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

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
WILLIAM W. NUTTER,	:	LS 0510041 LSR
RESPONDENT.	:	

Division of Enforcement Case ## 02 LSR 014 and 04 LSR 002

The parties to this action for the purpose of Wis. Stats. §227.53 are:

William W. Nutter
1406 East Seventh Street.
Merrill, WI 54452

Land Surveyors Section
Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors
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 Wisconsin Land Surveyors Section (Section). The Section has reviewed this Stipulation and considers it acceptable.

Accordingly, the Section in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. William W. Nutter ("Respondent"), who was born on August 6, 1951, holds registration #8-2299 in the State of Wisconsin as a Land Surveyor. This license was first granted to him on February 22, 1996.
2. Respondent's last reported address on file with the Department of Regulation and Licensing is 1406 East Seventh Street, Merrill, WI 54452.
3. **The Ziegler Survey.** In September 1997 Respondent filed Certified Survey Map (CSM) #1077 on behalf of Jerry Ziegler. The survey contained the following deficiencies:
 - a. The survey does not have curve data along what is labeled as County Trunk Highway 107. The District 7 office of the Wisconsin Department of Transportation had informed Respondent that no curve data existed, and Respondent was unaware that he could insert data that he calculated.
 - b. What is shown as Country Trunk Highway 107 is actually State Highway 107.
 - c. The computed acreage does not include lands lying between the long chord and the arc of the curve. The omission affected the acreage of the lot by less than .1 acre.

4. **The Drew Survey.** In July 1998, Respondent filed CSM #1178 on behalf of Howard Drew. The map was deficient in that Respondent did not meander the river.
5. **The Bucki Survey.** In September 1998 Respondent prepared and filed CSM #1145 on behalf of Frank Bucki for property in Section 36 East, Township 33 North, Range 2 East, in the town of Rib Lake.
 - a. On October 20, 1998, Robert Meyer, Taylor County Surveyor, advised Respondent that the bearing and distance from the West quarter-corner to the Northwest corner of Section 36, T 33 N, R 2 E, that were contained in a U. S. Public Land Survey Monument Record submitted by another surveyor were in error. Meyer requested Respondent to make any necessary corrections to the Bucki CSM as soon as possible. At the request of his clients, Respondent did not make the corrections until he filed CSM #1374 in December 2001.
 - b. In January 2002 Respondent filed CSM #1382 as a correction to CSM #1374. He had subdivided the parcel by midpoint measurements. On January 28, 2002, Meyer notified Respondent that the east and west lines of parcels 1 and 2 on CSM #1382 were not parallel. Respondent filed CSM #1435 in February 2002 to correct the error.
6. **The Galuska Survey.** On June 16, 1999, Respondent submitted to David Tlusty, Langlade County Surveyor, a map and subdivision application on behalf of Theresa Galuska. The map contained the following deficiencies:
 - a. Outlot 1 did not mathematically close as required by statute.
 - b. The brass cap shown as the northwest corner of the section was about 13 feet from the actual section corner.
 - c. On June 17, 1999, Respondent submitted another revised map to Tlusty. There were the following errors in the submitted map:
 - i) The bearing of the West line had changed on the map but not in the bearing orientation note.
 - ii) The west dimension on the Outlot changed, but Respondent did not change the corresponding east dimension.
 - iii) The Outlot no longer closed mathematically.
 - iv) The acreage/square footage listed for the Outlot was wrong.
 - d. Tlusty notified Respondent by telephone of the errors in the revised map. Respondent submitted a revised map to Tlusty on June 19, 1999. The bearing reference had been corrected and the east dimension of the Outlot matched the west dimension, but the area for the Outlot was still calculated incorrectly.
 - e. Respondent submitted a revised map on June 21, 1999, which appeared to have all corrections made.
7. **The Knispel Survey.** On or about July 21, 1999, Respondent prepared a certified survey map for Donald Knispel. Certified Survey Map (CSM) #1481 signed and stamped by Respondent, dated July 21, 1999, contained the following deficiencies:
 - a. He labeled Township North incorrectly.
 - b. He failed to find and monument a six inch by six inch granite monument for the Southeast corner of Section 21; and
 - c. The tie from the Southeast lot corner to the South $\frac{1}{4}$ was off approximately 23 feet because the technician employed by Respondent to prepare the map incorrectly entered information from Respondent's work file.
8. **The Doescher Survey.** On September 2, 1999, Respondent filed CSM #1304 which he prepared for Lousie Doescher
 - a. The following day Respondent filed CSM #1306 to correct the scale and the scale bar on CSM #1304.
 - b. In March 2000, Surveyor David Goslin surveyed a parcel that adjoined the property shown on CSM #1306 and he found a large error in the west quarter-corner position corner upon which the Respondent relied. He notified

