

**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. 2006017681

ROBERT D. WHITEHEAD,
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 probationary sentence imposed in the previous Final Order in the above styled cause. Respondent was present at the hearing. Petitioner was represented by Mr. Bennett M. 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. Although the Respondent failed to successfully complete the terms of the probationary sentence, probation is hereby reinstated as set forth herein.
2. The proposed Stipulation is hereby re-approved and re-adopted. A copy of the Stipulation is attached hereto as Exhibit “A” and incorporated herein.
3. The parties shall adhere to and abide by all the terms and conditions of the Stipulation, except as modified as set forth specifically in this Final Order. All other

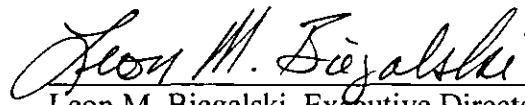
terms and conditions of the Final Order and Settlement Stipulation shall remain in full force and effect. In the event, the language in this Amended Final Order conflicts with the Final Order or the Stipulation, this Amended Final Order shall control.

4. Paragraph 10 (b) of the Stipulation is amended to read: The Respondent shall submit by March 1, 2010, a list of all signed and sealed surveys since June 1, 2009. The list shall include at least six surveys. The Board's Probation Chair will randomly select six (6) of Respondent's signed and seal surveys for review from the survey list submitted by the 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 sized record plats, all measurement and computational records, and all other documents necessary for a full and complete review of the surveys, in accordance with the applicable statutes and administrative rules. Respondent must attend the May 2010 Probation Committee meeting in Orlando, FL when the surveys will be reviewed. Failure to comply with this provision may result in additional disciplinary action.
5. Paragraph A of the Final Order is amended to read: Respondent shall pay a fine in the amount of One Thousand Seven Hundred Fifty Dollars (\$1750.00) and investigative costs in the amount of Eight Hundred Eighty Seven Dollars and Thirty Eight Cents (\$887.38). Respondent shall submit proof of any prior payments no later than March 1, 2010. Respondent shall remit \$996.72 by March 1, 2010, including credit for any previous payments, to the Executive Director of the Board of

Professional Surveyors and Mappers, 2005 Apalachee Pkwy., Tallahassee, FL 32399-6500, prior to March 1, 2010. The remaining balance of the unpaid fines and costs is due July 1, 2010.

6. Paragraph B of the Final Order creating Paragraph 10(d) of the Settlement Stipulation are hereby both stricken.
7. 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.
8. 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 23rd 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 26th day of March, 2010.


Agency Clerk

Copies by Certified U.S. Mail, RRR# 7009 2250 0002 5750 2216
Robert D. Whitehead 6483 Royal Palm Beach Blvd., West Palm Beach, FL 33412

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,

v.

Case No. 2006-017681

ROBERT D. WHITEHEAD,

Respondent.

SETTLEMENT STIPULATION

ROBERT D. WHITEHEAD ("Respondent") and the Department of Business and Professional Regulation ("Department") hereby stipulate and agree to the following joint Stipulation and Final Order of the Board of Professional Surveyors and Mappers ("Board") incorporating this Stipulation and agreement in the above-styled matter.

STIPULATED FACTS

1. Respondent is a licensed surveyor and mapper in the State of Florida, having been issued license number LS 4148. Respondent's address of record with Petitioner is 6483 Royal Palm Beach Blvd, West Palm Beach, FL 33412.

2. Respondent is charged by an Administrative Complaint, which charged Respondent with two (7) total 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 his capacity as a licensed surveyor and mapper admits that in such capacity he 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(2) 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:** The Board shall impose an administrative fine in the amount of one thousand, seven hundred and fifty dollars (\$1,750.00). Said fine shall be paid by 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, whose 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 investigative costs, excluding attorney's fees, of eight hundred twenty-seven dollars and seventy-five cents (827.75). Said costs shall be paid by 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, whose Final Order incorporates this Stipulation. Respondent's failure to pay these costs by the time they are 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. Probation shall take effect from the date of filing the Board's Final Order in this matter. If Respondent fails to comply with any term 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. Respondent shall complete a Minimum Technical Standards (MTS) continuing education course and a Boundary 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.
- b. Respondent shall provide the Board with a list of all signed and sealed surveys, which shall contain 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 Rules 61G17-9.006 and 61G17-9.007, Florida Administrative Code. 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 DBPR for non-compliance with the final order of the Board, and the Board may lift the stay of suspension.

c. 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, whose Final Order incorporates this Stipulation, or a statement that professional liability insurance is not required.

