Sept 1979

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BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE DISCIPLINARY PROCEEDING AGAINST MICHAEL C. McMILLIN (S-1179) RESPONDENT	: : : : :	FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER

The above-captioned matter was commenced by Complaint filed June 1, 1979 by Bud L. Henning, duly authorized Investigator for the Department of Regulation and Licensing. Subsequently, on August 7, 1979, the parties reached an agreement on disposition of the matter. That stipulated agreement provides in relevant part that the Respondent, Michael C. McMillin does not contest the alleged facts and conclusions of law contained in the Complaint filed in this matter and that the Board, on or after September 1, 1979, suspend Respondent's license to practice land surveying for a period of one year.

The Board, after reviewing the matter, including the Stipulation filed on August 7, 1979, and based upon Respondent's failure to deny the alleged facts and conclusions of law contained in the Complaint filed in this matter, and pursuant to section 227.10, Wis. Stats., makes the following Findings of Fact and Conclusions of Law, and issues the following Order:

FINDINGS OF FACT

1. That Michael C. McMillin, hereinafter referred to as Respondent, was at all times relevant to this matter duly licensed under the provisions of Ch. 443, Wis. Stats., to practice as a land surveyor in the State of Wisconsin (License No. S-1179, issued June 25, 1974).

2. That Respondent's address is 583 North Main Street, Richland Center, Wisconsin 53581.

3. That on or about November 25, 1975, and as a part of his land surveying practice, Respondent was retained by Norman Page and Arla Page, husband and wife, hereinafter referred to as Mr. & Mrs. Page, residing at Gays Mills, Wisconsin 54631, to perform a land survey and to prepare a plat of a subdivision known as the Hillwood Heights Addition, located in the S.E. 1/4, S.W. 1/4, Section 22, T10N, R4W, Village of Gays Mills, Crawford County, Wisconsin.

4. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a plat as described in paragraph No. 3, above, and that Respondent was paid a professional fee for said survey and plat.

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5. That by letter dated December 14, 1977, Daniel B. Watson, District Attorney for Crawford County, Wisconsin, requested notification from Respondent of the anticipated completion date of the plat described in paragraph No. 3, above, and informed Respondent that failure to supply said notification within ten days would result in the commencement of a criminal action against Mr. & Mrs. Page for transferring subdivision lots without a recorded plat, in violation of Section 236.31(1), Wis. Stats.

6. That by letter dated December 24, 1977, Respondent notified District Attorney Daniel Watson that the plat described in paragraph No. 3, above, would be completed and submitted to the State of Wisconsin for approval by May 1, 1978.

7. That Respondent failed to complete the plat described in paragraph No. 3, above, by May 1, 1978.

8. That by letter dated May 25, 1978, Mr. Jack L. Rath, attorney for Mr. & Mrs. Page, notified Respondent that his failure to complete the plat described in paragraph No. 3, above, by the date promised could result in a legal prosecution against Mr. & Mrs. Page with resultant possible loss of income and damage to their reputations.

9. That on August 3, 1978, and as a result of Respondent's continuing failure to complete the plat described in paragraph No. 3, above, a criminal complaint and summons was issued by Crawford County District Attorney Daniel Watson against Mr. & Mrs. Page, alleging a violation of Section 236.31(1) Wis. Stats., and that service of said complaint caused financial harm and mental anguish to Mr. & Mrs. Page.

10. That Respondent did not finally complete and submit the plat described in paragraph No. 3, above, until August 19, 1978.

11. That on or about October 26, 1978, Respondent made application for a Land Subdivision Plat Review to the Plat Review Section of the State of Wisconsin Department of Local Affairs and Development on Form DLAD-P1, and that Respondent certified on that application that all monuments shown on the plat described in paragraph 3, above, had been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

12. That on or about October 26, 1978, all monuments shown on the plat described in paragraph 3, above, had not been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

13. That on or about December 15, 1978, Respondent made application for a Land Subdivision Plat Review to the Plat Review Section of the Department of Local Affairs and Development on Form DLAD-P1, and that Respondent certified on that application that all monuments shown on the plat described in paragraph 3, above, had been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

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14. That on or about December 15, 1978, all monuments shown on the plat described in paragraph 3, above, had not been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

15. That by May 16, 1979, all monuments shown on the plat described in paragraph 3, above, still had not been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

16. That on or about July 1, 1977, and as a part of his land surveying practice, Respondent was retained by Mr. Dan Berns, doing business as "Center Realty," 903 Sextonville Road, Richland Center, Wisconsin 53581, to perform surveys and to prepare maps of survey for the purpose of conveying two parcels of land, the first parcel containing .64 acres and being located in the Northwest Quarter of the Southeast Quarter of Section 36, Township 12 North, Range 1 East, Richland County, Wisconsin, and the second parcel containing .56 acres and being located in the Southwest Quarter of the Southeast Quarter of Section 36, Township 12 North, Range 1 East, Richland County, Wisconsin.

17. That Respondent did in fact perform or supervise the performance of surveys and did in fact prepare or supervise the preparation of maps as described in paragraph No. 16, above.

18. That in performing the land surveys and in preparing the survey maps described in paragraph No. 16, above, Respondent was required to meet the standards set forth in the Minimum Standards for Property Surveys, ch. A-E 5, Wis. Adm. Code, and that said surveys and maps did not meet the required standards in the following respects:

(a) Respondent failed to set monuments marking the corners of the parcels surveyed as required by s. A-E 5.01(3) Wis. Adm. Code.

(b) Respondent failed to describe the parcels surveyed in reference to some corner marked and established by the U.S. Public Land Survey, as required by s. A-E 5.01(4) Wis. Adm. Code.

(c) The maps prepared by Respondent are not referenced to a magnetic, true or other identifiable meridian or line of the public land survey, recorded subdivision or to the Wisconsin Coordinate System, as required by s. A-E 5.01(5)(b), Wis. Adm. Code.

(d) The maps prepared by Respondent fail to show and describe all monuments necessary for the location of the parcels and fail to indicate whether such monuments were found or placed, as required by s. A-E 5.01(5)(d), Wis. Adm. Code.

(e) The maps prepared by Respondent fail to contain a statement certifying that the surveys are correct to the best of his knowledge and belief, as required by s. A-E 5.01(5)(f), Wis. Adm. Code.

(f) The closed traverse depicted on Respondent's survey map of the parcel consisting of .56 acres has a latitude and departure closure ratio exceeding 1 in 3000, in violation of s. A-E 5.01(6)(d), Wis. Adm. Code.

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19. That Respondent's failure to meet the Minimum Standards for Property Surveys, as detailed in paragraph No. 18, above, resulted in land surveys and maps of survey so deficient as to delay and hinder the conveyance of the parcels surveyed.

20. That on or about April 22, 1976, and as a part of his land surveying practice, Respondent was retained by Floyd Demmer and Halycian Demmer, husband and wife, hereinafter referred to as Mr. and Mrs. Demmer, residing at P.O. Box 3, Gotham, Wisconsin 53540, to perform a land survey and to prepare a plat of a subdivision to be known as Demmer Estates, located in the N.W. 1/4, S.W. 1/4, Section 29, T9N, R2E, Town of Buena Vista, Richland Center, Wisconsin.

21. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a plat as described in paragraph No. 20, above, and that Respondent was paid a professional fee for said survey and plat.

22. That on or about July 17, 1976, Respondent represented to Mr. and Mrs. Demmer that the plat described in paragraph No. 20, above, would be completed by July 20, 1976.

23. That the plat described in paragraph No. 20, above, was not completed by July 20, 1976.

24. That on or about July 28, 1976, Respondent represented to Mr. and Mrs. Demmer that the plat described in paragraph No. 20, above, had been submitted to the State of Wisconsin for necessary approvals.