Respondent of the error. Respondent filed CSM #1395 on June 22, 2000, which made significant changes to various distances and bearings.

9. **The Puhl Survey.** In October 1999, Respondent filed with David Tlusty, Langlade County Surveyor, an original map and subdivision application form for Paul and Julie Puhl.
 - a. Tlusty notified Respondent on October 26, 1999, that he had included highway right-of-way land in the survey.
 - b. In December 1999 Respondent submitted a revised map to Tlusty for review. On December 13, 1999, Tlusty returned the revised map to Respondent asking for corrections to the revised map.
 - c. Respondent submitted a third map to Tlusty on December 15, 1999. Tlusty informed him that the acreage did not meet County minimum lot size.
 - d. Respondent submitted a fourth map on December 16, 1999. Tlusty informed him that the dimensions shown on the map did not match the dimensions in the written description and requested another revision.
 - e. Respondent submitted a fifth map on December 20, 1999. Tlusty accepted the map for recording.
 - f. In July 2000, Respondent submitted a corner monumentation form for the north quarter-corner used in the Puhl survey. The form shows a different distance and bearing than does the recorded Puhl survey because Respondent did not make the corrections to it that the revision to the Puhl survey required.

10. **The Gleason survey.** On or about December 5, 1999, Respondent prepared CSM #1461 for Sheryl Gleason.
 - a. CSM #1337, #1019 and #948 were maps previously recorded for this property.
 - i) CSM #948 was prepared by Thomas Radenz and recorded in July 1996.
 - ii) CSM #1019 was prepared by Respondent and recorded in May 1997.
 - iii) CSM #1337 was prepared by Respondent and recorded in December 1999.
 - b. CSM #1461, signed and stamped by Respondent, was prepared to correct and supersede CSM #1337. CSM #1461 was recorded on December 19, 1999. CSM #1461 and #1019 contained the following deficiencies:
 - i) There was no reference to CSM #948, which was recorded 3 years earlier.
 - ii) The found iron pipe along the east line of the parcel differed from the monument that was found in CSM #948 and the distances disagree by 5.77 feet. Respondent contends that CSM #948 is in error.
 - iii) The found iron pipe on the north line calls for a different size rod than CSM #1019 and CSM #1461, and #1019 differs by about 33 feet North and South.
 - iv) CSM #1461 does not state what was used to monument the north quarter-corner or the northeast section corner.

11. **The Koch Survey.** In May 2000 Respondent filed CSM #1377 on behalf of Margaret Koch. That survey had the following problems:
 - a. Respondent made no reference on the CSM to CSM #1183, which David Osterbrink had prepared and filed in July 1998. Respondent states that he did not find CSM #1183 when he researched records at the county surveyor's office.
 - b. Poplar Street was represented incorrectly, as that street does not go north of Tenth Street. Respondent admits that Poplar Street ends legally at Tenth Street, but states that the roadway continues as a private drive.
 - c. In February 2001 International Paper Company hired Osterbrink to survey lands along Tenth Street in Merrill. In

his research prior to doing field work, Osterbrink found CSM #1377. When Osterbrink tied into the north line of CSM #1377, he found that the bearing and distance he noted did not match the bearing and distance shown on CSM #1377. Osterbrink notified Respondent of the discrepancy.