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. Respondent executes this Stipulation for the purpose of avoiding further administrative action in this matter. In the event that the Board does not approve the Stipulation, 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 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.

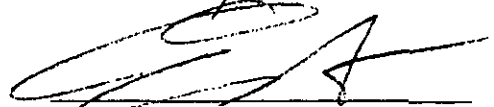
17. If this Stipulation is not accepted by the Board, it is agreed that the presentation and consideration of this Stipulation and other documents or matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in further consideration or resolution of this case.

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

Signed this 15 day of AUGUST, 2007.


ROBERT D. WHITEHEAD

Approved this 17th day of August, 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

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

DEPARTMENT OF BUSINESS AND
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Case No. 2006-017681

ROBERT D. WHITEHEAD

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 ROBERT D. WHITEHEAD, ("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 5524.
3. Respondent's address of record with Petitioner is 6483 Royal Palm Beach Blvd, West Palm Beach, FL 33412.
4. Respondent prepared several surveys for Majestic Homes & Realty that did not meet the Minimum Technical Standards (MTS).
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; violating any provision of chapter 472, and for failing to comply with any order or rule promulgated by the Board, constitutes grounds for which disciplinary action may be taken.

6. 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.

7. Twenty-four (24) surveys prepared by Respondent were 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(3)(b)- Twelve (12) of the surveys were improperly labeled as something other than a Construction Layout Survey.

(2) 61G17-6.003(3)(j)- Ten (10) of the surveys do not note a well-established and monumented line or what Geodetic Control Points were used. Fourteen (14) of the surveys have two different bearing references on the same survey.

(3) 61G17-6.003(3)(p)1.- Seven (7) of the surveys contained a note stating "elevations shown hereon refer to National Geodetic Vertical Datum." The survey does not identify or describe the benchmark used as the basis of the datum.

(4) 61G17-6.004(2)5.- There are no bearings or angles reported to substantiate Exhibit Letter 7.14.06, Survey #16, which shows a 330' x 165' parcel of land by distances only.

(5) 61G17-6.004(2)8.a.- Three (3) of the surveys show lots that are numbered incorrectly.

(6) 61G17-6.004(2)8.a.- Five (5) of the surveys have directions and distances on the map that vary from the record plat directions and distances.

COUNT I

8. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of Rule 61G17-6.003(3)(b), Florida Administrative Code, by failing to properly label twelve (12) of the surveys as a Construction Layout Survey.

COUNT II

9. 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 showing ambiguous bearing references on fourteen (14) of the surveys and failing to note a well-established and monumented line or what Geodetic Control Points were used on ten (10) of the surveys.

COUNT III

10. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of Rule 61G17-6.003(3)(p)1., Florida Administrative Code, by failing to identify or describe the benchmark used.

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)5., Florida Administrative Code, by failing to report the bearings or angles.

COUNT V

12. Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of , Rule 61G17-6.004(2)8.a., Florida Administrative Code, by failing to correctly number the lots on three (3) of the surveys.

COUNT VI

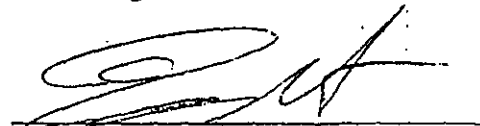
13 Based on the foregoing, Respondent has violated Section 472.033(1)(h), Florida Statutes, through a violation of, Rule 61G17-6.004(2)8.a., Florida Administrative Code, by showing directions and distances on the map that vary from the record plat directions and distances.

COUNT VII

14. Based on the foregoing, Respondent has violated Section 472.033(1)(g), Florida Statutes, by failing to adhere to Minimum Technical Standards (MTS).

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 17th day of April 2007..



Eric R. Hurst
Assistant General Counsel

Counsel for the Department:

Eric R. Hurst
Assistant General Counsel

FILED
Department of Business and Professional Regulation
AGENCY CLERK

CLERK Sarah L. Washburn
DATE 5-4-2007

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