

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

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

vs.

COMPLAINT No.: C13-04

Randy Lee Goodrich
Professional Surveyor License No. 1942,
Respondent.

CONSENT DECREE

The Respondent, Randy Lee Goodrich, ("Respondent"), and the West Virginia Board of Professional Surveyors ("Board") execute the following Consent Decree for the purpose of resolving Complaint No. C13-04, filed against the Respondent on January 31, 2013. As reflected in this Consent Decree, the parties have reached an agreement in 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 proper disposition of this matter. The Board, having approved such agreement, does hereby find and Order as follows:

FINDINGS OF FACT

1. The Board is a state agency created by *West Virginia Code* § 30-13A-4 *et seq.*, and is authorized to regulate the conduct of professional surveyors in the State of West Virginia.
2. Respondent is a Professional Surveyor licensed by the Board, holding license No. 1942.
3. Respondent was designated as the Surveyor-in-Charge ("SIC") for Goodrich Surveying, located in Princeton, West Virginia, which held a Certificate of Authorization ("COA") continuously from December 31, 2001 through December 31, 2011. (COA No. 11-5188).
4. On February 1, 2011, a letter was sent to the West Virginia Secretary of State's Office stating that the Respondent was licensed and in good standing with the Board in their business registration process for Advance Surveys, PLLC.
5. On February 2, 2011, Advance Surveys, PLLC was registered with the West Virginia Secretary of State as a member managed Professional Limited Liability Company ("PLLC").

SURVEYOR'S
EXHIBIT 5-15

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6. On February 25, 2011, a 2011 Certificate of Authorization Application Form was received for Advance Surveys, PLLC, listing the Respondent as a WV Professional Surveyor authorized to supervise and sign work for the Company.
7. On February 28, 2011, a Certificate of Authorization was issued to Advance Surveys, PLLC, and effective March 1, 2011 through December 31, 2011. (COA No. 11-5680).
8. On June 30, 2011, *Articles of Termination of a West Virginia Limited Liability Company* were filed with the West Virginia Secretary of State's Office and was issued a Certificate of Termination for Advance Surveys, PLLC.
9. On July 21, 2011, a Certificate of Authorization was issued to Advance Surveys, and effective July 1, 2011 through December 31, 2011. (COA No. 11-5680 Name Change).
10. On November 18, 2011, Advance Surveys, 2339 Pine Grove Road, Lerona, WV 25971 was mailed their COA renewal form for 2012.
11. On November 18, 2011, Goodrich Surveying, 1417 East Main Street, Apt 11, Princeton, WV, 24740, was mailed their COA renewal form for 2012.
12. On December 27, 2011, the Certificate of Authorization for Advance Surveys was renewed "on-line" with the Respondent as the surveyor-in-charge.
13. On December 28, 2011, the Respondent alleged that he sent an email to the Board office [wvbps@wv.gov] stating that "GOODRICH SURVEYING WILL NO LONG BE IN BUSINESS AS OF 1/1/12 C.O.A # 11-5188." However, there is no record that this email was received by the Board office.
14. On January 3, 2012, the Certificate of Authorization for Advance Surveys was issued for the year January 1, 2012 through December 31, 2012. (COA No. 12-5680).
15. On February 1, 2012, Goodrich Surveying was mailed a "Final Notice" stating that their 2012 renewal had not been received and that the COA had expired.