12. **The Wrzesinski Survey.** From July 2000 to October 2000, Respondent prepared a series of certified survey maps for Sylvia Wrzesinski.
 - a. CSM #1403, filed on or about July 6, 2000, did not meet local zoning requirements, in that it left less than the twenty-acre minimum for a parcel as the residual land.
 - b. CSM #1414, filed on or about August 28, 2000, broke off 11.28 acres for a residual parcel, but still did not meet local zoning requirements because the residual land constituted less than the twenty-acre minimum.
 - c. CSM #1429, filed on October 5, 2000, complied with local zoning requirements.
13. **The Schoone Survey.** In August 2000, Dave Schoone engaged Respondent to conduct a land survey for him. Respondent prepared a total of five survey maps for that property. The first three maps were returned to Respondent for changes/corrections by the Lincoln County Zoning Administrator. Those maps contained the following deficiencies:
 - a. Map #1 failed to show a creek that ran through the property. Respondent was of the opinion that the creek was not navigable and therefore did not need to be shown.
 - b. Map #3 failed to show the creek meander line.
 - c. Map #4 incorrectly shows the location of the creek and the meander line. Respondent stated that the map was a working copy only and that he recorded a correct CSM for the property.
14. **The Ross Survey.** On May 3, 2001, Respondent prepared and filed CSM #1487 on behalf of Bryan Ross. There were the following deficiencies:
 - a. The map did not meet the minimum standards of accuracy.
 - b. The basis of bearings shown on the map did not agree with the information contained in the written property description on the same CSM.
15. **The Haig Survey.** On or about July 3, 2001, Respondent prepared a certified survey map for Lloyd and Gail Haig. CSM #1502 signed and stamped by Respondent, dated July 3, 2001, contained the following deficiencies:
 - a. The width of the right-of-way was labeled incorrectly. Respondent claims he relied on an existing highway map to show the right-of-way.
 - b. The south line of the property is incorrect because Respondent failed to correctly locate the east quarter-corner. Respondent later corrected the error.
 - c. The southeast corner does not fit the split according to Respondent's section summary. Respondent later corrected the error.
16. **The Krick Survey.** In March 2002, Daniel Krick engaged Respondent to conduct a land survey for him. Respondent prepared a total of three survey maps for that property. The first two maps were returned to Respondent for changes/corrections. Those maps contained the following deficiencies:
 - a. Map #1 calls for a southerly right-of-way line when it should be the northerly right-of-way line, and distances do not add up along the right-of-way line. Respondent contends the map was not intended as a recorded survey.
 - b. The calls for the Section and 1/16th line on Map #1 are for the wrong "40". Respondent corrected the error on the final CSM.
 - c. Map #2 has a call error from the description to the map (630.02 to 630.22 feet). Respondent corrected the error

on the final CSM.

17. **The Marshall Survey.** On or about September 19, 2002, Respondent prepared a certified survey map for Richard Marshall. CSM #1628, signed and stamped by Respondent, dated September 19, 2002, contained the following deficiencies:
 - a. There is no evidence of the west quarter-corner being used to establish the east-west quarter line or the 1/16th line being the south boundary. Respondent claims that the Lincoln County Surveyor told him it was not necessary.
 - b. The legal description on the bottom of the map does not match the bearing and distance calls.
 - c. The CSM did not mathematically close. Respondent claimed that the map did close but it was not evident from the map that it did so.
18. **The Alwin Survey.** On or about October 10, 2002, Respondent prepared and filed CSM #1636 for Craig Alwin.
 - a. He did not comply with local law by failing to submit the CSM for review by the Planning and Zoning office and the County Land Surveyor prior to recording. Respondent relied on the owner's claim that he had secured a variance and the Respondent therefore did not need to submit the map to the Planning and Zoning office for review.
 - b. Respondent knew that the property shown in CSM #1636 was located in an area zoned agricultural and the owner would have had to request a variance from the Town Board and the Zoning Committee for creating a parcel of less than 20 acres. Respondent relied on the owner's assertion that a variance had been granted and recorded CSM #1636.
19. **The Weix Survey.** On or about March 14, 2003, Respondent filed CSM #1676 for Joe Weix.
 - a. He did not submit the map for minor subdivision zoning review, as required by county ordinance since 1998, and violated the zoning ordinance by creating Lots 2 and 3.
 - b. On or about January 18, 2005, Respondent filed CSM #1840 for Joe Weix. The measurements and bearings shown on that map did not agree with the measurements and bearings shown for the same parcel on CSM #1676.

