

BEFORE THE WEST VIRGINIA BOARD OF PROFESSIONAL SURVEYORS

**WEST VIRGINIA BOARD OF
PROFESSIONAL SURVEYORS,**

COMPLAINANT,

v.

CASE No. 18-05

**RANDALL RAY MYERS,
PROFESSIONAL SURVEYOR LICENSE NO. 751,**

RESPONDENT.

COMPLAINT AND STATEMENT OF CHARGES

The West Virginia Board of Professional Surveyors (“Board”), a state entity created and governed by W. Va. Code §§ 30-13A-1 *et seq.*, pursuant to the authority granted to it by W. Va. Code §§ 30-13A-5 and 30-13A-22 to suspend, revoke, or otherwise discipline an individual’s professional surveyor license, has instituted an investigation into allegations that certain conduct by the Respondent, Randall Ray Myers (“Respondent”), may constitute violations of W. Va. Code §§ 30-13A-1 *et seq.* and W. Va. Code R. §§ 23-1-1 *et seq.* As part of that investigation, the Board made a finding of probable cause to file a complaint for disciplinary action against Respondent.

The charges are as follows:

1. Respondent is a licensee of the Board, holding License No. 751, and therefore is subject to the license requirements of the Board.
2. The Board received a written complaint, dated September 26, 2017, from Arlie Campbell and Tammy Campbell regarding certain surveying work performed by Respondent. The Campbells submitted various exhibits with their complaint, including four survey plats completed by Respondent.

3. On October 13, 2017, a Complaint Acknowledgement Letter was sent to the Campbells, and Respondent was copied thereon.

4. Following a preliminary review of the Campbells' complaint, the Board sent a copy thereof to Respondent on January 4, 2018 via certified mail, which was received and signed for by Respondent on January 8, 2018. Respondent was instructed to submit a written response to the Board within 30 days and include therewith certain relevant documents.

5. During its preliminary review, the Board's Complaint Review Committee found reference to a boundary survey completed by David Lee, a professional surveyor. The Committee then requested a copy of that survey from the Campbells via correspondence dated January 18, 2018.

6. On January 25, 2018, the Board received the boundary survey that was completed by David Lee for the Campbells regarding "that certain tract, piece or parcel of real estate situate on the waters of Stewart's Run in Grant District, Monongalia County, West Virginia[.]"

7. On February 8, 2018, the Board received Respondent's one-page response, wherein he states, "I probably do not have any more paperwork than what you supplied me" and, further, "I have never done any surveying for Campbell, and he had hired surveyor David Sypolt to resurvey my lines that I surveyed for Whetzell, and Dave agreed where I have placed corner pins, and Campbell fired him (I do not know if Dave got paid for his work or not)."

8. On March 29, 2018, the Board's Complaint Review Committee reviewed the Campbells' complaint, Respondent's response, and the other documents submitted therewith and pertinent thereto, and then recommended to the Board that an independent investigator be hired to review the matter.

9. At its meeting on April 10, 2018, the Board considered the matter, including the recommendation of the Complaint Review Committee, and voted to hire a professional surveyor to conduct an independent investigation of the matter and generate a report regarding the same.

10. In his report dated August 4, 2018, the investigator, Jason T. Smithson, P.S., found that Respondent “did not conform to the Seals and Document Certification requirement set forth in § 23-5-4” and “did not properly conform to the West Virginia Minimum Standards for Surveys due to the lack of properly describing monuments as found or set.” Further, Mr. Smithson completed a West Virginia Board of Surveyors Minimum Standards for Boundary Surveys Plat Requirements Checklist for each of the four plats prepared by Respondent and noted any deficiencies therein.

11. After reviewing the aforementioned complaint, response, investigation report, and accompanying documents, the Board, by majority vote at its Board meeting on September 6, 2018, determined there was sufficient evidence to warrant further proceedings and that further action should be taken against Respondent. Specifically, the Board found probable cause to believe that Respondent had violated W. Va. Code § 30-13A-22(g)(3) and W. Va. Code R. §§ 23-5-4.3.a, 23-5-6.1, and 23-5-7.3.g.

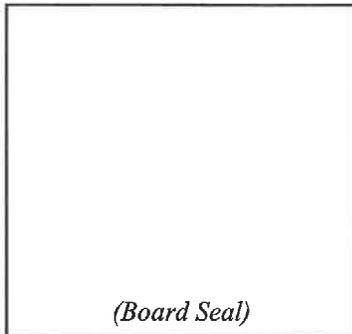
12. The Board has the power to hold a hearing and to suspend or revoke a license, reprimand a licensee, impose probationary conditions, or take other disciplinary action under W. Va. Code §§ 30-13A-5 and 30-13A-22 and W. Va. Code R. §§ 23-3-6 and 23-5-9.

13. Should this matter proceed to hearing, Respondent has the right to present testimony and evidence on his behalf. Respondent may testify as a witness and subpoena other witnesses and documents to present on his own behalf. Respondent has the right to cross-

examine any witnesses who may testify, and Respondent may be represented by an attorney at his own expense.

14. The Board will schedule and conduct the hearing, or have an Administrative Law Judge conduct the hearing, which will continue until all evidence is fully submitted. Thereafter, the Board will issue a written decision setting forth findings of fact, conclusions of law, and a description of any disciplinary actions imposed. If a hearing is held and any violation(s) is/are found, disciplinary action against Respondent may occur, which could include assessment of all costs of the investigation, hearing, hearing examiner, and all other reasonable and necessary costs incurred by or on behalf of the Board.

Dated this, the 13 day of December, 2018.





R. Michael Shepp, Chairman
West Virginia Board of Professional Surveyors
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