

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

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

vs.

COMPLAINT No.: C17-05

Randall Ray Myers
WV Professional Surveyor License No. 751,
Respondent.

CONSENT DECREE

The Respondent, Randall Ray Myers, and the West Virginia Board of Professional Surveyors execute the following Consent Decree for the purpose of resolving Complaint No. C17-05, filed against the Respondent on September 14, 2016. 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. That Randall Ray Myers is a licensee of the Board with license number 751 and is subject to the license requirements of said Board.
2. The Board is a regulatory board created for the purpose of regulating the practice of land surveying. *W. Va. Code § 30-13A et seq.*
3. In order to carry out its regulatory duties, the Board is empowered to suspend, revoke or otherwise discipline an individual's professional surveyor license because of authority granted to it by *W. Va. Code §§ 30-13A-5 and 30-13A-22.*

SURVEYOR'S
EXHIBIT 5-17
JUN 30 2017

4. That on May 17, 2016, the Respondent was contracted to perform a boundary survey of Lot No.51, conveyed from David R. & Thelma L. McGee to David R., Thelma L., & Richard L. McGee by Deed recorded in Book 1179 at Page 670, located in Grant District, Monongalia County, West Virginia.
5. That on May 21, 2016, the Respondent signed and sealed his final plat, and provided a copy to his client.
6. That on September 14, 2016, Richard L. McGee (“Complainant”) submitted a written complaint to the Board alleging Fraud, Unethical Practice, and a Willful Departure from Accepted Standards of Professional Conduct, including Gross Negligence.
7. That on September 15, 2016, a Complaint Acknowledgement letter was sent to the Complainant and copied to the Respondent.
8. That on September 19, 2016, the Complainant submitted additional documentation to support his complaint allegations.
9. That on September 22, 2016, upon preliminary review, the Complaint was assigned Number C17-05.
10. That on September 26, 2016, a Complaint Notification Letter was sent to the Respondent by certified mail and signed-for by the Respondent on October 8, 2016.
11. That on October 28, 2016, the Respondent faxed his response to Complaint C17-05 to the Board.
12. That on November 1, 2016, the Respondent’s response (*same as fax response*) to Complaint C17-05 was received via U.S. Mail by the Board, unsigned.
13. That in the Respondent’s response received by the Board, the Respondent submitted a certified survey plat which contained a “Revised Date” of September 15, 2016.

14. That on December 16, 2016, the Board's Complaint Review Committee ("CRC") reviewed the complaint.

15. That on December 20, 2016, the Board requested the Respondent to provide a final plat and corresponding legal description, as the complaint documentation now contained four (4) different certified plats; none of which were the same.

16. That on December 22, 2016, the Respondent was notified to provide his final plat and corresponding legal description by certified mail and signed-for by the Respondent on December 27, 2016.

17. That on January 3, 2017, the Respondent submitted his final plat and corresponding legal description (*both unsigned*).

18. That on February 28, 2017, the Complaint Review Committee again reviewed Complaint C17-05.

19. That on March 7, 2017, the Board found probable cause the Respondent was in violation of Minimum Standards for Surveys pursuant to W.Va. Code R. §23-5-7.

20. That on March 21, 2017, a 6-month status letter, pursuant to W.Va. Code §30-1-5(c), was sent to the Complainant by certified mail and signed for by (*unreadable*) on March 24, 2017.

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. The Respondent failed to prepare a plat in accordance with the minimum standards for boundary surveys in violation of *W. Va. Code R.* §23-5-7.3.g.
5. The Respondent failed to prepare a description of survey in accordance with the perimeter description method in violation of *W. Va. Code R.* §23-5-7.3.h.2.
6. The Respondent failed to respond within thirty (30) days to written communications from the Board in violation of *W. Va. Code R.* §23-5-8.2.

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. 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 *W. Va. Code R. §§23-5-7.3.g, 23-5-7.3.h.2, and 23-5-8.2.*
2. Respondent shall revise his plat and prepare a legal description in accordance with the current minimum standards for boundary surveys. Revised plat will be provided to his Client and submitted to the Board within thirty (30) days of the entry of this Order into the records of the Board.
3. Respondent shall pay to the West Virginia Board of Professional Surveyors a fine in the amount of \$1,100.00, for minimum standard plat and description violations, and failing to respond to written communication from the Board within 30 days, (*Reference Complaint C17-05*); to be deposited in the general revenue fund of the State of West Virginia. Respondent shall pay the fine within thirty (30) 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 \$530.93. (*Reference Complaint C17-05*). Respondent shall pay the administrative costs and legal fees within thirty (30) days of entry of this Order into the records of the Board.
5. Respondent is required to complete two (2) hours of Board approved West Virginia Minimum Technical Standards continuing education course in addition to the annual professional development hour (PDH) requirement. The course shall be completed within six (6) months of entry of this Order into the Board's records, and the course shall be attended in person at a live presentation.

- 6. Any deviation from the requirements of this Consent Decree, without the prior written consent of the Board, shall constitute a violation of this Order which may result in further discipline, including but not limited to, suspension and/or revocation of your license.
- 7. 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.

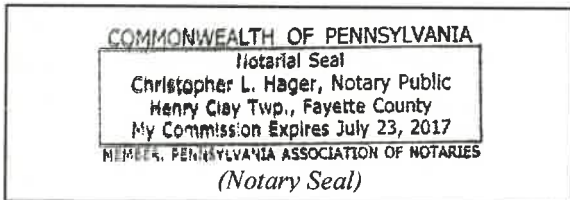
AGREED TO BY:

Randall Ray Myers
 RANDALL RAY MYERS, P.S.

JUNE 29 2017
 DATE

Subscribed and sworn to before me this 22 day of June, 2017.

My commission expires: July 23, 2017.



Christopher L Hager
 Signature of Notary Public

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

30 day of June, 2017.

R Michael Shepp
 R. MICHAEL SHEPP, P.S.
 Chairman



SURVEYOR'S EXHIBIT S-17E

JUN 30 2017