

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

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

vs.

**COMPLAINT No.: C15-04**

**Isaac Arnold Norris Garcelon**  
WV Professional Surveyor License No. 861,  
Respondent.

**CONSENT DECREE**

The Respondent, Isaac Arnold Norris Garcelon, and the West Virginia Board of Professional Surveyors execute the following Consent Decree for the purpose of resolving Complaint No. C15-04, filed against the Respondent on October 6, 2014. 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. Isaac Arnold Norris Garcelon, (“Respondent”), is a Professional Surveyor licensed by the Board, holding license No. 861.

3. Respondent is designated as the Surveyor-in-Charge (“SIC”) for Garcelon Surveying, Inc., located in Elkview, West Virginia, which was issued a Certificate of Authorization (“COA”) from December 7, 2001 through June 30, 2004, and has held a COA continuously since January 1, 2006. (COA No. 5179).

4. On January 16, 2007, the Respondent entered into a Consent Decree and was reprimanded by the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors for participating with Field Surveying Company, a Charleston, WV surveying firm, which was not permitted to practice surveying in the Commonwealth of Kentucky. The investigation revealed that the Respondent had aided and abetted a firm that was owned and operated by Robert R. Johnson, an individual who is not licensed as a professional land surveyor in either Kentucky or West Virginia.

5. On January 22, 2007, the West Virginia Board of Professional Surveyors, in reciprocal action, filed Complaint C07-06.

6. On July 6, 2010, the Board dismissed complaint C07-06 pursuant to Civil Action No.: 10-MISC-25, entered into the records of the Circuit Court of Kanawha County, West Virginia, on April 12, 2010, by the Honorable Judge Tod Kaufman.

7. On September 25, 2014, the Board received surveying documents from the law firm of Goodwin & Goodwin, LLP, Charleston, WV, which included an ALTA/ACSM survey by Field Surveying Company, Inc., dated August 15, 2013, and signed by the Respondent; an unsigned surveyor's certificate, dated April 29, 2014, with email; and a paid receipt for Invoice No. 2014035, dated March 5, 2014, in the amount of \$2,685.55.

8. On October 6, 2014, the West Virginia Board of Professional Surveyors filed Complaint C15-04 against the Respondent alleging Fraud, Incompetence, including Minimum Standards Violations, Professional Negligence, Unethical Practices, Unlicensed Practice, and a Willful Departure from Accepted Standards of Professional Conduct.

9. On October 6, 2014, a Complaint Notification Letter was sent to the Respondent by certified mail and signed-for by [unreadable] and [undated]. However, the certified mail return-receipt green card was received in the Board office on October 9, 2014.

10. On October 15, 2014, the Respondent's response which included a cover letter, an unsigned ALTA/ACSM survey plat, a topographical map signed by Harold W. Field, West Virginia Professional Engineer No. 651, dated July 11, 1979, a work map prepared by the

Respondent, deed research, prior survey plats, and point listing made October 8, 2014, was received by the Board.

11. The Respondent in his response received by the Board on October 15, 2014, admitted that he violated the Board's governing statute and rules by stating that "I understand that by signing the plat I am in violation." Moreover, the Respondent continued by stating that "[t]his was obviously a gross error and lapse in professional conduct on my part. . . ."

12. On October 27, 2014, the Board's Complaint Review Committee ("CRC") reviewed Complaint C15-04.

13. December 16, 2014, the Board found probable cause that the Respondent violated the *West Virginia Professional Surveyors Act*.

### CONCLUSIONS OF LAW

1. Pursuant to *W. Va. 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 *W. Va. 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 *W. Va. 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 *W. Va. Code* §30-13A-1(b), "It 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, or advertise or use any title or description tending to convey the impression that it is a surveying firm, unless such firm has been issued a certificate of authorization under the provisions of this article."

5. The Respondent certified an ALTA/ACSM survey under the company name of Field Surveying Company, Inc., without being issued a Certificate of Authorization to conduct surveying services in the State of West Virginia in violation of *W. Va. Code* §30-13A-20(a) and *W. Va. Code R.* §23-5-3.1.a.

6. The Respondent failed to approve and seal only those documents that conform to accepted surveying standards by aiding and abetting unlicensed surveying practice by placing his signature on a ALTA/ACSM survey, knowing that Field Surveying Company, Inc., was not licensed to conduct surveying services in the State of West Virginia in violation of *W. Va. Code* §30-13A-1(b) and *W. Va. Code R.* §23-5-3.1.a.