25. That the plat described in paragraph No. 20, above, had not been submitted to the State of Wisconsin by July 28, 1976.

26. That on or about March 14, 1977, Respondent represented to Mr. and Mrs. Demmer that the plat described in paragraph No. 20, above, would be completed by March 18, 1977.

27. That the plat described in paragraph No. 20, above, was not completed by March 18, 1977.

28. That in a letter received by Mr. and Mrs. Demmer on March 22, 1977, Respondent represented that the plat described in paragraph No. 20, above, would be completed on that day.

29. That the plat described in paragraph No. 20, above, was not completed by March 22, 1977.

30. That on or about May 10, 1977, Respondent represented to Allan C. Peckham, 157 West Jefferson Street, Spring Green, Wisconsin 53588, Attorney for Mr. and Mrs. Demmer, that the plat described in paragraph No. 20, above, would be completed by May 11, 1977.

31. That the plat described in paragraph No. 20, above, was not completed by May 11, 1977.

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32. That Respondent did not finally complete and submit the plat described in paragraph No. 20, above, until May 17, 1977.

33. That as a result of Respondent's continuing failure to complete the plat described in paragraph No. 20, above, Mr. and Mrs. Demmer suffered mental anguish and incurred additional costs and expenses as detailed in subparagraphs (a) through (d), below.

(a) The cost of percolation tests which Respondent had contracted to perform but which he did not in fact perform.

(b) The cost of numerous journeys by Mr. and Mrs. Demmer to Respondent's office for the purpose of inducing completion of the plat described in paragraph No. 20, above.

(c) The cost of numerous long distance telephone calls made to various Wisconsin State agencies by Mr. and Mrs. Demmer in an attempt to ascertain whether the plat described in paragraph No. 20, above, had been submitted by Respondent.

(d) The cost of attorney's fees and associated expenses incurred in an attempt to induce Respondent to complete the plat described in paragraph No. 20, above.

34. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mrs. Philip Kinsman, residing in Lime Ridge, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located partly in the Southeast Quarter of the Southeast Quarter, and partly in the Northeast Quarter of the Southeast Quarter of Section 32, T12N, R3E, Village of Lime Ridge, Sauk County, Wisconsin, consisting of approximately 9.9 acres.

35. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 34, above, and that Respondent was paid a professional fee for said survey and survey map.

36. That in performing the survey and in preparing the certified survey map described in paragraph No. 34, above, Respondent was required to meet the requirements of s. 236.34, Wis. Stats., and to meet the Minimum Standards for Property Surveys found at Ch. A-E 5, Wis. Adm. Code, and that said survey and map failed to meet those requirements in the following respects:

(a) Respondent failed to set monuments marking the corners of the parcel surveyed as required by s. 236.34(1)(b), Wis. Stats. and by s. A-E 5.01(3), Wis. Adm. Code.

(b) Respondent failed to make a careful determination of the position of the boundaries of the parcel surveyed, as required by s. A-E 5.01(3), Wis. Adm. Code.

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37. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mr. Lawrence Fry, residing in Hillpoint, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located partly in the Southeast Quarter of the Northeast Quarter and partly in the Northeast Quarter of the Southeast Quarter, all in Section 2, T10N, R3E, Town of Bear Creek, Sauk County, Wisconsin.

38. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 37, above, and that Respondent was paid a professional fee for said survey and survey map.

39. That in performing the survey and in preparing the certified survey map described in paragraph No. 37, above, Respondent was required to meet the Minimum Standards for Property Surveys set out at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in the following respects:

(a) Respondent failed to set monuments marking the corners of the parcel surveyed as required by s. 236.34(1)(b), Wis. Stats., and by s. A-E 5.01(3), Wis. Adm. Code.

(b) Respondent failed to show and properly describe all monuments necessary for the location of the parcel and failed to indicate whether such monuments were found or placed as required by s. 236.34(1)(c), Wis. Stats., and s. A-E 5.01(5)(d), Wis. Adm. Code.

40. That in 1976, and as a part of his land surveying practice, Respondent was retained by Soiltest, Incorporated, 524 South Boulevard, Baraboo, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of dividing and conveying a parcel of land located in the Northeast Quarter of the Northwest Quarter, Section 22, Township 12 North, Range 5 East. Town of Excelsior, Sauk County, Wisconsin.

41. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 40, above, and that Respondent was paid a professional fee for said survey and survey map.

42. That in performing the survey and in preparing the certified survey map described in paragraph No. 40, above, Respondent was required to meet the Minimum Standards for Property Surveys found at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in that Respondent failed to set monuments marking the corners of the parcels surveyed as required by s. 236.34(1)(b), Wis. Stats. and by s. A-E 5.01(3), Wis. Adm. Code.

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43. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mrs. Shirley Maxwell, residing at Plain, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located in the Southwest Quarter of the Southwest Quarter, Section 17, T9N, R3E, Town of Bear Creek, Sauk County, Wisconsin, consisting of approximately 1 acre.

44. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 43, above, and that Respondent was paid a professional fee for said survey and survey map.

45. That in performing the survey and in preparing the certified survey map described in paragraph No. 43, above, Respondent was required to meet the Minimum Standards for Property Surveys set out in Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in that Respondent failed to properly describe all monuments necessary for the location of the parcel as required by s. 236.34(1)(c), Wis. Stats., and s. A-E 5.01(5)(d), Wis. Adm. Code.

46. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mr. Leo Schwarz, residing at Richland Center, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located in the Southwest Quarter of the Southwest Quarter, Section 15, T9N, R3E, Town of Bear Creek, Sauk County, Wisconsin, consisting of approximately 2 acres.

47. That Respondent did in fact perform or supervise the performance of a survey, and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 46, above, and that Respondent was paid a professional fee for said survey and map.

48. That in performing the survey and in preparing the certified survey map described in paragraph No. 46, above, Respondent was required to meet the Minimum Standards for Property Surveys set out in Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in that Respondent failed to properly describe all monuments necessary for the location of the parcel as required by s. 236.34(1)(c), Wis. Stats. and s. A-E 5.01(5)(d), Wis. Adm. Code.

49. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mr. James Roecker, residing in Reedsburg, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located in the Southwest Quarter of the Southeast Quarter, Section 26, T12N, R3E, Town of Ironton, Sauk County, Wisconsin, consisting of approximately 9.1 acres.

50. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 49, above.

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51. That in performing the survey and in preparing the certified survey map described in paragraph No. 49, above, Respondent was required to meet the Minimum Standards for Property Surveys set out at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in the following respects:

(a) The closed traverse depicted on Respondent's survey map has a latitude and departure closure ratio exceeding 1 in 3000, in violation of s. A-E 5.01(6)(d), Wis. Adm. Code.

(b) Respondent's survey map fails to show and describe all monuments necessary for the location of the parcel and fails to indicate whether such monuments were found or placed, as required by s. A-E 5.01(5)(d), Wis. Adm. Code and by s. 236.34(1)(c), Wis. Stats.

52. That in 1975, and as a part of Respondent's land surveying practice, Respondent was retained by Mr. Henry Horst, residing in Baraboo, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of dividing and conveying a parcel of land located in the Northwest Quarter of the Southwest Quarter, Section 22, T12N, R5E, Town of Excelsior, Sauk County, Wisconsin.

53. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 52, above.

54. That in performing the survey and in preparing the certified survey map described in paragraph No. 52, above, Respondent was required to meet the Minimum Standards for Property Surveys set out at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in the following respects:

(a) Respondent's survey map fails to properly describe all monuments necessary for the location of the parcel, as required by s. A-E 5.01(5)(d), Wis. Adm. Code and of s. 236.34(1)(c), Wis. Stats.

(b) Respondent failed to set monuments marking the corners of the parcels surveyed as required by s. 236.34(1)(b), Wis. Stats., and by s. A-E 5.01(3), Wis. Adm. Code.

