

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

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

vs.

COMPLAINT NO.: C15-06

Dennis Eugene Miller
WV Professional Surveyor License No. 991,
Respondent.

CONSENT DECREE

The Respondent, Dennis Eugene Miller, and the West Virginia Board of Professional Surveyors execute the following Consent Decree for the purpose of resolving Complaint No. C15-06, filed against the Respondent on January 16, 2015. 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. Dennis Eugene Miller, ("Respondent"), is a Professional Surveyor licensed by the Board, holding license No. 991.
3. Respondent is designated as the Surveyor-in-Charge ("SIC") for Civil and Environmental Consultants, Inc., located in Bridgeport, West Virginia, which has held a Certificate of Authorization ("COA") continuously since January 31, 2013. (COA No. 5847).

4. In 2014, Civil and Environmental Consultants, Inc., was contracted to perform a boundary survey for a proposed option near Parkersburg, West Virginia.

5. On July 18, 2014, the property was conveyed by deed, from Emerson Commons, LLC, a West Virginia limited liability company, party of the first part, to Wood County Investors, LLC, a West Virginia limited liability company, party of the second part, all that certain lot or parcel of land, situate on the waters of Big Run and Worthington Creek, along Interstate 77 and WV Route 2, in Williams District, Wood County, West Virginia.

6. On January 16, 2015, the Board received a copy of a survey plat signed by the Respondent for Civil and Environmental Consultants, Inc., of a parcel of land for Emmerson Commons, LLC, as shown on Tax Map 470 Parcel C, situate in Williams District, Wood County, and recorded in Deed Book 1217 at page 382.

7. On January 16, 2015, the Board assigned Complaint Number C15-06 and a Complaint Notification Letter was sent to the Respondent by certified mail and signed-for by Jacquelyn Kester on January 20, 2015.

8. On February 19, 2015, the Respondents Response to Complaint C15-06 was received.

9. On April 21, 2015, the Board's Complaint Review Committee ("CRC") reviewed Complaint C15-06.

10. On April 22, 2015, 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 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”.

5. 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 *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 R. 23-5-7.3.e* (2008) for his actions in the instant matter as outlined above.

2. Respondent shall pay to the West Virginia Board of Professional Surveyors a fine in the amount of \$2,000.00 (*Reference Complaint C15-06*), 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.

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 \$368.00 (*Reference Complaint C15-06*). Respondent shall pay the administrative costs and legal fees within ninety (90) days of entry of this Order into the records of the Board.

4. Respondent shall conduct his survey in accordance with the Minimum Standards for Surveys pursuant to *West Virginia Code R. 23-5-7*.

5. Respondent shall revise his plat and prepare a legal description in accordance with the current minimum standards for boundary surveys. Revised plat will be recorded and submitted to the Board within ninety (90) days of the entry of this Order into the records of the Board.

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.

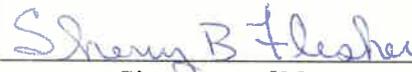
AGREED TO BY:


DENNIS EUGENE MILLER, P.S. 8-6-2015
DATE

Subscribed and sworn to before me this 6th day of August, 2015.

My commission expires: May 10, 2017.




Signature of Notary Public

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

23rd day of September, 2015.


ROY E. SHREWSBURY, II
Chairman

