

BEFORE THE WEST VIRGINIA BOARD OF PROFESSIONAL SURVEYORS

**WEST VIRGINIA BOARD OF
PROFESSIONAL SURVEYORS,**

Complainant,

v.

Case No. C24-07

**JON WILLIAM LOONEY,
Licensed Professional Surveyor,
WV License No. 1947,**

Respondent.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Professional Surveyors (“Board”) and Jon William Looney (“Respondent”) for the purpose of agreeing to disciplinary action which shall be taken against Respondent in the above-referenced matters. As a means of compromise, the Board and Respondent hereby agree to resolve these matters by and through a voluntary agreement and consent to disciplinary action, with consideration given to appropriate safeguards for protection of the public.

WHEREAS, Respondent acknowledges that the Board may file a Statement of Charges alleging that he has violated certain provisions of W. Va. Code §§ 30-13A-1 *et seq.* and W. Va. Code R. §§ 23-1-1 *et seq.*, and proceed to hearing and seek disciplinary action in these matters.

WHEREAS, Respondent hereby waives the filing of a formal Statement of Charges and the parties mutually desire to settle these matters without further prosecution and a formal hearing.

WHEREAS, the Board agrees and acknowledges that this agreement is a compromise of

claims disputed by Respondent.

THEREFORE, it is hereby STIPULATED and AGREED between the undersigned parties that these matters be settled and resolved, the parties having reached an understanding concerning the proper disposition of the matters in controversy, and the Board, approving such an agreement, does hereby FIND and ORDER as follows:

FINDINGS OF FACT

1. Respondent is a licensee of the Board, having been issued License No. 1947, and at all times relevant hereto, held an active license issued by the Board.

2. On April 22, 2024, the Board received a written complaint from Dara Jean Desrosiers filed against Respondent, alleging that Respondent performed a survey for her neighbor, Billy Pantili, in October 2021, during which he ignored both Ms. Desrosiers's and Mr. Pantili's deeds, as well as ignored the recorded subdivision map. Rather, Ms. Desrosiers alleged that Respondent conducted his survey by using an unrecorded map of the subdivision, and as a result, Respondent erroneously set new property corners on her property that lead Mr. Pantili to believe he owned more property than both his deed and Ms. Desrosiers's deed indicated. Ms. Desrosiers asserted that she learned of Respondent's actions when she was trying to sell her home in or around April 2024. Ms. Desrosiers maintained that, as a result of Respondent's incorrect survey, the buyers with whom she was in contract to sell her home canceled the contract and she incurred various expenses.

3. On April 24, 2024, the Board sent Ms. Desrosiers a letter, to which Respondent was copied, in which the Board acknowledged receipt of her complaint. The letter also explained what procedural actions the Board would incur. Subsequently, on June 21, 2024, upon preliminary review, the complaint was assigned Case No. C24-07. Through the same

correspondence, the Board transmitted a copy of the complaint to Respondent and requested that he provide a written response thereto within 30 days.

4. In the interim, on May 15, 2024, Respondent filed a response to Ms. Desrosiers's complaint, as he had received a copy of the complaint on or about April 24, 2024. Respondent acknowledged that he had performed a survey for Mr. Pantili in 2021, and that it was performed by a section of a map that Mr. Pantili had provided. Respondent stated that he later learned that the subdivision had two maps, which Respondent provided the Board in his response, and admitted that one of the lots he surveyed contained an error of 0.42 feet, which is not acceptable to surveying standards. Respondent added that he addressed the matter with Mr. Pantili, and that they were working to resolve the matter and revise Mr. Pantili's map. Finally, Respondent maintained that Ms. Desrosiers had sold her home and moved out of the area.

5. The Board's Complaint Review Committee reviewed the Board's complaint, Respondent's response, and the documentation submitted in this matter.