CONCLUSIONS OF LAW

55. That Respondent's failure to complete the survey and plat described in paragraph No. 3, above, in a timely manner, as detailed in paragraph numbers 5 through 9, above, constitutes a failure to accurately and truthfully represent to his clients the date of completion of said survey and plat in violation of s. A-E 4.03(4), Wis. Adm. Code.

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56. That Respondent's failure to place all monuments in accordance with the requirements of s. 236.15(1), Wis. Stats. constitutes a failure to mantain the highest degree of integrity, truthfulness and accuracy by misrepresenting information regarding the survey described in paragraph 3, above, in violation of s. 4.03, Wis. Adm. Code.

57. That Respondent's failure to truthfully and accurately represent to his clients the date of completion of the survey, as detailed in paragraphs 5 through 11, above, and Respondent's misrepresenting information regarding the survey, as detailed in paragraphs 12 through 17, above, constitute gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

58. That Respondent's failure to meet the Minimum Standards for Property Surveys, as detailed in paragraph No. 18, above, constitutes incompetency, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

59. That Respondent's failure to complete the survey and plat described in paragraph No. 20, above, in a timely manner, as detailed in paragraph numbers 22 through 32, above, constitutes a failure to accurately and truthfully represent to his clients the date of completion of said survey and plat, in violation of s. A-E 4.03(4), Wis. Adm. Code.

60. That Respondent's failure to accurately and truthfully represent to his clients the date of completion of the survey and plat described in paragraph No. 20, above, constitutes misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

61. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats. and Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 36, above, constitutes incompetency, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

62. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats., and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 39, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

63. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats. and Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 42, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

64. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats. and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 45, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

65. That Respondent's failure to meet the requirements of Ch. A-E 5, Wis. Adm. Code and of s. 236.34, Wis. Stats., as detailed in paragraph No. 48, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

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66. That Respondent's failure to meet the requirements of Ch. A-E 5, Wis. Adm. Code and of s. 236.34, Wis. Stats., as detailed in paragraph No. 51, above, constitutes incompetence, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

67. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats., and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 54, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

ORDER

NOW THEREFORE, IT IS ORDERED that Respondent's license to practice land surveying within the State of Wisconsin shall, commencing on the 1st day of October, 1979, be suspended for a period of one year.

Dated this 29 day of August, 1979.

Examining Board Of Architects,
Professional Engineers, Designers
and Land Surveyors

Paul R Wolf

Paul R. Wolf, Vice-Chairman
Land Surveyors Section

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STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF
ARCHITECTS, PROFESSIONAL ENGINEERS,
DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST MICHAEL C. MCMILLIN, RESPONDENT	: : : : :	NOTICE OF FILING PROPOSED DECISION

To: Wayne R. Austin, Attorney
Room 166, 1400 East Washington Avenue
Madison, Wisconsin 53702

Ed Leineweber, Attorney
P. O. Box 525
137 South Main Street
Richland Center, Wisconsin 53581

PLEASE TAKE NOTICE that a Proposed Decision in the above-captioned matter has been filed with the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors by the Hearing Examiner, Ronald Pack. A copy of the Proposed Decision is enclosed herewith. If you are adversely affected by, and have objections to the Proposed Decision, you may file said objections, briefly stating the reasons and authorities for each objection, and argue with respect to those objections in writing, provided said objections and arguments are submitted and received at the office of the Examining Board, Department of Regulation and Licensing, 1400 East Washington Avenue, Madison, Wisconsin 53702, on or before (seven days notice).

Dated at Madison this 22nd day of August, 1979.

Ronald Pack, Examiner

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BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS,
DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
Michael C. McMillin (S-1179) RESPONDENT	:	

On June 1, 1979, a complaint was filed in the above entitled matter, the gravamen of which was that respondent, Michael C. McMillin, in performing property surveys for Norman and Arla Page and for Floyd and Halycian Demmer, both couples residing in Richland County, Wisconsin, failed to complete those surveys in a timely manner and failed to accurately and truthfully represent to those clients the dates of completion of the surveys. The complaint further alleged that in performing a property survey for Mr. Dan Berns, also residing in Richland County, Wisconsin, and in performing a number of Sauk County certified surveys, respondent failed in a number of respects to meet the Minimum Standards for Property Surveys set out in chapter A-E 5 of the Wisconsin Administrative Code and, in the case of the certified surveys, failed to meet various requirements of section 236.34, Wis. Stats. Finally, it was claimed that the foregoing alleged violations constitute incompetency, gross negligence and misconduct in the practice of land surveying within the meaning of section 443.02(8)(a), Wis. Stats.

On the same date the complaint was filed, a hearing was ordered pursuant to Chapter 443, Wis. Stats. and Chapter RL-2, Wis. Adm. Code, for the purpose of considering the allegations of the complaint. Also on June 1, 1979, Ronald Pack, designated hearing examiner in the matter, requested the parties to appear at a pre-hearing conference to be held on June 22, 1979. On that date, complainant Bud L. Henning appeared by his attorney, Wayne R. Austin, and respondent Michael C. McMillin appeared by his attorney, Edward E. Leineweber. After discussions taking place both at the conference and subsequent thereto, the named parties reached agreement on disposition of the matter, which agreement is intended as a full disposition of all complaints presently pending against respondent and is further intended as a recommended basis for the final decision of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors.

ACCORDINGLY, Bud L. Henning, by his attorney, and Michael C. McMillin, by his attorney, in consideration of the terms and conditions of this Stipulation and in consideration and upon condition of acceptance of the terms and conditions of this Stipulation by the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors, do hereby stipulate:

1. That respondent freely and voluntarily waives his right to a public hearing in this cause

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not contest

2. That respondent does / all of the alleged facts and conclusions of law contained in the complaint filed in this matter

3. That the Board order that effective the 1st day of September, 1979, or as soon thereafter as the Board may specify, the license previously issued to respondent to practice as a land surveyor in Wisconsin (license No. S-1179, issued June 25, 1974) be suspended for a period of one year on the basis of respondent's response to the allegations of the complaint.

Dated this 7th day of August, 1979.

Bud L. Henning

Bud L. Henning, Complainant

Wayne R. Austin

Wayne R. Austin, Attorney for Complainant

Michael C. McMillin

Michael C. McMillin, Respondent

Edward E. Leineweber

Edward E. Leineweber, Attorney for Respondent

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WORKER'S COMP. DIV.

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE DISCIPLINARY PROCEEDING AGAINST MICHAEL C. McMILLIN (S-1179) RESPONDENT	:	FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER

The above-captioned matter was commenced by Complaint filed June 1, 1979 by Bud L. Henning, duly authorized Investigator for the Department of Regulation and Licensing. Subsequently, on August 7, 1979, the parties reached an agreement on disposition of the matter. That stipulated agreement provides in relevant part that the Respondent, Michael C. McMillin does not contest the alleged facts and conclusions of law contained in the Complaint filed in this matter and that the Board, on or after September 1, 1979, suspend Respondent's license to practice land surveying for a period of one year.

The Board, after reviewing the matter, including the Stipulation filed on August 7, 1979, and based upon Respondent's failure to deny the alleged facts and conclusions of law contained in the Complaint filed in this matter, and pursuant to section 227.10, Wis. Stats., makes the following Findings of Fact and Conclusions of Law, and issues the following Order:

FINDINGS OF FACT

1. That Michael C. McMillin, hereinafter referred to as Respondent, was at all times relevant to this matter duly licensed under the provisions of Ch. 443, Wis. Stats., to practice as a land surveyor in the State of Wisconsin (License No. S-1179, issued June 25, 1974).

