

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

**WEST VIRGINIA BOARD OF  
PROFESSIONAL SURVEYORS,**

**Complainant,**

v.

**Case No. C21-03**

**NORMAN EUGENE KELLEY,  
Licensed Professional Surveyor,  
WV License No. 443,**

**Respondent.**

**CONSENT AGREEMENT AND ORDER**

NOW COME the West Virginia Board of Professional Surveyors (“Board”) and Norman Eugene Kelley (“Respondent”) for the purpose of agreeing to disciplinary action which shall be taken against Respondent in the above-referenced matter. As a means of compromise, the Board and Respondent hereby agree to resolve this matter 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 this matter.

WHEREAS, Respondent hereby waives the filing of a formal Statement of Charges and the parties mutually desire to settle this matter 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 this matter be settled and resolved, the parties having reached an understanding concerning the proper disposition of the matter 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. 443, and at all times relevant hereto, held an active license issued by the Board.
2. On or about October 30, 2020, the Board received a written complaint from Scott Lucas and Michelle Marpole alleging certain acts of unprofessional conduct by Respondent.
3. On November 17, 2020, upon preliminary review, the complaint was assigned Case No. C21-03.
4. By letter dated November 18, 2020, the Board transmitted a copy of the complaint to Respondent and requested that he provide a written response thereto within 30 days.
5. On or about December 29, 2020, the Board received a written response from Respondent, which included several documents. Respondent denied the complainants' allegations.
6. The Board's Complaint Review Committee reviewed the complaint, Respondent's response thereto, and the documentation submitted therewith, and found probable cause to believe that Respondent had reset a monument, but failed to prepare a plat, in violation of the Minimum Standards for Surveys, W. Va. Code R. § 23-5-7, and the Board's governing statutes, W. Va. Code §§ 30-1-8(a), 30-13A-22(g).
7. At its meeting on February 2, 2021, the Board considered the matter, including the findings of the Complaint Review Committee, and voted to seek disciplinary action against Respondent.

### CONCLUSIONS OF LAW

1. Respondent is a licensee of the Board, holding License No. 443, 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. The 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 this matter.
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, Norman Eugene Kelley, 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, Norman Eugene Kelley, 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 thirty (30) days of the date of entry of this Order, Respondent shall prepare a plat in accordance with the current Minimum Standards for Surveys, W. Va. Code R. §§ 23-5-7 *et seq.*, and shall provide a copy thereof to the complainants and the Board.
3. Within six (6) months from the date of entry of this Order, Respondent shall complete two 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 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: April 16, 2021  
Date

REVIEWED AND AGREED TO BY:

  
Norman Eugene Kelley, P.S.  
Respondent

3-31-2021  
Date

This day personally appeared before me, Norman Eugene Kelley, 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 31<sup>st</sup> day of March, 2021.

My Commission expires: May 26 2025

  
Notary Public