16. On May 1, 2012, a Certificate of Authorization Change Order was received deleting the Respondent from those authorized to supervise and sign work for the firm.
17. On May 15, 2012, the Professional Surveyor Renewal Notice for fiscal year 2013 was mailed to the Respondent.
18. On June 18, 2012, the Respondent's 2013 renewal was received and on which he responded affirmatively as to providing full-time surveying services in West Virginia.
19. On June 19, 2012, the Respondent was issued his Professional Surveyor license for 2013 along with a letter stating that the COA for Goodrich Surveying had expired and was accruing late fees at the rate of \$20 per month that the COA was not renewed.
20. On June 22, 2012, an email was sent by the Respondent to the Board's Administrative Assistant stating that "GOODRICH SURVEYING WILL NO LONG BE IN BUSINESS AS OF 1/1/12 C.O.A # 11-5188."
21. During calendar year 2012, the Respondent was contracted to perform boundary surveys in the City of Princeton, and in Beaver Pond District, East River District, Plymouth District, and Rock District, Mercer County, West Virginia.
22. On January 10, 2013, the Board received a copy of survey plats prepared by the Respondent.
23. On January 31, 2013, the Board filed a Complaint alleging unlicensed practice and incompetence, including minimum standard violations. *See W. Va. Code R. §23-5-9.1. (2008).*
[See survey plats numbered 1, 2, 3, 4, 5, 7, 10, 11, 12, 13, 14, and 15]
24. On January 31, 2013, the Board upon preliminary review, assigned Complaint Number C13-04.
25. On February 4, 2013, a Complaint Notification Letter was sent to the Respondent by certified mail and signed-for by Randy Goodrich on February 6, 2013.
26. On February 28, 2013, the Respondent's response was received by the Board.

27. On March 15, 2013, the Board's Complaint Review Committee ("CRC") reviewed Complaint C13-04.

28. On March 21, 2013, 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), "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." (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 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. That this document is a public record as defined in *West Virginia Code* § 29B-1-2(4).
7. This *Consent Agreement and Order* constitutes the entire agreement between the parties.
8. The Respondent, during calendar year 2012, prepared and certified twelve (12) survey plats in the City of Princeton, and in Beaver Pond District, East River District, Plymouth District, and Rock District, Mercer County, West Virginia, under the business name of Goodrich Surveying, without a Certificate of Authorization issued by this Board in violation of *West Virginia Code* §30-13A-1(b) and *West Virginia Code R.* §23-5-3.1.a.
9. The Respondent prepared and certified twelve (12) survey plats in the City of Princeton, and in Beaver Pond District, East River District, Plymouth District, and Rock District, Mercer County, West Virginia, which contain minimum standard deficiencies in violation of *West Virginia Code R.* §23-5-7.

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.

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-1(b), (2010), and *West Virginia Code R.* §§23-5-3.1.a and 23-5-7, (2008).

2. Respondent shall pay to the West Virginia Board of Professional Surveyors a total fine in the amount of \$2,000.00 which represents a \$1000.00 fine for surveying without a Certificate of Authorization and a \$1000.00 fine for minimum standards violations. Respondent is required to pay the total fine within one hundred-eighty days (180) of the entry of this Order into the records of the Board.

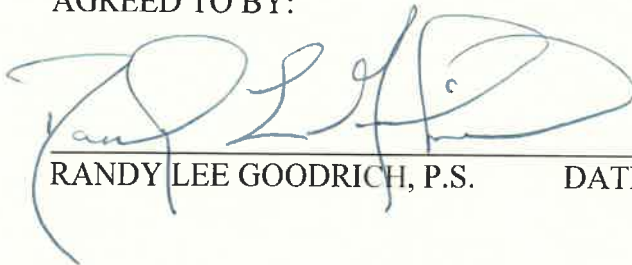
3. Respondent shall pay to the West Virginia Board of Professional Surveyors, by separate check, the administrative costs and legal fees associated with the Board's investigation of this complaint, which totals \$606.54, to date, (*Reference Complaint C13-04*). Respondent is required to pay the administrative costs and legal fees within ninety (90) days of entry of this Order into the Board's records.

4. Respondent shall revise his plats and prepare a legal description in accordance with the current minimum standards for boundary surveys. A certified and signed copy of the plats and legal descriptions shall be submitted to the Board and to the Client, with proof of recordation, within one hundred and eighty (180) days of entry of this Order into the Board's records.

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:



RANDY LEE GOODRICH, P.S. DATE 7/16/13

ENTERED into the records of the Board of Professional Surveyors this:

8th day of August, 2013



ROY E. SHREWSBURY, II
Chairman