2. That Respondent's address is 583 North Main Street, Richland Center, Wisconsin 53581.

3. That on or about November 25, 1975, and as a part of his land surveying practice, Respondent was retained by Norman Page and Arla Page, husband and wife, hereinafter referred to as Mr. & Mrs. Page, residing at Gays Mills, Wisconsin 54631, to perform a land survey and to prepare a plat of a subdivision known as the Hillwood Heights Addition, located in the S.E. 1/4, S.W. 1/4, Section 22, T10N, R4W, Village of Gays Mills, Crawford County, Wisconsin.

4. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a plat as described in paragraph No. 3, above, and that Respondent was paid a professional fee for said survey and plat.

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WORKER'S COMP. DIV.

5. That by letter dated December 14, 1977, Daniel B. Watson, District Attorney for Crawford County, Wisconsin, requested notification from Respondent of the anticipated completion date of the plat described in paragraph No. 3, above, and informed Respondent that failure to supply said notification within ten days would result in the commencement of a criminal action against Mr. & Mrs. Page for transferring subdivision lots without a recorded plat, in violation of Section 236.31(1), Wis. Stats.

6. That by letter dated December 24, 1977, Respondent notified District Attorney Daniel Watson that the plat described in paragraph No. 3, above, would be completed and submitted to the State of Wisconsin for approval by May 1, 1978.

7. That Respondent failed to complete the plat described in paragraph No. 3, above, by May 1, 1978.

8. That by letter dated May 25, 1978, Mr. Jack L. Rath, attorney for Mr. & Mrs. Page, notified Respondent that his failure to complete the plat described in paragraph No. 3, above, by the date promised could result in a legal prosecution against Mr. & Mrs. Page with resultant possible loss of income and damage to their reputations.

9. That on August 3, 1978, and as a result of Respondent's continuing failure to complete the plat described in paragraph No. 3, above, a criminal complaint and summons was issued by Crawford County District Attorney Daniel Watson against Mr. & Mrs. Page, alleging a violation of Section 236.31(1) Wis. Stats., and that service of said complaint caused financial harm and mental anguish to Mr. & Mrs. Page.

10. That Respondent did not finally complete and submit the plat described in paragraph No. 3, above, until August 19, 1978.

11. That on or about October 26, 1978, Respondent made application for a Land Subdivision Plat Review to the Plat Review Section of the State of Wisconsin Department of Local Affairs and Development on Form DLAD-P1, and that Respondent certified on that application that all monuments shown on the plat described in paragraph 3, above, had been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

12. That on or about October 26, 1978, all monuments shown on the plat described in paragraph 3, above, had not been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

13. That on or about December 15, 1978, Respondent made application for a Land Subdivision Plat Review to the Plat Review Section of the Department of Local Affairs and Development on Form DLAD-P1, and that Respondent certified on that application that all monuments shown on the plat described in paragraph 3, above, had been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

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14. That on or about December 15, 1978, all monuments shown on the plat described in paragraph 3, above, had not been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

15. That by May 16, 1979, all monuments shown on the plat described in paragraph 3, above, still had not been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

16. That on or about July 1, 1977, and as a part of his land surveying practice, Respondent was retained by Mr. Dan Berns, doing business as "Center Realty," 903 Sextonville Road, Richland Center, Wisconsin 53581, to perform surveys and to prepare maps of survey for the purpose of conveying two parcels of land, the first parcel containing .64 acres and being located in the Northwest Quarter of the Southeast Quarter of Section 36, Township 12 North, Range 1 East, Richland County, Wisconsin, and the second parcel containing .56 acres and being located in the Southwest Quarter of the Southeast Quarter of Section 36, Township 12 North, Range 1 East, Richland County, Wisconsin.

17. That Respondent did in fact perform or supervise the performance of surveys and did in fact prepare or supervise the preparation of maps as described in paragraph No. 16, above.

18. That in performing the land surveys and in preparing the survey maps described in paragraph No. 16, above, Respondent was required to meet the standards set forth in the Minimum Standards for Property Surveys, ch. A-E 5, Wis. Adm. Code, and that said surveys and maps did not meet the required standards in the following respects:

(a) Respondent failed to set monuments marking the corners of the parcels surveyed as required by s. A-E 5.01(3) Wis. Adm. Code.

(b) Respondent failed to describe the parcels surveyed in reference to some corner marked and established by the U.S. Public Land Survey, as required by s. A-E 5.01(4) Wis. Adm. Code.

(c) The maps prepared by Respondent are not referenced to a magnetic, true or other identifiable meridian or line of the public land survey, recorded subdivision or to the Wisconsin Coordinate System, as required by s. A-E 5.01(5)(b), Wis. Adm. Code.

(d) The maps prepared by Respondent fail to show and describe all monuments necessary for the location of the parcels and fail to indicate whether such monuments were found or placed, as required by s. A-E 5.01(5)(d), Wis. Adm. Code.

(e) The maps prepared by Respondent fail to contain a statement certifying that the surveys are correct to the best of his knowledge and belief, as required by s. A-E 5.01(5)(f), Wis. Adm. Code.

(f) The closed traverse depicted on Respondent's survey map of the parcel consisting of .56 acres has a latitude and departure closure ratio exceeding 1 in 3000, in violation of s. A-E 5.01(6)(d), Wis. Adm. Code.

19. That Respondent's failure to meet the Minimum Standards for Property Surveys, as detailed in paragraph No. 18, above, resulted in land surveys and maps of survey so deficient as to delay and hinder the conveyance of the parcels surveyed.

20. That on or about April 22, 1976, and as a part of his land surveying practice, Respondent was retained by Floyd Demmer and Halycian Demmer, husband and wife, hereinafter referred to as Mr. and Mrs. Demmer, residing at P.O. Box 3, Gotham, Wisconsin 53540, to perform a land survey and to prepare a plat of a subdivision to be known as Demmer Estates, located in the N.W. 1/4, S.W. 1/4, Section 29, T9N, R2E, Town of Buena Vista, Richland Center, Wisconsin.

21. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a plat as described in paragraph No. 20, above, and that Respondent was paid a professional fee for said survey and plat.

22. That on or about July 17, 1976, Respondent represented to Mr. and Mrs. Demmer that the plat described in paragraph No. 20, above, would be completed by July 20, 1976.

23. That the plat described in paragraph No. 20, above, was not completed by July 20, 1976.

24. That on or about July 28, 1976, Respondent represented to Mr. and Mrs. Demmer that the plat described in paragraph No. 20, above, had been submitted to the State of Wisconsin for necessary approvals.

25. That the plat described in paragraph No. 20, above, had not been submitted to the State of Wisconsin by July 28, 1976.

26. That on or about March 14, 1977, Respondent represented to Mr. and Mrs. Demmer that the plat described in paragraph No. 20, above, would be completed by March 18, 1977.

27. That the plat described in paragraph No. 20, above, was not completed by March 18, 1977.

28. That in a letter received by Mr. and Mrs. Demmer on March 22, 1977, Respondent represented that the plat described in paragraph No. 20, above, would be completed on that day.

29. That the plat described in paragraph No. 20, above, was not completed by March 22, 1977.

30. That on or about May 10, 1977, Respondent represented to Allan C. Peckham, 157 West Jefferson Street, Spring Green, Wisconsin 53588, Attorney for Mr. and Mrs. Demmer, that the plat described in paragraph No. 20, above, would be completed by May 11, 1977.

31. That the plat described in paragraph No. 20, above, was not completed by May 11, 1977.

32. That Respondent did not finally complete and submit the plat described in paragraph No. 20, above, until May 17, 1977.

33. That as a result of Respondent's continuing failure to complete the plat described in paragraph No. 20, above, Mr. and Mrs. Demmer suffered mental anguish and incurred additional costs and expenses as detailed in subparagraphs (a) through (d), below.

(a) The cost of percolation tests which Respondent had contracted to perform but which he did not in fact perform.