6. Upon recommendation of the Complaint Committee, the Board, by majority vote at its meeting on August 28, 2024, found probable cause to believe that Respondent violated the Standards for the Practice of Surveying in West Virginia by his willful departure from accepted standards of professional conduct when performed "in violation of standards established by law or generally accepted standards for the practice of surveying amounting to intentionally deficient or grossly negligent performance on a contract," W. Va. Code R. § 23-5-2.20.c. Specifically, Respondent failed to comply with the Minimum Standards for Boundary Surveys, W. Va. Code R. § 23-5-7.3.b., which requires that "[t]he record search shall be retained as a permanent record and shall include the record description based on current and prior deeds, conveyance from common grantor, or if necessary, the original survey or grant. It shall also include descriptions

of adjoining properties, other sources of information or resolution of conflicts in descriptions.” The above violations are thus violations of the Board’s governing statutes, W. Va. Code §§ 30-1-8(a), 30-13A-22(g). Accordingly, the Board determined there was sufficient evidence to warrant further proceedings and that further action should be taken against Respondent.

CONCLUSIONS OF LAW

1. Respondent is a licensee of the Board, holding License No. 1947, and is therefore subject to the license requirements and disciplinary rules of the Board.

2. The Board is a state entity created and governed by W. Va. Code §§ 30-13A-1 *et seq.*, and is empowered to regulate the practice of surveying in the State of West Virginia.

3. In order to carry out its regulatory duties, the Board has the power to hold a hearing and to suspend or revoke a license, reprimand a licensee, impose probationary conditions, or take other disciplinary action under W. Va. Code §§ 30-13A-5 and 30-13A-22 and W. Va. Code R. §§ 23-3-6 and 23-5-9.

4. Respondent does not contest that the Board has probable cause to charge him with one or more violations of the Board’s governing statutes and rules with regard to the allegations at issue in these matters.

5. Respondent’s actions in this matter, if proven, would constitute violations of W. Va. Code § 30-13A-22 and W. Va. Code R. §§ 23-5-1 *et seq.* Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, Jon William Looney, by signing this *Consent Agreement and Order*, acknowledge the following:

1. After having had the opportunity to consult with an attorney of my choice, I sign this Consent Agreement and Order voluntarily, freely, without compulsion or duress, and understand that my signature has legal consequences.

2. No person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth in this document.

3. I am aware that I may pursue this matter through appropriate administrative and/or court proceedings. I am aware of my legal rights regarding this matter, but I have chosen to waive those rights intelligently, knowingly, and voluntarily.

4. I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.

5. I acknowledge that the execution of this document constitutes disciplinary action by the Board and is therefore considered to be public information.

The Respondent, Jon William Looney, by affixing his signature hereto, agrees to the following Order:

ORDER

Based on the foregoing, the Board does hereby ORDER and DECREE as follows:

1. Respondent is hereby REPRIMANDED for his actions in this matter.
2. Within six (6) months from the date of entry of this Order, Respondent shall complete two (2) hours of Board-approved continuing education on the subject of ethics, and shall submit to the Board a certificate of completion or other documentary proof of successful completion. These two (2) credit hours of continuing education will not count toward the continuing education requirement for license renewal.

3. Within six (6) months from the date of entry of this Order, Respondent shall complete two (2) hours of Board-approved continuing education on the subject of minimum technical standards, and shall submit to the Board a certificate of completion or other documentary proof of successful completion. These two (2) credit hours of continuing education will not count toward the continuing education requirement for license renewal.

4. Any failure to comply with all provisions in this Consent Agreement and Order may result in additional disciplinary action, up to and including the suspension or revocation of Respondent's license to practice surveying in the State of West Virginia.

5. This document is a public record as defined in West Virginia Code § 29B-1-2.

6. This Consent Agreement and Order constitutes the entire agreement between the parties.

In recognition of this *Consent Agreement and Order*, we hereby affix our signatures.

WEST VIRGINIA BOARD OF PROFESSIONAL SURVEYORS

By: _____
Sefton R. Stewart, P.S.
Board Chairman

Entered: _____
Date

REVIEWED AND AGREED TO BY:

Jon William Looney, P.S.
Respondent

Date

This day personally appeared before me, Jon William Looney, whose name is signed to the foregoing document and who is known to me, having acknowledged before me that the statements in the foregoing document are complete, true and correct, to the best of his knowledge, information, and belief, and executed the document voluntarily on the date shown above.

Given under my hand and seal on this the _____ day of _____,
_____.

My Commission expires: _____

Notary Public