

**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. 2008-012960
Agency Clerk #A64838

VICTOR G. SCHUMER,
Respondent,

FINAL ORDER APPROVING SETTLEMENT STIPULATION

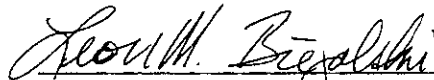
THIS CAUSE came before the Board of Professional Surveyors and Mappers (“Board”) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, at a meeting held on October 15, 2009, in Tallahassee, Leon County, State of Florida, for determination of whether to accept a proposed Settlement Stipulation (“Stipulation”) entered into between the parties in the above styled cause. Respondent was not present at the hearing. Petitioner was represented by Mr. Eric H. Miller, Esquire. The Board was represented by Mr. Bennett M. Miller, Esq.

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.
2. A copy of the Administrative Complaint is attached hereto as Exhibit “A” and incorporated herein.
3. A copy of the Stipulation is attached hereto as Exhibit “B” and incorporated herein.
4. The parties shall adhere to and abide by all the terms and conditions of the Stipulation.

5. Failure to comply with the terms of the Stipulation, including timely payment of any fines and/or costs assessed, may 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 9th day of November, 2009.



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 10th day of November, 2009.



Agency Clerk

Copies by Certified U.S. Mail, RRR, # 7006 0100 0003 1115 8706 :
Respondent Name & address:
Schumer's Professional Surveying, Inc., 80 Olive Road, Pensacola, FL 32514

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

FILED	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	2/5/2009
File #	

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. 2008-012960

VICTOR G. SCHUMER

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 VICTOR G. SCHUMER ("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 3578.

3. Respondent's address of record with Petitioner is 80 Olive Rd., Pensacola, FL 32514.

4. A complaint was filed by Herbert H. Hall alleging that surveys performed by Respondent improperly moved the property lines of Mildred and Terry Hall seventy feet (70') onto his property.

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. Section 472.033(1)(g), Florida Statutes, states in pertinent part that:

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 actions may be taken.

7. A review of Respondent's surveys using the Minimum Technical Standards (MTS) pursuant to Chapter 61G17-6, Florida Administrative Code, and requirements set out in Chapter 177, Florida Statutes, revealed the following:

(1) 61G17-6.003(2)(b)3- No computation records were furnished with sufficient information to substantiate the survey and accuracy standards have been met.

(2) 61G17-6.003(3)15,b,ii- No proof was provided that assured the field measured control met the relative distance accuracy requirements. Data evidenced in the field notes did not

indicate redundant measurements or a closed geometric figure was used.

(3) 61G17-6.003(3)(b)5- Proof of Professional Liability Insurance coverage was not provided and lack of this insurance was not noted on the survey.

(4) 61G17-6.003(3)(b)7- The fences shown on the survey are not supported by the field notes.

(5) 61G17-6.004(2)(b)7- Redundancy of measurements were not made to set monumentation.

(6) 61G17-6.004(2)(c)1- Respondent was aware of conflicting boundary issues but did not show or describe these issues on the survey.

(7) 61G17-6.004(2)(c)1,c- Conflicting boundary lines or monuments are not shown on the survey.

(8) 61G17-6.004(2)(e)1- Fixed improvements are shown but are not dimensioned in reference to the boundaries.

(9) Section 177.507(1)- The south quarter of Section 33, T5N, R32W was used for alignment of the south line of this survey; however, there has not been a Certified Corner Record filed for this corner.

COUNT I

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

include computation records with sufficient information to substantiate the survey and accuracy standards were met in the survey.

COUNT II

9. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.003(3)15,b,ii, Florida Administrative Code, by failing to provide proof that assured the filed measured control met the relative distance accuracy requirements.

COUNT III

10. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.003(3)(b)5, Florida Administrative Code, by failing to provide proof of professional liability insurance coverage or noting the lack of insurance on the survey.

COUNT IV

11. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.003(3)(b)7, Florida Administrative Code, by failing to support the fences shown on the survey in the field notes.

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)(b)7, Florida Administrative Code, by failing to use redundancy of measurements to set monumentation.

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)(c)1, Florida Administrative Code, by failing to show or describe on the survey known boundary issues.

COUNT VII

14. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.004(2)(c)1,c, Florida Administrative Code, by failing to show conflicting boundary lines or monuments on the survey.

COUNT VIII

15. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of 61G17-6.004(2)(e)1, Florida Administrative Code, by failing to dimension fixed improvements in reference to the boundaries.

