

**BEFORE THE  
WEST VIRGINIA BOARD OF PROFESSIONAL SURVEYORS**

**West Virginia Board of  
Professional Surveyors,**  
Complainant,

vs.

**COMPLAINT No.: C14-04**

**Robert Charles Harr, Jr.**  
WV Professional Surveyor License No. 2257,  
Respondent.

**CONSENT DECREE**

The Respondent, Robert Charles Harr, Jr., and the West Virginia Board of Professional Surveyors execute the following Consent Decree for the purpose of resolving Complaint No. C14-04, filed against the Respondent on December 18, 2013. The parties have reached an agreement, in lieu of a hearing, which the Respondent hereby agrees and stipulates to the Findings of Fact, Conclusions of Law, Consent, and Order set forth in this Consent Decree concerning the disposition of this matter.

**FINDINGS OF FACT**

The Board adopts the following findings in this matter:

1. The West Virginia Board of Professional Surveyors ("Board"), is a state agency created by *West Virginia Code* §30-13A-4, and is authorized to regulate the conduct of Professional Surveyors in the State of West Virginia.
2. Robert Charles Harr, Jr., ("Respondent"), is a Professional Surveyor licensed by the Board, holding license No. 2257.
3. Respondent is designated as the Surveyor-in-Charge ("SIC") for Bohler Engineering VA, LLC, located at 22636 Davis Drive, Suite 250, Sterling, Virginia, 20164, which was issued a Certificate of Authorization ("COA") on December 26, 2013. (COA No. 5873).

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4. On November 20, 2009, Bohler Engineering, PC, in Sterling, Virginia, was notified by letter that their COA had been placed in "Inactive" status, since they no longer had a designated SIC. (COA No. 5702).

5. On January 27, 2010, Bohler Engineering, PC, was notified that their Inactive COA had not been renewed for calendar year 2010, and had been placed in "Expired" status.

6. On April 19, 2012, the Respondent submitted a "Comity" application to sit for the West Virginia Surveying Examination on October 16, 2012. (*Lic. DC 906059, MD 21587, MI 39081, VA 3111*).

7. On November 30, 2012, the Respondent was notified that he had passed the West Virginia Surveying Examination and was provided with a new license application and information sheet that contained important information concerning continuing education, certificate of authorization requirements, and special supervision. [*emphasis added*]

8. On December 6, 2012, the Respondent returned his Application for Licensure which showed his employment at Bohler Engineering VA, LLC, and indicated that he planned to provide full-time surveying services and supervise 11 employees in West Virginia.

9. In 2013, Bohler Engineering VA, LLC, was contracted to perform an ALTA/ACMS land title survey of property known as being part of the Lands of Five Lakes Development, LLC, as recorded in Deed Book 567 at Page 202, situate in Holly District, Braxton County, West Virginia, and having a tax map number of 9K, Parcel 2.

10. On September 11, 2013, the Respondent certified a survey plat with subsequent revisions on September 25, 2013, and October 25, 2013.

11. On December 18, 2013, the Board filed a complaint against the Respondent, alleging Unlicensed Practice for surveying without a Certificate of Authorization and Incompetence, including minimum standards violations. Upon preliminary review, the Board assigned Complaint Number C14-04.

12. On September 18, 2013, a Complaint Notification Letter was sent to the Respondent by certified mail and signed-for by Patty Williams on December 20, 2013.

13. On December 26, 2013, a Certificate of Authorization application was received from Bohler Engineering VA, LLC. [*See Item No. 3*].

14. On January 16, 2014, the Respondent's response was received by the Board.

15. On March 21, 2014, the Board's Complaint Review Committee ("CRC") reviewed Complaint C14-04.

16. On March 22, 2014, the Board found probable cause that the Respondent violated the *West Virginia Professional Surveyors Act*.

### CONCLUSIONS OF LAW

1. Pursuant to *West Virginia Code* §30-1-8(a), the Board is authorized to enter into consent decrees for the informal disposition of complaints in lieu of a formal hearing.

2. Pursuant to *West Virginia Code* §30-1-8(a), the Board is also authorized to assess administrative costs against the licensee for reimbursement of costs of the investigation, hearings and other expenses relative to the complaint, when the Board finds grounds for disciplinary action.

3. Pursuant to *West Virginia Code* §30-13A-22(g), "[T]he Board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict or revoke the license or certificate of authorization of, or impose probationary conditions upon or take disciplinary action against, any licensee or certificate holder..." (2010).