(b) The cost of numerous journeys by Mr. and Mrs. Demmer to Respondent's office for the purpose of inducing completion of the plat described in paragraph No. 20, above.

(c) The cost of numerous long distance telephone calls made to various Wisconsin State agencies by Mr. and Mrs. Demmer in an attempt to ascertain whether the plat described in paragraph No. 20, above, had been submitted by Respondent.

(d) The cost of attorney's fees and associated expenses incurred in an attempt to induce Respondent to complete the plat described in paragraph No. 20, above.

34. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mrs. Philip Kinsman, residing in Lime Ridge, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located partly in the Southeast Quarter of the Southeast Quarter, and partly in the Northeast Quarter of the Southeast Quarter of Section 32, T12N, R3E, Village of Lime Ridge, Sauk County, Wisconsin, consisting of approximately 9.9 acres.

35. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 34, above, and that Respondent was paid a professional fee for said survey and survey map.

36. That in performing the survey and in preparing the certified survey map described in paragraph No. 34, above, Respondent was required to meet the requirements of s. 236.34, Wis. Stats., and to meet the Minimum Standards for Property Surveys found at Ch. A-E 5, Wis. Adm. Code, and that said survey and map failed to meet those requirements in the following respects:

(a) Respondent failed to set monuments marking the corners of the parcel surveyed as required by s. 236.34(1)(b), Wis. Stats. and by s. A-E 5.01(3), Wis. Adm. Code.

(b) Respondent failed to make a careful determination of the position of the boundaries of the parcel surveyed, as required by s. A-E 5.01(3), Wis. Adm. Code.

37. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mr. Lawrence Fry, residing in Hillpoint, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located partly in the Southeast Quarter of the Northeast Quarter and partly in the Northeast Quarter of the Southeast Quarter, all in Section 2, T10N, R3E, Town of Bear Creek, Sauk County, Wisconsin.

38. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 37, above, and that Respondent was paid a professional fee for said survey and survey map.

39. That in performing the survey and in preparing the certified survey map described in paragraph No. 37, above, Respondent was required to meet the Minimum Standards for Property Surveys set out at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in the following respects:

(a) Respondent failed to set monuments marking the corners of the parcel surveyed as required by s. 236.34(1)(b), Wis. Stats., and by s. A-E 5.01(3), Wis. Adm. Code.

(b) Respondent failed to show and properly describe all monuments necessary for the location of the parcel and failed to indicate whether such monuments were found or placed as required by s. 236.34(1)(c), Wis. Stats., and s. A-E 5.01(5)(d), Wis. Adm. Code.

40. That in 1976, and as a part of his land surveying practice, Respondent was retained by Soiltest, Incorporated, 524 South Boulevard, Baraboo, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of dividing and conveying a parcel of land located in the Northeast Quarter of the Northwest Quarter, Section 22, Township 12 North, Range 5 East. Town of Excelsior, Sauk County, Wisconsin.

41. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 40, above, and that Respondent was paid a professional fee for said survey and survey map.

42. That in performing the survey and in preparing the certified survey map described in paragraph No. 40, above, Respondent was required to meet the Minimum Standards for Property Surveys found at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in that Respondent failed to set monuments marking the corners of the parcels surveyed as required by s. 236.34(1)(b), Wis. Stats. and by s. A-E 5.01(3), Wis. Adm. Code.

43. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mrs. Shirley Maxwell, residing at Plain, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located in the Southwest Quarter of the Southwest Quarter, Section 17, T9N, R3E, Town of Bear Creek, Sauk County, Wisconsin, consisting of approximately 1 acre.

44. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 43, above, and that Respondent was paid a professional fee for said survey and survey map.

45. That in performing the survey and in preparing the certified survey map described in paragraph No. 43, above, Respondent was required to meet the Minimum Standards for Property Surveys set out in Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in that Respondent failed to properly describe all monuments necessary for the location of the parcel as required by s. 236.34(1)(c), Wis. Stats., and s. A-E 5.01(5)(d), Wis. Adm. Code.

46. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mr. Leo Schwarz, residing at Richland Center, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located in the Southwest Quarter of the Southwest Quarter, Section 15, T9N, R3E, Town of Bear Creek, Sauk County, Wisconsin, consisting of approximately 2 acres.

47. That Respondent did in fact perform or supervise the performance of a survey, and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 46, above, and that Respondent was paid a professional fee for said survey and map.

48. That in performing the survey and in preparing the certified survey map described in paragraph No. 46, above, Respondent was required to meet the Minimum Standards for Property Surveys set out in Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in that Respondent failed to properly describe all monuments necessary for the location of the parcel as required by s. 236.34(1)(c), Wis. Stats. and s. A-E 5.01(5)(d), Wis. Adm. Code.

49. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mr. James Roecker, residing in Reedsburg, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located in the Southwest Quarter of the Southeast Quarter, Section 26, T12N, R3E, Town of Ironton, Sauk County, Wisconsin, consisting of approximately 9.1 acres.

50. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 49, above.

51. That in performing the survey and in preparing the certified survey map described in paragraph No. 49, above, Respondent was required to meet the Minimum Standards for Property Surveys set out at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in the following respects:

(a) The closed traverse depicted on Respondent's survey map has a latitude and departure closure ratio exceeding 1 in 3000, in violation of s. A-E 5.01(6)(d), Wis. Adm. Code.

(b) Respondent's survey map fails to show and describe all monuments necessary for the location of the parcel and fails to indicate whether such monuments were found or placed, as required by s. A-E 5.01(5)(d), Wis. Adm. Code and by s. 236.34(1)(c), Wis. Stats.

52. That in 1975, and as a part of Respondent's land surveying practice, Respondent was retained by Mr. Henry Horst, residing in Baraboo, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of dividing and conveying a parcel of land located in the Northwest Quarter of the Southwest Quarter, Section 22, T12N, R5E, Town of Excelsior, Sauk County, Wisconsin.

53. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 52, above.

54. That in performing the survey and in preparing the certified survey map described in paragraph No. 52, above, Respondent was required to meet the Minimum Standards for Property Surveys set out at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in the following respects:

(a) Respondent's survey map fails to properly describe all monuments necessary for the location of the parcel, as required by s. A-E 5.01(5)(d), Wis. Adm. Code and of s. 236.34(1)(c), Wis. Stats.

(b) Respondent failed to set monuments marking the corners of the parcels surveyed as required by s. 236.34(1)(b), Wis. Stats., and by s. A-E 5.01(3), Wis. Adm. Code.

CONCLUSIONS OF LAW

55. That Respondent's failure to complete the survey and plat described in paragraph No. 3, above, in a timely manner, as detailed in paragraph numbers 5 through 9, above, constitutes a failure to accurately and truthfully represent to his clients the date of completion of said survey and plat in violation of s. A-E 4.03(4), Wis. Adm. Code.

56. That Respondent's failure to place all monuments in accordance with the requirements of s. 236.15(1), Wis. Stats. constitutes a failure to mantain the highest degree of integrity, truthfulness and accuracy by misrepresenting information regarding the survey described in paragraph 3, above, in violation of s. 4.03, Wis. Adm. Code.

57. That Respondent's failure to truthfully and accurately represent to his clients the date of completion of the survey, as detailed in paragraphs 5 through 11, above, and Respondent's misrepresenting information regarding the survey, as detailed in paragraphs 12 through 17, above, constitute gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

58. That Respondent's failure to meet the Minimum Standards for Property Surveys, as detailed in paragraph No. 18, above, constitutes incompetency, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

59. That Respondent's failure to complete the survey and plat described in paragraph No. 20, above, in a timely manner, as detailed in paragraph numbers 22 through 32, above, constitutes a failure to accurately and truthfully represent to his clients the date of completion of said survey and plat, in violation of s. A-E 4.03(4), Wis. Adm. Code.