CONCLUSIONS OF LAW

1. The Land Surveyor Section of the Examining Board of Architects, Landscape Architects, Engineers, Designers and Land Surveyors has jurisdiction to act in this matter pursuant to Wis. Stat. § 443.12, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44 (5).
2. By the conduct described in the paragraphs above, Respondent has violated the following:
 - a. Wis. Stat. § 236.15 (1) (c).
 - b. Wis. Stat. § 236.20 (1).
 - c. Wis. Stats. § 236.20 (2).
 - d. Wis. Stats. §236.34 (1).
 - e. Wis. Stat. § 236.34 (2).
 - f. Wis. Admin. Code § A-E 7.03.
 - g. Wis. Admin. Code §A-E 7.04.
 - h. Wis. Admin. Code §A-E 7.05.
 - i. Wis. Adm. Code §A-E 7.06(1) and (2)

j. Wis. Admin. Code A-E 8.03(1).

k. Wis. Admin. Code A-E 8.09 (1).

3. The errors made by Respondent as set forth above constitute gross negligence and misconduct in the practice of land surveying, as defined in Wis. Admin. Code §§A-E 8.03 (1) and A-E 8.03 (3) (a) and (b).

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED:

1. Respondent William W. Nutter's license, #8-2299, shall be and is hereby **SUSPENDED** for a period of thirty (30) days commencing on September 1, 2007.
2. Respondent William W. Nutter, during the time of suspension, shall not engage the services of any land surveyor licensee as an employee, as that term is defined and used in Chapter 452 of the Wisconsin Statutes.
3. Respondent William W. Nutter shall successfully complete six (6) semester credits of education in land surveying at an accredited institution of higher learning by June 1, 2008. Successful completion is defined receiving the grade of C or above in each course. Respondent must submit to the Department Monitor proof of successful completion in the form of verification from the institution providing the education. Respondent shall obtain pre-approval of one or more courses from the Section or its designated agent before he takes the courses in fulfillment of this requirement.
4. The Wisconsin Land Surveyor Registration of Respondent William W. Nutter is hereby LIMITED for the period from Oct 2007, through September 30, 2008, as follows:
 - a. Respondent shall practice land surveying, as the term is defined in Wis. Stats. §443.01(4), only under the direct supervision of another land surveyor licensed to practice in Wisconsin. This supervision shall be as defined in Wis. Adm. Code §A-E 8.03(5).
 - b. This supervision may be accomplished through Respondent being employed by a licensed Wisconsin surveyor or by Respondent contracting with a licensed Wisconsin surveyor for review of all Respondent's surveys. Respondent shall notify the Section in writing of the name, address and license number of the supervising surveyor. Any land surveyor selected as supervisor is subject to the approval of the Section.
 - c. At anytime Respondent either fails to be employed by a licensed surveyor or fails to contract with a licensed surveyor for review of all Respondent's surveys, Respondent shall immediately cease providing land surveyor services and shall immediately cease to hold himself out to the public as available to provide those services.
 - d. Respondent 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 any such document and having his supervising land surveyor sign and date each page. The signature of Respondent'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 in the State of Wisconsin.
5. The Wisconsin Land Surveyor Registration of Respondent William W. Nutter is hereby LIMITED for the period from October 1, 2008, through September 30, 2009, as follows:
 - a. Respondent shall arrange for a licensed surveyor approved by the Section to review a random sample of the Respondent's work, in order to determine whether 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 in the State of Wisconsin.
 - b. Respondent 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 review. 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 terminated his/her supervision of Respondent, Respondent shall notify the Department Monitor, in writing within five business days of the date of termination.