COUNT IX


16. Based on the foregoing, Respondent has violated Section 177.507(1), Florida Statutes, by using an un-certified corner for alignment of the south line of the survey, and is therefore subject to discipline pursuant to Rule 61G17-2.001(4), Florida Administrative Code, and Section 472.033(1)(h), Florida Statutes.

COUNT X

17. Based on the foregoing, Respondent has violated Section 472.033(1)(g), Florida Statutes, by negligently preparing the reviewed survey.

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 January, 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

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Case No. 2008-012960

PCP. Mastroneola & Poppee
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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. 2008-012960
2008-012963

VICTOR G. SCHUMER,
SCHUMER'S PROFESSIONAL SURVEYING, INC.

Respondent.

JOINT SETTLEMENT STIPULATION

VICTOR G. SCHUMER and SCHUMER'S PROFESSIONAL SURVEYING, INC., hereinafter referred to as "Respondents," 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 VICTOR G. SCHUMER was a licensed Surveyor and Mapper in the State of Florida, license number LS 3578. Respondent's address of record is 80 Olive Rd., Pensacola, FL 32514.

2. For all times pertinent hereto, Respondent SCHUMER'S PROFESSIONAL SURVEYING, INC. was a licensed Surveying and Mapping Business in the State of Florida, license number LB 6471. Respondent's address of record is 80 Olive Rd., Pensacola, FL 32514.

3. Respondents are charged by Administrative Complaints with violations of chapter 472, *Florida Statutes*, and/or the rules enacted pursuant thereto. True and correct copies of the Administrative Complaints are attached hereto and incorporated by reference as Exhibit "A."

4. Respondents neither admit nor deny the matters of fact alleged in the Administrative Complaints attached hereto as Exhibit "A."

STIPULATED CONCLUSIONS OF LAW

5. Respondents in their capacity as a licensed Surveyor and Mapper and licensed Surveying and Mapping Business admit that in such capacity they are subject to the provisions of chapters 455 and 472, *Florida Statutes*, and the jurisdiction of the Department and the Board.

6. Respondents admit that the facts set forth in the foregoing stipulated facts, if proven, would constitute violations of chapter 472, *Florida Statutes*, as alleged in the Administrative Complaints.

7. Respondents agree 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

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

9. VOLUNTARY RELINQUISHMENT: Respondent SCHUMER'S PROFESSIONAL SURVEYING, INC. hereby voluntarily relinquishes license number LB 6471.

10. FINE & COSTS: Pursuant to Rule 61G17-9.0025(3) and (18), Florida Administrative Code, the Board shall impose an administrative fine in the amount of two thousand five hundred dollars (\$2,500.00). Respondent shall also pay administrative costs, excluding attorney's fees, of seven hundred fifty three dollars and fifty three cents (\$753.53), for a total of **three thousand two hundred fifty three dollars and fifty three cents (\$3,253.53)**. Said fine and costs shall be paid by the Respondents in monthly payments of one hundred fifty dollars (\$150) to the Executive Director of the Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida 32399-0750, beginning thirty (30) days after the entry of the Final Order by the Board of Professional Land Surveyors

and Mappers, which Final Order incorporates this Stipulation. Respondents' failure to pay the fine by the time it is due may result in further disciplinary action by the Board. **Each Respondent is independently liable for satisfaction of the terms and conditions of this Stipulation. The Petitioner reserves the right to reopen the cases against both Respondents if the terms and conditions contained herein are not met in full.**

12. PROBATION: Respondent VICTOR SCHUMER'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 VICTOR SCHUMER 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 VICTOR SCHUMER shall provide the

Board with a list of signed and sealed surveys completed by Respondent, for or without compensation, 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 VICTOR SCHUMER 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
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Street, Tallahassee, Florida 32399-0750, within the allotted time frame.

D. Respondent VICTOR SCHUMER 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 as modified by this Stipulation shall be considered a violation of probation.

14. 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.

15. 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.

16. This Stipulation is executed by Respondents 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.

17. Respondents 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.

18. Respondents 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.

19. Respondents waive 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.

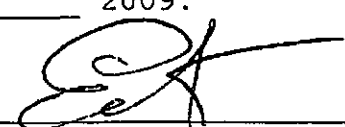
Signed this 25 day of July 2009.

Victor G. Schumer
VICTOR G. SCHUMER
Respondent

Victor G. Schumer - for the firm
SCHUMER'S PROFESSIONAL

SURVEYING, INC.
Respondent

Approved this 31st day of Apr 2009.


Eric R. Hurst
Chief Professions Attorney

Counsel for the Department:

Eric R. Hurst
Chief Professions Attorney
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

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