60. That Respondent's failure to accurately and truthfully represent to his clients the date of completion of the survey and plat described in paragraph No. 20, above, constitutes misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

61. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats. and Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 36, above, constitutes incompetency, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

62. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats., and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 39, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

63. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats. and Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 42, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

64. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats. and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 45, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

65. That Respondent's failure to meet the requirements of Ch. A-E 5, Wis. Adm. Code and of s. 236.34, Wis. Stats., as detailed in paragraph No. 48, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

66. That Respondent's failure to meet the requirements of Ch. A-E 5, Wis. Adm. Code and of s. 236.34, Wis. Stats., as detailed in paragraph No. 51, above, constitutes incompetence, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

67. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats., and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 54, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

ORDER

NOW THEREFORE, IT IS ORDERED that Respondent's license to practice land surveying within the State of Wisconsin shall, commencing on the _____ day of _____ , 1979, be suspended for a period of one year.

Dated this _____ day of _____ , 1979.

Examining Board Of Architects,
Professional Engineers, Designers
and Land Surveyors

_____
Percival T. Sprague, Chairman
Land Surveyors Section

2619

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS,
DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST Michael C. McMillin (S-1179) RESPONDENT	NOTICE OF HEARING

TO: Michael C. McMillin
583 North Main Street
Richland Center, Wisconsin 53581

Please take notice that a hearing constituting a class 2 proceeding as defined in Sec. 227.01(2)(b), Wis. Stats., will be held on the 2nd day of July, 1979, at 9:30 o'clock a.m., or as soon thereafter as the matter may be reached, in Room 180, at 1400 East Washington Avenue, Madison, Wisconsin, on the question of whether the license heretofore issued to the above-named respondent pursuant to Section 443.02, Wis. Stats., should be suspended or revoked, the above-named respondent should be reprimanded or whether such license should be limited.

The legal authority and jurisdiction under which the hearing is to be held is set forth in Chapter 443 Wis. Stats., and Chapter RL-2 Wis. Adm. Code.

The matters asserted and the charges then and there to be considered are as set forth in the attached complaint to which you are required to make answer in writing within twenty (20) days from the date of service of the complaint. The hearing examiner designated to preside over the matter pursuant to Sec. 227.09(2), Wis. Stats. and Sec. RL 2.10, Wis. Adm. Code, is Ronald Pack, Department of Industry, Labor and Human Relations, 201 East Washington Avenue, Madison, Wisconsin 53702. You shall file your answer with the examiner at the address indicated, a copy of said answer with the Board and a copy with complainant's attorney, Wayne R. Austin, Division of Consumer Complaints, 1400 East Washington Avenue, Madison, Wisconsin 53702 (telephone 608-266-1815). If you fail to file an answer within such time, or if you fail to appear at the time set for hearing, a default judgment may be entered, and your license revoked, suspended, or other disciplinary action taken upon proof of such default.

If you are represented by counsel, the counsel is requested to file a notice of appearance with the Board forthwith.

Dated at Madison, Wisconsin this 1st day of June, 1979.

Wayne R. Austin, Attorney
Division of Consumer Complaints

pc374-244

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE DISCIPLINARY PROCEEDING AGAINST	:	
	:	COMPLAINT
MICHAEL C. McMILLIN (S-1179) RESPONDENT	:	

BUD L. HENNING, duly authorized Investigator for the Department of Regulation and Licensing, State of Wisconsin, 1400 East Washington Avenue, Madison, Wisconsin 53702, upon information and belief, complains and alleges as follows:

CLAIM ONE

1. That Michael C. McMillin, hereinafter referred to as Respondent, was at all times relevant to this complaint duly licensed under the provisions of Ch. 443, Wis. Stats., to practice as a land surveyor in the State of Wisconsin (License No. S-1179, issued June 25, 1974).

2. That Respondent's address is 583 North Main Street, Richland Center, Wisconsin 53581.

3. That on or about November 25, 1975, and as a part of his land surveying practice, Respondent was retained by Norman Page and Arla Page, husband and wife, hereinafter referred to as Mr. & Mrs. Page, residing at Gays Mills, Wisconsin 54631, to perform a land survey and to prepare a plat of a subdivision known as the Hillwood Heights Addition, located in the S.E. 1/4, S.W. 1/4, Section 22, T10N, R4W, Village of Gays Mills, Crawford County, Wisconsin.

4. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a plat as described in paragraph No. 3, above, and that Respondent was paid a professional fee for said survey and plat.

5. That by letter dated December 14, 1977, Daniel B. Watson, District Attorney for Crawford County, Wisconsin, requested notification from Respondent of the anticipated completion date of the plat described in paragraph No. 3, above, and informed Respondent that failure to supply said notification within ten days would result in the commencement of a criminal action against Mr. & Mrs. Page for transferring subdivision lots without a recorded plat, in violation of Section 236.31(1), Wis. Stats.

6. That by letter dated December 24, 1977, Respondent notified District Attorney Danial Watson that the plat described in paragraph No. 3, above, would be completed and submitted to the State of Wisconsin for approval by May 1, 1978.

7. That Respondent failed to complete the plat described in paragraph No. 3, above, by May 1, 1978.

8. That by letter dated May 25, 1978, Mr. Jack L. Rath, attorney for Mr. & Mrs. Page, notified Respondent that his failure to complete the plat described in paragraph No. 3, above, by the date promised could result in a legal prosecution against Mr. & Mrs. Page with resultant possible loss of income and damage to their reputations.

9. That on August 3, 1978, and as a result of Respondent's continuing failure to complete the plat described in paragraph No. 3, above, a criminal complaint and summons was issued by Crawford County District Attorney Daniel Watson against Mr. & Mrs. Page, alleging a violation of Section 236.31(1) Wis. Stats., and that service of said complaint caused financial harm and mental anguish to Mr. & Mrs. Page.

10. That Respondent did not finally complete and submit the plat described in paragraph No. 3, above, until August 19, 1978.

11. That Respondent's failure to complete the survey and plat described in paragraph No. 3, above, in a timely manner, as detailed in paragraph numbers 5 through 9, above, constitutes a failure to accurately and truthfully represent to his clients the date of completion of said survey and plat in violation of s. A-E 4.03(4), Wis. Adm. Code.

12. That on or about October 26, 1978, Respondent made application for a Land Subdivision Plat Review to the Plat Review Section of the State of Wisconsin Department of Local Affairs and Development on Form DLAD-P1, and that Respondent certified on that application that all monuments shown on the plat described in paragraph 3, above, had been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

13. That on or about October 26, 1978, all monuments shown on the plat described in paragraph 3, above, had not been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

14. That on or about December 15, 1978, Respondent made application for a Land Subdivision Plat Review to the Plat Review Section of the Department of Local Affairs and Development on Form DLAD-P1, and that Respondent certified on that application that all monuments shown on the plat described in paragraph 3, above, had been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

15. That on or about December 15, 1978, all monuments shown on the plat described in paragraph 3, above, had not been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

16. That by May 16, 1979, all monuments shown on the plat described in paragraph 3, above, still had not been placed in the field in accordance with the requirements of s. 236.15(1), Wis. Stats.

17. That Respondent's failure to place all monuments in accordance with the requirements of s. 236.15(1), Wis. Stats. constitutes a failure to mantain the highest degree of integrity, truthfulness and accuracy by misrepresenting information regarding the survey described in paragraph 3, above, in violation of s. 4.03, Wis. Adm. Code.

18. That Respondent's failure to truthfully and accurately represent to his clients the date of completion of the survey, as detailed in paragraphs 5 through 11, above, and Respondent's misrepresenting information regarding the survey, as detailed in paragraphs 12 through 17, above, constitute gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

CLAIM TWO

As a part of the complainant's second cause of action, the allegations of paragraphs 1 and 2 are hereby repeated and realleged as if fully set forth herein.

