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

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
JASON J. POUPORE, : FINAL DECISION AND ORDER
RESPONDENT. :

ORDER 0001054

Division of Enforcement Case File Number 08 LSR 008

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

Jason J. Poupore
1223 West Hughitt Street
Iron County, MI 49801

Wisconsin Land Surveyor Section
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 Surveyor 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. Respondent Jason J. Poupore is licensed in the state of Wisconsin as a Land Surveyor, having license number 8-2744. This license was first granted to Mr. Poupore on 07/28/2005 and is current through 01/31/2012.
2. The most recent address on file with the Wisconsin Department of Regulation and Licensing (Department) for Respondent Jason J. Poupore is 1223 West Hughitt Street, Iron Mountain, MI 49801.

3. On or about July 18, 2008, the Department received a complaint against Jason J. Poupore from the Standards Review Committee (SRC) of the Wisconsin Society of Land Surveyors. The complaint was initially received by the Ethics and Standards of Practice Committee (ESPC) of the Wisconsin Society of Land Surveyors regarding Jason J. Poupore. The initial complaint alleged that Mr. Poupore would not supply his client with a copy of the certified survey map Mr. Poupore prepared of their property.

4. Mr. Reginald Jaquish, who was Chairman of the ESPC at the time of the complaint, made several attempts to contact Mr. Jason Poupore. Mr. Jaquish also sent Mr. Poupore correspondence related to this matter by registered mail with return receipt, which Mr. Poupore signed. No correspondence was received from Jason J. Poupore.

5. Mr. Jaquish contacted the Florence County Register of Deeds to verify if a certified survey map of the property at issue had been filed with the county as required by Wis. Admin. Code § A-E 7.05(7). The Register of Deeds did have a survey map on file and forwarded a copy to Mr. Jaquish. Mr. John C. Kannard, the current Chairman of the ESPC, reviewed the certified survey map prepared by Mr. Poupore, dated April 15, 2007. Mr. Kannard forwarded the survey map to the Standards Review Committee (SRC) of the Wisconsin Society of Land Surveyors, which found deficiencies in the certified survey map prepared by Jason J. Poupore.

6. The Standards Review Committee of the Wisconsin Society of Land Surveyors reviewed the Florence County, Wisconsin, certified survey map for Part of SE ½, Section 36, T40N, R17E, signed and stamped by Jason J. Poupore, dated April 15, 2007. The Standards Review Committee found 13 violations of Wis. Stat. § 236.34 and 8 violations of Wis. Admin. Code § A-E 7. The SRC filed a complaint with the Department and a case was subsequently opened for investigation.

7. In resolution of this matter, Respondent Jason J. Poupore consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Land Surveyor Section has jurisdiction to act in this matter pursuant to Wis. Stat. § 443.12(1), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Wis. Stat. § 443.01(4) defines land surveying as including "...the preparation of official plats, or maps, of land in this state." By this definition, land surveyors are obliged to comply with the technical requirements of Ch. 236 of the Wisconsin statutes entitled, "Platting Lands and Recording and Vacating Plats."

3. By the conduct described in the Findings of Fact, Respondent Jason J. Poupore has violated Wis. Stat. § 236.34 and Wis. Admin. Code § A-E 7 as follows:

A. Mr. Poupore's certified survey map fails to indicate lots, outlots, or public dedications as required in Wis. Stat. § 236.34(1).

B. The errors in the latitude and departure closure of Mr. Poupore's certified survey map exceeds the ratio of 1 in 3,000 contrary to Wis. Stat. § 236.34(1)(a).

C. Mr. Poupore's certified survey map fails to print "CERTIFIED SURVEY MAP" in prominent letters with the location of the land by government lot, recorded private claim, quarter-quarter section, section, township, range, and county indicated, which violates Wis. Stat. § 236.34(1)(c). The map omits the government lot or quarter-quarter section citation, either of which should have been indicated.

D. Mr. Poupore's certified survey map fails to indicate monuments found or set along the west boundary as required under Wis. Stat. § 236.15(1)(c), which violates Wis. Stat. § 236.34(1)(b) (requiring that "all corners shall be monumented in accordance with § 236.15(1)(c), (d), and (g)").

