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STATE OF WISCONSIN

**BEFORE THE EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS,
DESIGNERS AND LAND SURVEYORS LAND SURVEYORS SECTION**

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

GREGG E. MILLER,

RESPONDENT

FINAL DECISION AND ORDER

LS0107161LSR

The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

Gregg E. Miller

2816 White Crossing Road

Verona, Wisconsin 53593

Examining Board of Architects, Landscape Architects,

Professional Engineers, Designers and Land Surveyors;

Land Surveyors Section

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Land Surveyors Section (Section). The Section has reviewed the Stipulation and considers it acceptable.

Accordingly, the Section adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. **GREGG E. MILLER**, ("Miller"), 2816 White Crossing Road, Verona, Wisconsin 53593, date of birth July 5, 1950, is licensed as a registered land surveyor in the State of Wisconsin. His Land Surveyor registration number is 8-1600 and was originally issued to him on October 8, 1980.

2. Miller has been the subject of disciplinary action by the Land Surveyor's Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors on two occasions:

a. In case LS 9804161 LSR (94 LSR 001), by Final Decision and Order dated April 16, 1998, Miller received a Reprimand. A copy of this Order is attached as **Exhibit 1** and is incorporated herein by this reference.

b. In case LS 0003161 LSR (98 LSR 007), by Order dated March 16, 2000, Miller received a 30 day Suspension of his license, ordered to take remedial education, correct a land survey and submit to six months of supervision. A copy of this Order is attached as **Exhibit 2** and is incorporated herein by this

reference.

3. Miller has failed to comply with the March 16, 2000 Order (Exhibit 2) in the following respects:

- a. He did not timely complete the required remedial education. Miller has recently completed all of the education required under this Order;
- b. He did not correct the two land surveys for the clients identified in Exhibit 2. Miller did correct Green County Certified Survey Map number 2543, but did not correct the DeHaan Plat of Survey referred to in the Order;
- c. He did not submit for review to a licensed surveyor all of the land surveys completed by him during the six-month period subsequent to the 30-day suspension. Miller did submit some of the surveys to Land Surveyor David Jenkins. However, six surveys were not submitted for review until recently. Land Surveyor Daniel V. Birrenkott has reviewed these six surveys and commented upon them. These comments include some corrections to be made by Miller.

4. Miller was the subject of professional discipline before the ENGINEERING AND LAND SURVEYING EXAMINING BOARD OF THE STATE OF IOWA in Case Number 98-20, pursuant to a stipulated Settlement Agreement and Consent Order dated on or about April 27, 2000. A copy of this Order is attached as **Exhibit 3** and is incorporated herein by this reference.

5. The April 27, 2000 Iowa Order found deficiencies in two plats of survey Miller had completed for clients in Iowa. The Iowa Board issued a Reprimand against Miller and ordered Miller to correct the surveys by June 1, 2000. Miller failed to comply with this Order. Miller was further ordered to pay costs and a forfeiture. Miller did not timely pay the costs or forfeiture. Miller now reports to the Wisconsin Department of Regulation and Licensing, Division of Enforcement that the costs and forfeiture in the Iowa matters have been paid in full.

6. On or about January 11, 2001, the Iowa Board entered a Final Decision and Order in Case Number 98-20. A copy of the Final Decision and Order is attached as **Exhibit 4** and is incorporated herein by this reference.

7. The January 2001 Iowa Order finds that Miller failed to comply with the April 2000 Iowa Order. This January 2001 Iowa Order imposed additional discipline against Miller.

8. Miller's Iowa surveyor's license is currently expired and his renewal of that license is contingent upon full compliance with the terms and conditions of both Orders of the Iowa Board. Miller has stated that he continues to work towards satisfying the Iowa Orders.

9. Miller has agreed to work under a limited license pursuant to the terms and conditions set forth below. Miller understands that a violation of these terms and conditions will likely lead to the revocation of his Wisconsin Land Surveyor's license.

CONCLUSIONS OF LAW

1. The Land Surveyors Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors has jurisdiction in this matter pursuant to section 443.12 of the Wisconsin Statutes.

2. The Section is authorized to enter into the attached Stipulation pursuant to section 227.44(5) of the Wisconsin Statutes.

3. Respondent's failure to comply with the Wisconsin March 16, 2000 Order is misconduct in the practice of land surveying as defined in Section A-E 8.03(2)(c) of the Wisconsin Administrative Code and Respondent is subject to discipline pursuant to section 443.12(1) of the Wisconsin Statutes.

4. Respondent's failure to comply with the Orders of the Iowa Board is misconduct in the practice of land surveying as defined in Section A-E 8.03(2)(c) of the Wisconsin Administrative Code and Respondent is subject to discipline pursuant to section 443.12(1) of the Wisconsin Statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation be accepted.

IT IS FURTHER ORDERED, that the Wisconsin **Land Surveyor Registration of Respondent Gregg E. Miller is hereby LIMITED** in the following respects:

1. Commencing on the date of this Order as set forth below, Miller shall practice land surveying, as that term is defined in section 443.01(4) of the Wisconsin Statutes, only under the direct supervision of another land surveyor licensed to practice in Wisconsin. This supervision shall be as defined in section A-E 8.03(5) of the Wisconsin Administrative Code.

