

**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. 2006-17122
Agency Clerk No. A65517

MARCEL GUSTAVE MAYER,
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 Tallahassee, Leon County, State of Florida, via teleconference, for consideration of a previous Final Order. Respondent was served notice of the hearing by U.S. Mail to Respondent’s last known address of record. The Board was represented by Mr. Bennett M. Miller, Esquire.

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

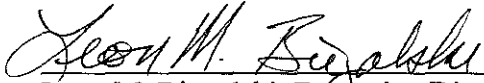
1. The Board entered a previous Final Order in this cause.
2. The Administrative Complaint attached to the previous Final Order was not the Administrative Complaint filed in this cause.
3. A copy of the correct Administrative Complaint is attached hereto and incorporated herein as Exhibit “1”.
4. A copy of the previous and incorrect Administrative Complaint is attached hereto and incorporated herein as Exhibit “2”

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. The Board hereby strikes Exhibit "A" from the previous Final Order and incorporates the remaining portions of the Final Order to this Corrected Final Order by reference.
2. A copy of the correct Administrative Complaint is attached hereto and incorporated herein as Exhibit "1".
3. A copy of the previous Final Order is attached hereto and incorporated herein as Exhibit "2".
4. Respondent shall comply with the terms and conditions as stated in the previous Final Order.
5. Failure to comply with the terms and conditions may result in subsequent disciplinary action against the Respondent.

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.

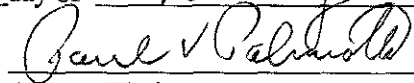


Leon M. Biegalski, Executive Director,
Board of Professional Surveyors and Mappers
For JEFFERY COONER, Chair

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 9468:
Respondent Name & address:
Marcel Mayer, 1298 Lakeview Rd., Clearwater, FL 33756

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

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. 2006-017122

MARCEL GUSTAVE MAYER,

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 MARCEL GUSTAVE MAYER ("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 4495.

3. Respondent's address of record with Petitioner is 1298 Lakeview Rd., Clearwater, FL 33756.

10/27/2008

EXHIBIT "1"

4. A complaint was filed by Nicole Shugars alleging that Respondent allowed his office staff to affix his signature and seal upon surveys which Respondent prepared.

5. Respondent's former employees Natalie Reyes, Jay M. Jankens and Nicole Shugars all stated that they either personally signed Respondent's name to surveys or witnessed other non-licensed employees signing surveys.

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. Rule 61G17-7.002(2), Florida Administrative Code, states in pertinent part:

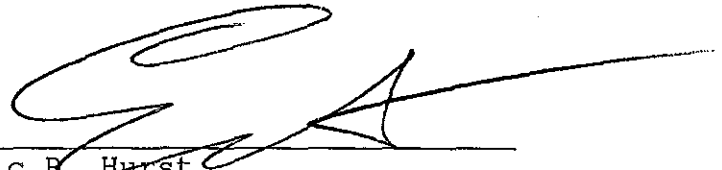
A licensee who allows another person to sign a map prepared or issued by or under the supervision of the licensee is guilty of misconduct

8. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-7.003(2), Florida Administrative Code, by allowing his office staff to sign surveys he prepared.

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 9th 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

FILED
Department of Business and Professional Regulation
DEPUTY CLERK
CLERK Brandt M. Nichols
DATE 10-27-2008

ERH/kem
Case No. 2006-017122

PCP: Mastronicola, Echezabal, & Boppell
9/30/08

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

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
Petitioner,

-vs-

CASE NO.: 2006-17122

LICENSE NO.: LS 4495

MARCEL GUSTAVE MAYER,
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. Respondent was served with the Administrative Complaint by publication. Respondent did not return an election of rights. Respondent was not present at the hearing. 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. 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), and investigative costs in the amount of seven hundred twenty eight dollars and sixty five cents (\$728.65). 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 after the date of filing of the 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 the Final Order. If the ordered fine and costs are paid within that thirty (30) day period, the suspension imposed shall not take effect. Upon payment of the fine and costs after the thirty (30) days, the suspension imposed shall be lifted. If the licensee does not pay the fine and costs within said period, then immediately upon expiration of the stay, he shall surrender his license to the Department of Business and Professional Regulation.

3. Respondent is placed on probation concurrent with the probation imposed in Case no.: 2006-012745.

(a) 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.

(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, P.O. Box 5377, Tallahassee, Florida 32314-5377, 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 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.

(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 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 the Department.

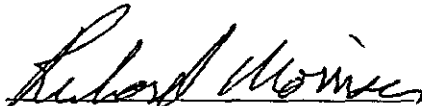
(g) Should Respondent's license to practice surveying and mapping be suspended or otherwise placed on inactive status, the probation period shall be tolled and shall resume running at the time Respondent reactivates the license. Respondent shall then serve the time remaining in the term of probation.

4. Should Respondent violate any condition of the probation, it shall be considered a violation of Section 472.033(1)(h), F.S., and shall 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 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
For JEFFERY COONER, Chair

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: MARCEL GUSTAVE MAYER, 1298 Lakeview Rd.,

Clearwater, FL 33756, and c/o Grayden M. Dough, Esq., Kruk & Dough, P.L., 2575 Harn Boulevard, Suite B, Clearwater FL 33764, and by hand/interoffice delivery to: Eric R. Hurst, Esq., Office of the General Counsel, P.O. Box 5377, Tallahassee, Florida 32314-5377; 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 4th 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.

Case No. 2006-012745

MARCEL GUSTAVE MAYER,

Respondent.

ADMINISTRATIVE COMPLAINT

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Signed this 9th 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

FILED
Department of Business and Professional Regulation
DEPUTY CLERK

CLERK Brandon M. Nichols
DATE 10-27-2008

ERH/kem
Case No. 2006-017122

PCP: Mastronicola, Echezabal & Poppell
9/30/08