19. That on or about July 1, 1977, and as a part of his land surveying practice, Respondent was retained by Mr. Dan Berns, doing business as "Center Realty," 903 Sextonville Road, Richland Center, Wisconsin 53581, to perform surveys and to prepare maps of survey for the purpose of conveying two parcels of land, the first parcel containing .64 acres and being located in the Northwest Quarter of the Southeast Quarter of Section 36, Township 12 North, Range 1 East, Richland County, Wisconsin, and the second parcel containing .56 acres and being located in the Southwest Quarter of the Southeast Quarter of Section 36, Township 12 North, Range 1 East, Richland County, Wisconsin.

20. That Respondent did in fact perform or supervise the performance of surveys and did in fact prepare or supervise the preparation of maps as described in paragraph No. 19, above, and that Respondent was paid a professional fee for said surveys and maps.

21. That in performing the land surveys and in preparing the survey maps described in paragraph No. 19, above, Respondent was required to meet the standards set forth in the Minimum Standards for Property Surveys, ch. A-E 5, Wis. Adm. Code, and that said surveys and maps did not meet the required standards in the following respects:

(a) Respondent failed to set monuments marking the corners of the parcels surveyed as required by s. A-E 5.01(3) Wis. Adm. Code.

(b) Respondent failed to describe the parcels surveyed in reference to some corner marked and established by the U.S. Public Land Survey, as required by s. A-E 5.01(4) Wis. Adm. Code.

(c) The maps prepared by Respondent are not referenced to a magnetic, true or other identifiable meridian or line of the public land survey, recorded subdivision or to the Wisconsin Coordinate System, as required by s. A-E 5.01(5)(b), Wis. Adm. Code.

(d) The maps prepared by Respondent fail to show and describe all monuments necessary for the location of the parcels and fail to indicate whether such monuments were found or placed, as required by s. A-E 5.01(5)(d), Wis. Adm. Code.

(e) The maps prepared by Respondent fail to contain a statement certifying that the surveys are correct to the best of his knowledge and belief, as required by s. A-E 5.01(5)(f), Wis. Adm. Code.

(f) The closed traverse depicted on Respondent's survey map of the parcel consisting of .56 acres has a latitude and departure closure ratio exceeding 1 in 3000, in violation of s. A-E 5.01(6)(d), Wis. Adm. Code.

22. That Respondent's failure to meet the Minimum Standards for Property Surveys, as detailed in paragraph No. 21, above, resulted in land surveys and maps of survey so deficient as to delay and hinder the conveyance of the parcels surveyed.

23. That Respondent's failure to meet the Minimum Standards for Property Surveys, as detailed in paragraph No. 21, above, constitutes incompetency, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

CLAIM THREE

As a part of complainant's third cause of action, the allegations of paragraphs 1 and 2 are hereby repeated and realleged as if fully set forth herein.

24. That on or about April 22, 1976, and as a part of his land surveying practice, Respondent was retained by Floyd Demmer and Halycian Demmer, husband and wife, hereinafter referred to as Mr. and Mrs. Demmer, residing at P.O. Box 3, Gotham, Wisconsin 53540, to perform a land survey and to prepare a plat of a subdivision to be known as Demmer Estates, located in the N.W. 1/4, S.W. 1/4, Section 29, T9N, R2E, Town of Buena Vista, Richland Center, Wisconsin.

25. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a plat as described in paragraph No. 24, above, and that Respondent was paid a professional fee for said survey and plat.

26. That on or about July 17, 1976, Respondent represented to Mr. and Mrs. Demmer that the plat described in paragraph No. 24, above, would be completed by July 20, 1976.

27. That the plat described in paragraph No. 24, above, was not completed by July 20, 1976.

28. That on or about July 28, 1976, Respondent represented to Mr. and Mrs. Demmer that the plat described in paragraph No. 24, above, had been submitted to the State of Wisconsin for necessary approvals.

29. That the plat described in paragraph No. 24, above, had not been submitted to the State of Wisconsin by July 28, 1976.

30. That on or about March 14, 1977, Respondent represented to Mr. and Mrs. Demmer that the plat described in paragraph No. 24, above, would be completed by March 18, 1977.

31. That the plat described in paragraph No. 24, above, was not completed by March 18, 1977.

32. That in a letter received by Mr. and Mrs. Demmer on March 22, 1977, Respondent represented that the plat described in paragraph No. 24, above, would be completed on that day.

33. That the plat described in paragraph No. 24, above, was not completed by March 22, 1977.

34. That on or about May 10, 1977, Respondent represented to Allan C. Peckham, 157 West Jefferson Street, Spring Green, Wisconsin 53588, Attorney for Mr. and Mrs. Demmer, that the plat described in paragraph No. 24, above, would be completed by May 11, 1977.

35. That the plat described in paragraph No. 24, above, was not completed by May 11, 1977.

36. That Respondent did not finally complete and submit the plat described in paragraph No. 24, above, until May 17, 1977.

37. That as a result of Respondent's continuing failure to complete the plat described in paragraph No. 24, above, Mr. and Mrs. Demmer suffered mental anguish and incurred additional costs and expenses as detailed in subparagraphs (a) through (d), below.

(a) The cost of percolation tests which Respondent had contracted to perform but which he did not in fact perform.

(b) The cost of numerous journeys by Mr. and Mrs. Demmer to Respondent's office for the purpose of inducing completion of the plat described in paragraph No. 24, above.

(c) The cost of numerous long distance telephone calls made to various Wisconsin State agencies by Mr. and Mrs. Demmer in an attempt to ascertain whether the plat described in paragraph No. 24, above, had been submitted by Respondent.

(d) The cost of attorney's fees and associated expenses incurred in an attempt to induce Respondent to complete the plat described in paragraph No. 24, above.

38. That Respondent's failure to complete the survey and plat described in paragraph No. 24, above, in a timely manner, as detailed in paragraph numbers 26 through 36, above, constitutes a failure to accurately and truthfully represent to his clients the date of completion of said survey and plat, in violation of s. A-E 4.03(4), Wis. Adm. Code.

39. That Respondent's failure to accurately and truthfully represent to his clients the date of completion of the survey and plat described in paragraph No. 24, above, constitutes misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

CLAIM FOUR

As a part of Complainant's fourth cause of action, the allegations of paragraphs 1 and 2 are hereby repeated and realleged as if fully set forth herein.

40. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mrs. Philip Kinsman, residing in Lime Ridge, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located partly in the Southeast Quarter of the Southeast Quarter, and partly in the Northeast Quarter of the Southeast Quarter of Section 32, T12N, R3E, Village of Lime Ridge, Sauk County, Wisconsin, consisting of approximately 9.9 acres.

41. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 40, above, and that Respondent was paid a professional fee for said survey and survey map.

42. That in performing the survey and in preparing the certified survey map described in paragraph No. 40, above, Respondent was required to meet the requirements of s. 236.34, Wis. Stats., and to meet the Minimum Standards for Property Surveys found at Ch. A-E 5, Wis. Adm. Code, and that said survey and map failed to meet those requirements in the following respects:

(a) Respondent failed to set monuments marking the corners of the parcel surveyed in violation of s. 236.34(1)(b), Wis. Stats. and of s. A-E 5.01(3), Wis. Adm. Code.

(b) Respondent failed to make a careful determination of the position of the boundaries of the parcel surveyed, in violation of s. A-E 5.01(3), Wis. Adm. Code.

43. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats. and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 42, above, constitutes incompetency, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

CLAIM FIVE

As a part of Complainant's fifth cause of action, the allegations of paragraphs 1 and 2 hereby are repeated and realleged as if fully set forth herein.

44. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mr. Lawrence Fry, residing in Hillpoint, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located partly in the Southeast Quarter of the Northeast Quarter and partly in the Northeast Quarter of the Southeast Quarter, all in Section 2, T10N, R3E, Town of Bear Creek, Sauk County, Wisconsin.

45. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 44, above, and that Respondent was paid a professional fee for said survey and survey map.

46. That in performing the survey and in preparing the certified survey map described in paragraph No. 44, above, Respondent was required to meet the Minimum Standards for Property Surveys set out at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in the following respects:

(a) Respondent failed to set monuments marking the corners of the parcel surveyed in violation of s. 236.34(1)(b), Wis. Stats., and of s. A-E 5.01(3), Wis. Adm. Code.

(b) Respondent failed to show and properly describe all monuments necessary for the location of the parcel and failed to indicate whether such monuments were found or placed in violation of s. 236.34(1)(c), Wis. Stats., and s. A-E 5.01(5)(d), Wis. Adm. Code.

47. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats., and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 46, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

CLAIM SIX

As a part of Complainant's sixth cause of action, the allegations of paragraphs 1 and 2 are hereby repeated and realleged as if fully set forth herein.

48. That in 1976, and as a part of his land surveying practice, Respondent was retained by Soiltest, Incorporated, 524 South Boulevard, Baraboo, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of dividing and conveying a parcel of land located in the Northeast Quarter of the Northwest Quarter, Section 22, Township 12 North, Range 5 East. Town of Excelsior, Sauk County, Wisconsin.

49. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 48, above, and that Respondent was paid a professional fee for said survey and survey map.

50. That in performing the survey and in preparing the certified survey map described in paragraph No. 48, above, Respondent was required to meet the Minimum Standards for Property Surveys found at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in that Respondent failed to set monuments marking the corners of the parcels surveyed in violation of s. 236.34(1)(b), Wis. Stats. and of s. A-E 5.01(3), Wis. Adm. Code.

51. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats. and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 50, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

CLAIM SEVEN

As a part of Complainant's seventh cause of action, the allegations of paragraphs 1 and 2 are hereby repeated and realleged as if fully set forth herein.

52. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mrs. Shirley Maxwell, residing at Plain, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located in the Southwest Quarter of the Southwest Quarter, Section 17, T9N, R3E, Town of Bear Creek, Sauk County, Wisconsin, consisting of approximately 1 acre.

53. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 52, above, and that Respondent was paid a professional fee for said survey and survey map.

54. That in performing the survey and in preparing the certified survey map described in paragraph No. 52, above, Respondent was required to meet the Minimum Standards for Property Surveys set out in Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in that Respondent failed to properly describe all monuments necessary for the location of the parcel in violation of s. 236.34(1)(c), Wis. Stats., and s. A-E 5.01(5)(d), Wis. Adm. Code.

55. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats. and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 54, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

CLAIM EIGHT

As a part of Complainant's eighth cause of action, the allegations of paragraphs 1 and 2 are hereby repeated and realleged as if fully set forth herein.

56. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mr. Leo Schwarz, residing at Richland Center, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located in the Southwest Quarter of the Southwest Quarter, Section 15, T9N, R3E, Town of Bear Creek, Sauk County, Wisconsin, consisting of approximately 2 acres.

57. That Respondent did in fact perform or supervise the performance of a survey, and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 56, above, and that Respondent was paid a professional fee for said survey and map.

58. That in performing the survey and in preparing the certified survey map described in paragraph No. 56, above, Respondent was required to meet the Minimum Standards for Property Surveys set out in Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that

said survey and map failed to meet those requirements in that Respondent failed to properly describe all monuments necessary for the location of the parcel in violation of s. 236.34(1)(c), Wis. Stats. and s. A-E 5.01(5)(d), Wis. Adm. Code.

59. That Respondent's failure to meet the requirements of Ch. A-E 5, Wis. Adm. Code and of s. 236.34, Wis. Stats., as detailed in paragraph No. 58, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

CLAIM NINE

As a part of Complainant's ninth cause of action, the allegations of paragraphs 1 and 2 are hereby repeated and realleged as if fully set forth herein.

60. That in 1976, and as a part of his land surveying practice, Respondent was retained by Mr. James Roecker, residing in Reedsburg, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of conveying a parcel of land located in the Southwest Quarter of the Southeast Quarter, Section 26, T12N, R3E, Town of Ironton, Sauk County, Wisconsin, consisting of approximately 9.1 acres.

61. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 60, above.

62. That in performing the survey and in preparing the certified survey map described in paragraph No. 60, above, Respondent was required to meet the Minimum Standards for Property Surveys set out at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in the following respects:

(a) The closed traverse depicted on Respondent's survey map has a latitude and departure closure ratio exceeding 1 in 3000, in violation of s. A-E 5.01(6)(d), Wis. Adm. Code.

(b) Respondent's survey map fails to show and describe all monuments necessary for the location of the parcel and fails to indicate whether such monuments were found or placed, in violation of s. A-E 5.01(5)(d), Wis. Adm. Code and of s. 236.34(1)(c), Wis. Stats.

63. That Respondent's failure to meet the requirements of Ch. A-E 5, Wis. Adm. Code and of s. 236.34, Wis. Stats., as detailed in paragraph No. 62, above, constitutes incompetence, gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

CLAIM TEN

As a part of Complainant's tenth cause of action, the allegations of paragraphs 1 and 2 are hereby repeated and realleged as if fully set forth herein.

64. That in 1975, and as a part of Respondent's land surveying practice, Respondent was retained by Mr. Henry Horst, residing in Baraboo, Wisconsin, to perform a survey and to prepare a certified survey map for the purpose of dividing and conveying a parcel of land located in the Northwest Quarter of the Southwest Quarter, Section 22, T12N, R5E, Town of Excelsior, Sauk County, Wisconsin.

65. That Respondent did in fact perform or supervise the performance of a survey and did in fact prepare or supervise the preparation of a certified survey map, as described in paragraph No. 64, above.

66. That in performing the survey and in preparing the certified survey map described in paragraph No. 65, above, Respondent was required to meet the Minimum Standards for Property Surveys set out at Ch. A-E 5, Wis. Adm. Code and to meet the requirements of s. 236.34, Wis. Stats., and that said survey and map failed to meet those requirements in the following respects:

(a) Respondent's survey map fails to properly describe all monuments necessary for the location of the parcel, in violation of s. A-E 5.01(5)(d), Wis. Adm. Code and of s. 236.34(1)(c), Wis. Stats.

(b) Respondent failed to set monuments marking the corners of the parcels surveyed in violation of s. 236.34(1)(b), Wis. Stats., and of s. A-E 5.01(3), Wis. Adm. Code.

67. That Respondent's failure to meet the requirements of s. 236.34, Wis. Stats., and of Ch. A-E 5, Wis. Adm. Code, as detailed in paragraph No. 66, above, constitutes gross negligence and misconduct in the practice of land surveying within the meaning of s. 443.02(8)(a), Wis. Stats.

WHEREFORE, the Complainant demands that the Board hear evidence relevant to the matters recited herein, determine and impose the discipline warranted.

Dated this 1st day of June, 1979.

Bud L. Henning

Bud L. Henning, Investigator

STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Bud L. Henning, being first duly sworn on oath deposes and says that he is in the Department of Regulation and Licensing, State of Wisconsin, and that he has read the foregoing Complaint and knows the contents thereof and that the same is true to his own knowledge, except as to those matters therein stated on information and belief and as to such matters, he believes them to be true.

Bud L. Henning

Bud L. Henning, Investigator
State of Wisconsin
Examining Board of Architects, Professional
Engineers, Designers and Land Surveyors
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, Wisconsin 53702

Subscribed and sworn to before me this 1st day of June, 1979.

Wayne R. Austin

Notary Public
My Commission is permanent.

Wayne R. Austin
Attorney for Complainant
1400 East Washington Avenue, Room 166
Madison, Wisconsin 53702

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