2. This supervision may be accomplished through Miller employing in his business known as Land Surveyors Limited a licensed Wisconsin surveyor or, alternatively, by Miller being employed by a licensed Wisconsin surveyor.

3. At all times in the future during which Miller engages in the practice of land surveying, or holds himself out to the public as available for the provision of land surveying services, Miller shall be actively and daily supervised by a licensed land surveyor. At any time he either fails to employ a licensed surveyor or fails to be employed by a licensed surveyor, Miller shall immediately cease providing land surveyor services and shall immediately cease to hold himself out to the public as available to provide those services.

4. At all times in the future, Miller is prohibited from providing any plans, drawings, documents, specifications and reports for land surveying to anyone without first having had his supervising land surveyor approve each page of each item and having his supervising land surveyor sign and date each page. The signature of Miller's supervisor on a plan, drawing, document, specification or report shall be placed thereon only after the supervisor has determined that the plan, drawing, document, specification or report fully complies with all federal and state laws, local ordinances and administrative rules relating to the practice of land surveying.

5. All Final Plats, Preliminary Plats, Assessor's Plats and all Certified Survey Maps produced by Miller and/or any firm owned or operated by him, shall be reviewed by the Wisconsin Department of Administration, Plat Review at the expense of Miller. Each of these reviews shall be completed prior to release of any such survey map to any client or other member of the public. Miller and/or his firm, prior to placement of the Registered Land Surveyor stamp and signature of a Registered Land Surveyor, must correctly make all corrections to the map or plat as noted by Plat Review.

6. Miller shall inform the Land Surveyor Section, in writing, of the name, address and license number of the licensed land surveyor who is providing the above described supervision. This notification shall be delivered to the Department Monitor immediately upon the engagement of the licensed surveyor, either as an employee or as an employer. In the event the supervising licensed surveyor terminates his supervision of Miller, Miller shall notify the Department Monitor, in writing within five business days of the date of termination. These written notifications shall be addressed to the Department Monitor in the following manner:

Department Monitor

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

7. The terms and conditions of this license limitation may only be modified by further written Order of the Land Surveyors Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors.

Respondent Gregg E. Miller may petition the Land Surveyors Section in writing for modification or termination of this Order at any time after two years from the date of this Order. Any petition filed with the Section shall be signed by Respondent under oath and shall state whether or not Respondent Miller has complied with all terms and conditions of this Order. Any petition filed with the Board by Respondent shall be accompanied by a minimum of ten land survey maps prepared by Miller subsequent to the date of this Order. All of these surveys must show the signatures of the Respondent and his supervisor. The Section shall review the petition and the accompanying land surveys for compliance with this Order. The Section may require Respondent Miller to make a personal appearance before it for the purpose of requesting further information from Respondent Miller. The Section's final decision on any petition for modification or termination of this Order shall be at its reasonable discretion.

8. Failure by Respondent Gregg E. Miller to comply with any term of his Limited Land Surveyors License as set forth herein shall be considered a violation of this Order and subject Respondent Miller to further discipline pursuant to the provisions of chapter 443 of the Wisconsin Statutes.

IT IS FURTHER ORDERED, that **Respondent Gregg E. Miller pay partial Costs of this matter in the amount of Two Thousand Dollars (\$2,000.00) within six months of the date of this order** by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent Gregg E. Miller fails to pay the Two Thousand Dollars (\$2,000.00) costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Gregg E. Miller, his land surveyor registration license shall be immediately suspended without further hearing and without further Order of the Section, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing and his failure to pay the costs shall be considered a violation of this Order by the Section.

IT IS FURTHER ORDERED, that Gregg E. Miller shall complete his compliance with the March 16, 2000 *MEMORANDUM AND ORDER ON SETTLEMENT CONFERENCE*, in Case LS 0003161 LSR (Exhibit 2) within two months of the date of this Order as set forth below. Failure to timely complete compliance of this Order by making all corrections indicated by Land Surveyor Daniel V. Birrenkott shall be considered a violation of this Order. Upon finishing all corrections identified by Daniel V. Birrenkott, Miller shall submit to the Department Monitor a letter from Mr. Birrenkott stating that Mr. Birrenkott has reviewed the corrections and that Mr. Birrenkott finds that all corrections have been completed to his satisfaction and in full compliance with all applicable laws and regulations. In addition, Miller shall submit to the Department Monitor a signed and dated copy of the corrected DeHaan plat of survey.

IT IS FURTHER ORDERED, that Gregg E. Miller, within six months of the date of this Order, shall complete his compliance with the two Iowa Orders attached hereto as Exhibit 3 and Exhibit 4. Failure to complete compliance of these the Iowa Orders within six months of the date of this Order shall be considered a violation of this Order. Upon fully complying with the two Iowa Orders, Miller shall submit to the Department Monitor a statement from the Iowa Licensing authority stating that Miller has fully complied with all terms of the Iowa Orders.

IT IS FURTHER ORDERED, that investigation files 01 LSR 001 and 01 LSR 002 and formal proceeding case LS 0107161 LSR, are hereby closed.

LAND SURVEYORS SECTION

By: Rick Van Goethem 2-14-02

A Member of the Section Date