using the Minimum Technical Standards (MTS) pursuant to Chapter 61G17-6, Florida Administrative Code, revealed the following:

a. 61G17-6.003(3)(p)2.b- The horizontal feature accuracy can not be confirmed based on the description attached to the survey. There is an error in the call of 103.63 feet to the southerly bank of the river. The next call in the description is along the southerly bank, but is actually the monumented witness line along the bank. These errors in the calls in the description do not mathematically close.

b. 61G17-6.004(2)(a)9.d- Although Note 8 states that the surveyor did some research on the adjoining properties, there are no references to any recorded instruments shown for any of the adjoining lands.

c. 61G17-6.004(2)(c)2.d- There is doubt as to the location on the ground of the property boundaries due to the error made in the determination of the position of the boundary.

d. 61G17-6.004(2)(c)3- The survey failed to show the existing wood shed, well, corner of the house encroachment, septic tank or overhead power lines and poles that were located on the property being surveyed.

e. 61G17-6.004(2)(c)4- The survey failed to show any apparent use from the existing improvements from the adjoining property.

f. 61G17-6.004(2)(e)2- There is an existing overhead power line crossing the surveyed parcel that was not shown or noted.

6. 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.

7. 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.

COUNT I

8. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.003(3)(p)2.b, Florida Administrative Code, by making errors in the calls which resulted in the inability to confirm the horizontal feature accuracy.

COUNT II

9. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.004(2)(a)9.d, Florida Administrative Code, by failing to show references to any recorded instruments for any of the adjoining lands.

COUNT III

10. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.004(2)(c)2.d, Florida Administrative Code, by creating doubt as to the location on the ground of the property boundaries due to the error made in the determination of the position of the boundary.

COUNT IV

11. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.004(2)(c)3, Florida Administrative Code, by failing to show the existing wood shed, well, corner of the house

encroachment, septic tank or overhead power lines and poles that were located on the property.

COUNT V

12. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.004(2)(c)4, Florida Administrative Code, by failing to show any apparent use from the existing improvements from the adjoining property.

COUNT VI

13. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.004(2)(e)2, Florida Administrative Code, by failing to show or note an existing overhead power line crossing the surveyed parcel.

COUNT VII

14. Based on the foregoing, Respondent has violated Section 472.033(1)(g), Florida Statutes, by negligently preparing the survey dated June 7, 2007.

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 August, 2009.

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

By: Eric R. Hurst

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
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(850) 921-8656 Telephone
(850) 414-6749 Facsimile

PCP Date: 7-28-09

PCP Members: Mastronicola, Poppell & 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.