7. Pursuant to *W. Va. Code R.* §23-5-2.3, “Employee” is defined as “[a] person who is hired on a full-time, part-time, or temporary basis and is on the payroll of an employer or firm with the legal obligation to withhold and pay taxes to government agencies based on salary, wages or other compensation provided by the employer or firm.”

8. The Respondent, by signing an ALTA/ACSM survey for Field Surveying Company, Inc., suggests that he is an employee of that firm, and as such, demonstrated a willful departure from accepted standards of professional conduct and the standards established by law, in violation of *W. Va. Code R.* §23-5-2.20.

9. The Respondent failed to supervise the survey work by signing and sealing an ALTA/ACSM survey plat which was not completed under the professional charge of the licensee in violation of *W. Va. Code R.* §23-5-4.3.a.

10. Pursuant to *W. Va. 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.”

11. “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.”  
*See W. Va. Code R. §23-5-7.5*

12. The Respondent failed to show a basis of bearing on the ALTA/ACSM survey plat in violation of *W. Va. Code R. §23-5-7.3.g.1.*

13. The Respondent failed to adequately describe the corners on the ALTA/ACSM survey plat and failed to indicate whether the monuments were found or set in violation of *W. Va. Code R. §23-5-7.3.g.6.*

14. The Respondent, by signing and sealing an ALTA/ACSM survey plat committed an unethical practice by associating with a survey project known by the Respondent to be fraudulent and dishonest in character in violation of *W. Va. Code R. §23-5-8.4.*

### 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 *W. Va. 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.

## ORDER

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

1. The Board hereby FINDS the Respondent in violation of *W. Va. Code* §§30-13A-1(b), 30-13A-20(a); and *W. Va. Code R.* §§23-5-2.20, 23-5-3.1.a, 23-5-4.3.a, 23-5-7.3.g.1, 23-5-7.5, 23-5-7.3.g.6, and 23-5-8.4, (2008) for his actions in the instant matter as outlined above.

2. Respondent's license is hereby SUSPENDED for his actions in the instant matter as outlined above in the Findings of Fact and Conclusions of Law for a period of thirty (30) days. Upon successful completion of the thirty (30) day suspension, the Respondent is placed on PROBATION for a period of one (1) year pursuant to the following terms and conditions of this Order.

3. Respondent shall pay to the West Virginia Board of Professional Surveyors a total fine in the amount of \$1,000.00, which represents a \$500.00 fine for placing his signature and seal on an ALTA/ACSM survey for a surveying firm that the Respondent knowingly knew was not licensed to conduct surveying services in the State of West Virginia, and a \$500.00 fine for placing his signature and seal on an ALTA/ACSM survey plat containing minimum standards violations, (*Reference Complaint C15-04*), to be deposited in the general revenue fund of the State of West Virginia. Respondent shall pay the fine within ninety (90) days of entry of this Order into the records of the Board.

4. 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 \$425.00. (*Reference Complaint C15-04*). Respondent shall pay the administrative costs and legal fees within ninety (90) days of entry of this Order into the records of the Board.

5. Failure to comply with the requirements of this Order will result in the immediate revocation of the probation and automatic suspension of Respondent's license for the remainder of the one year period of time.

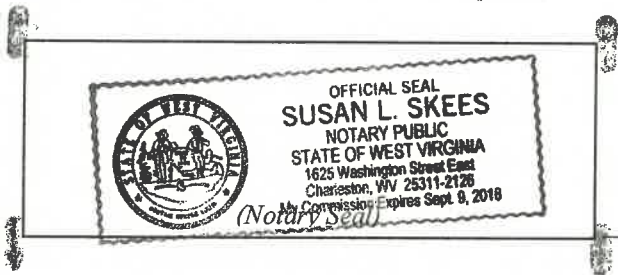
6. Respondent shall immediately advise the Board of any changes in his status and advise the Board of his current address at all times during the term of this Consent Decree.

AGREED TO BY:

Isaac Arnold Norris Garcelon  
ISAAC ARNOLD NORRIS GARCELON, P.S.                      3-9-15  
DATE

Subscribed and sworn to before me this 9th day of March, 2015.

My commission expires: Sept 9, 2018.



Susan L. Skees  
Signature of Notary Public

ENTERED into the Records of the West Virginia Board of Professional Surveyors this:  
23rd day of March, 2015.

Roy E. Shrewsbury, II  
ROY E. SHREWSBURY, II  
Chairman