E. Mr. Poupore's certified survey map and legend fail to indicate whether the monuments set along the east line are at least 18 inches long, nor does the map indicate their weight, which violates Wis. Stat. § 236.34(1)(b).

F. Mr. Poupore's certified survey map fails to correctly show the exterior boundaries of the land surveyed and divided as required under Wis. Stat. § 236.20(2)(a) as set forth in Wis. Stat. § 236.34(1)(c). There is no description, which renders it impossible to know what was surveyed. Because Mr. Poupore shows all line weights as the same, and several boundary/lot corner monuments are not shown, it is not possible to determine what was intended as the boundary.

G. Mr. Poupore's certified survey map fails to correctly show all the monuments erected, corners and other points established in the field in their proper places and note the representation thereof or by legend as required under Wis. Stat. § 236.20(2)(b) as set forth in Wis. Stat. § 236.34(1)(c). Mr. Poupore's certified survey map further violates § 236.20(2)(b) because the legend does not fully describe the placed monuments or describe those monuments to show that they comply with Wis. Stat. § 236.34(1)(b). From the legend and the note in Mr. Poupore's map, it would appear that either all found monuments were 4" iron pipes or, more likely, that the legend is deficient in describing lot corner monuments found. Almost universally, lot corner monuments are considerably smaller in diameter than 4 inches.

H. Mr. Poupore's certified survey map fails to consecutively number all lots and/or outlots as required under Wis. Stat. § 236.20(2)(e) as set forth in Wis. Stat. § 236.34(1)(c). Mr. Poupore's map apparently depicts two lots/outlots and an "assumed" street, but no identifying numbers are given.

I. Mr. Poupore's certified survey map fails to provide an exact width of all streets or easements as required under Wis. Stat. § 236.20(2)(f) as set forth in Wis. Stat. § 236.34(1)(c). Mr. Poupore's map does not provide any nominal width or dimension at any position for the "assumed" street on the east side of the parcel.

J. Mr. Poupore's certified survey map fails to provide the center line of all streets as required under Wis. Stat. § 236.20(2)(h) as set forth in Wis. Stat. § 236.34(1)(c). Mr. Poupore's map shows an "assumed" street, which is a violation because it is an access road and the center line of that road or street should have been shown, along with the easterly right-of-way line.

K. Mr. Poupore's certified survey map's north point (bearing reference) fails to identify a reference to a true or other identifiable direction that is related to a boundary line of the quarter section in which the plat is located as required under Wis. Stat. § 236.20(2)(i) as set forth in Wis. Stat. § 236.34(1)(c).

L. Mr. Poupore's certified survey map fails to show the area in square feet of each lot and outlot as required under Wis. Stat. § 236.20(2)(j) as set forth in Wis. Stat. § 236.34(1)(c).

M. Mr. Poupore fails to locate the certified survey map by bearing and distance from a boundary line of a quarter section, the monuments at the end of the boundary line are not described and the bearing and distance between them are not shown as required under Wis. Stat. § 236.20(3)(b) as set forth in Wis. Stat. § 236.34(1)(c). Mr. Poupore's map fails to show any section or quarter section lines, rendering it impossible to show and/or describe the monuments at the ends of those section lines.

N. Mr. Poupore's certified survey map fails to show the name of the adjoining street in its proper location and fails to underscore it with a dotted or dashed line along with the width of the street as required under Wis. Stat. § 236.20(3)(d) as set forth in Wis. Stat. § 236.34(1)(c). Mr. Poupore failed to show the access road or street with its name and that name underscored.

O. Mr. Poupore's certified survey map fails to show abutted street lines in their proper location by dotted or dashed lines and fails to indicate the width of these streets as required under Wis. Stat. § 236.20(3)(e) as set forth in Wis. Stat. § 236.34(1)(c).

P. Mr. Poupore's certified survey map fails to provide a surveyor's certificate that includes a clear and concise description of the land surveyed by government lot, recorded private claim, quarter-quarter section, section, township, range, county, and metes and bounds description as required under Wis. Stat. § 236.34(1)(d)2. Mr. Poupore's certified survey map fails to accurately indicate the division and map of the land described because the map appears to show two parcels, which is a further violation of Wis. Stat. § 236.34(1)(d)2. Mr. Poupore's drawing does not enable one to determine what surveying was actually done. Mr. Poupore's map indicates a 4" iron pipe at the shore line of Keys Lake and the east 1/16th line, which fails to comply with the statutory requirements noted above. There is no indication of what the 4" iron pipe is intended to monument, nor where it is located within the quarter section, nor is there any citation of any section lines, thus rendering it impossible to know where in the section the property is located.