4. Pursuant to *West Virginia Code* §30-13A-1(b), "[I]t is unlawful for any firm to practice or offer to practice surveying in this state without a certificate of authorization issued under the provisions of this article..." (2010).

5. Pursuant to *West Virginia Code R.* §23-5-7.1, the purpose of minimum standards for surveys, "[i]s to establish minimum technical criteria to govern the practice of surveying when more stringent specifications are not required. Further, the purpose is to protect the inhabitants of this state from dishonest or incompetent surveying and generally to protect the public health, safety and welfare." (2008).

6. Pursuant to *West Virginia Code R. §23-5-7.5*, "ALTA/ACSM Land Title Surveys, which are based on standards set by the American Land Title Association (ALTA) and the American Congress of Surveying and Mapping (ACSM), shall at a minimum comply with the minimum standards for a boundary survey as set forth in subsection 7.3. of this rule."

7. The Respondent as an employee of Bohler Engineering VA, LLC, provided surveying services in West Virginia without a Certificate of Authorization issued by the West Virginia Board of Professional Surveyors in violation of *W. Va. Code §30-13A-20(a)*, (2010), and *W. Va. Code R. 23-5-3.1.a*, (2008).

8. The Respondent failed to monument newly established corners in violation of *W. Va. Code R. 23-5-7.3.e*, (2008).

### CONSENT

By signing below, the Respondent agrees to the following:

1. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein.

2. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

3. Respondent acknowledges that this document is a public Record as defined in *West Virginia Code §29B-1-2(4)*, and as such, the Board is legally bound to allow any person to review this Consent Decree. Moreover, the results of the Board's action may be reported to other authorities and agencies.

4. Respondent consents to the entry of the following Order affecting his conduct as a professional surveyor.

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**ORDER**

On the basis of the foregoing, the Board hereby ORDERS as follows:

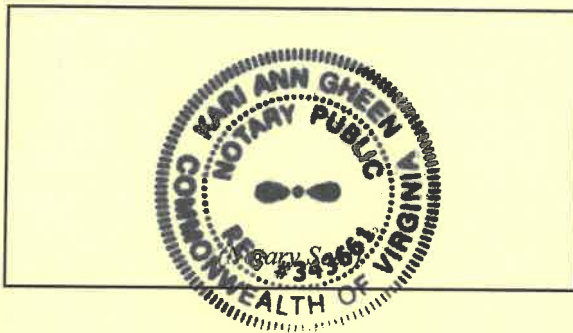
1. Respondent is hereby REPRIMANDED for his actions in the instant matter as outlined above in the Findings of Fact and Conclusions of Law. The Board finds that the Respondent violated *West Virginia Code* §30-13A-20(a), (2010), and *West Virginia Code R.* §§23-5-3.1.a, and 23-5-7.3.e, (2008).
2. Respondent shall pay to the West Virginia Board of Professional Surveyors a total fine in the amount of \$2,500.00, which represents a \$500.00 fine for surveying without a Certificate of Authorization and a \$2,000.00 fine for minimum standards violations, to be deposited in the General Fund of the State of West Virginia. (*Reference Complaint C14-04*). Respondent shall pay the fine within ninety (90) days of entry of this Order into the records of the Board.
3. Respondent shall pay to the West Virginia Board of Professional Surveyors, by separate check, the administrative costs and legal fees associated with the Board's investigation of this complaint, which totals \$846.64, to date, (*Reference Complaint C14-04*). Respondent is required to pay the administrative costs and legal fees within ninety (90) days of entry of this Order into the Board's records.
4. Respondent shall revise his plat and prepare a legal description in accordance with the current minimum standards for boundary surveys. A certified and signed copy of the plat and legal description shall be submitted to the Board within ninety (90) days of entry of this Order into the Records of the Board.
5. Any deviation from the requirements of this Consent Decree, without the prior written consent of the Board, shall constitute a violation of this Order.
6. Respondent shall immediately advise the Board of any changes in his status and advise the Board of his current address at all times during the term of this Consent Decree.

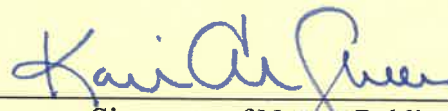
AGREED TO BY:

  
ROBERT CHARLES HARR, JR., P.S.      DATE 6/2/14

Subscribed and sworn to before me this 2nd day of June, 2014.


My commission expires March 31, 2016.



  
Signature of Notary Public

ENTERED into the Records of the West Virginia Board of Professional Surveyors this:

13th day of June, 2014

  
ROY E. SHREWSBURY, II  
Chairman

SURVEYOR'S  
EXHIBIT S-54E

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