- c. On the last business day of December 2008, Respondent shall provide to the reviewing surveyor a list of all work completed in the past three months. The reviewing surveyor shall randomly select one-half of the work listed and shall review the work to ensure 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 in the State of Wisconsin.
 - d. The procedure specified in paragraph c above shall be repeated for the three-month periods ending on the last business day of March 2009, June 2009 and September 2009.
6. The Wisconsin Land Surveyor Registration of Respondent William W. Nutter is hereby LIMITED for the period from October 1, 2009, through September 30, 2010, as follows:
- a. Respondent shall arrange for a licensed surveyor approved by the Section to review a random sample of the Respondent's work, in order to determine whether 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 in the State of Wisconsin.
 - b. Respondent 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 review. 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 terminated his/her supervision of Respondent, Respondent shall notify the Department Monitor, in writing within five business days of the date of termination.
 - c. On the last business day of December 2009, Respondent shall provide to the reviewing surveyor a list of all work completed in the past three months. The reviewing surveyor shall randomly select one-fourth of the work listed and shall review the work to ensure 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 in the State of Wisconsin.
 - d. The procedure specified in paragraph c above shall be repeated for the three-month periods ending on the last business day of March 2010, June 2010 and September 2010.
7. The surveyors approved by the Section as supervising or reviewing surveyors for the Respondent shall report to the Section in writing on a quarterly basis regarding Respondent's performance. The report shall be received by the Department Monitor within 30 days of the end of the quarter and shall include information regarding the percentage of surveys on which the supervising or reviewing surveyor found errors, the types of errors found, and the supervisor's or reviewer's recommendation for further education or supervision.
8. Respondent shall be responsible for all costs and expenses incurred for compliance with the terms of this Order.
9. The terms and conditions of this Order may only be modified by further written Order of the Land Surveyor Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors.
- a. If the Section receives two or more quarterly reports indicating that the percentage of surveys on which Respondent has made errors exceeds ten percent (10%), the Section may require the Respondent and the supervising or reviewing surveyor to appear personally before the Section to discuss Respondent's performance. At the conclusion of that meeting, the Section may modify the terms and conditions of this Order if the Section in its sole discretion concludes that protection of the public requires additional limitations.
 - b. Respondent may petition in writing for modification or removal of the limitations at any time after April 1, 2009, providing that he has met all education requirements, there are no unsatisfactory reports from the reviewing surveyor within the last twelve months, and he is up-to-date in his installment payments of costs. If Respondent submits a

petition for modification of this Order, he shall appear personally before the Section at such time as the Section considers his request.

10. Respondent shall pay costs in this matter in the amount of \$10,000.00. The first installment of \$2,000.00 shall be paid on or before December 1, 2007, and there shall be additional annual installments of \$2,000.00 on or before each December 1 thereafter until \$10,000.00 has been paid.
11. Any and all petitions, requests, reports and payments required by this Order shall be mailed, faxed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 261-7904
Fax (608) 266-2264

12. **Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Section in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to submit timely any payment of the costs as ordered, or fails to comply with the ordered continuing education, Respondent's registration (#2254-08) SHALL BE SUSPENDED, without further notice or hearing until Respondent has complied with the terms of this Order.**
13. DOE files ## 02 LSR 014 and 04 LSR 002 are hereby closed.

Dated July 31, 2007

LAND SURVEYOR SECTION

By: Ricky Van Goethem
A member of the Section