Q. Mr. Poupore's certified survey map fails to provide a surveyor's certificate that includes a statement that the map is a correct representation of all of the exterior

boundaries of the land surveyed and the division of that land as required under Wis. Stat. § 236.34(1)(d)3.

R. Mr. Poupore's certified survey map provides a surveyor's certificate that erroneously states that the surveyor has fully complied with the provisions of Wis. Stat § 236.34 in surveying, dividing, and mapping the land, which violates § 236.34(1)(d)4.

S. Mr. Poupore's certified survey map fails to indicate that the boundary is based on the records of the Register of Deeds as nearly as practicable as required under Wis. Admin. Code § A-E 7.03.

T. Mr. Poupore's certified survey map fails to indicate that the surveyor acquired the data necessary to retrace record title boundaries such as deeds, maps, and certificates of title as required under Wis. Admin. Code § A-E 7.03. Mr. Poupore's map does not mention any deed, or cite to any previous descriptions, or provide a mapping or description of any monuments defining the west line of the mapped parcel(s).

U. Mr. Poupore's certified survey map fails to indicate the setting or finding of monuments along the west boundary of the lands surveyed as required under Wis. Admin. Code § A-E 7.03.

V. Mr. Poupore's certified survey map fails to show a description providing unequivocal identification of lines or boundaries as required under Wis. Admin. Code § A-E 7.04.

W. Mr. Poupore's certified survey map fails to reference the map as provided in Wis. Stat. § 59.73(1) (requiring that "in all surveys the bearings shall be expressed with reference to a magnetic, true or other identifiable line of the public land survey, recorded and filed subdivision or to the Wisconsin coordinate system") as set forth in Wis. Admin. Code § A-E 7.05(2).

X. Mr. Poupore's certified survey map fails to describe all monuments used for determining the location of the parcel as required under Wis. Admin. Code § A-E 7.05(4).

Y. Mr. Poupore's certified survey map fails to meet the minimum closure requirement under Wis. Admin. Code § A-E 7.06(4).

4. As a result of the violations described in Section 3 of the Conclusions of Law, Respondent Jason J. Poupore has shown:

A. "Gross negligence" in the practice of land surveying as defined in Wis. Admin. Code § A-E 8.03(1);

B. "Incompetency" in the practice of land surveying as defined in Wis. Admin. Code § A-E 8.03(2)(a), (b), and (c); and

C. "Misconduct" in the practice of land surveying as defined in Wis. Admin. Code § A-E 8.03(3)(a), (b), and (c).

5. As a result of the violations described in Sections 3 and 4 of the Conclusions of Law, Mr. Poupore has violated Wis. Admin. Code § A-E 8.06(1) by failing to use "reasonable care and competence in providing professional services."

6. As a result of the violations in Sections 3, 4, and 5 of the Conclusions of Law, Mr. Poupore is subject to discipline by the Wisconsin Land Surveyor Section pursuant to Wis. Stat. § 443.12(1) for the practice of "any gross negligence, incompetence or misconduct in the practice of land surveying."

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of Jason J. Poupore (number 8-2744) to practice as a land surveyor in the state of Wisconsin is hereby **SUSPENDED** for a period of one hundred twenty (120) days, commencing on the effective date of this Order. Respondent Jason J. Poupore shall submit all indicia of licensure to the Department Monitor within fifteen (15) days of the effective date of this Order, to be returned upon completion of the term of this suspension.

2. Jason J. Poupore shall not practice or attempt to practice as a land surveyor in the state of Wisconsin during the suspension period.

IT IS FURTHER ORDERED that:

3. The license of Jason J. Poupore (number 8-2744) to practice as a land surveyor shall be and is hereby **LIMITED** as follows:

a. Respondent Jason J. Poupore shall, within six (6) months of the effective date of this Order, complete three (3) credits of pre-approved education on Wisconsin statutory and administrative rule requirements for land surveys, with a grade of B or higher, including passing any examination(s) necessary to successfully complete the course(s). Such course(s) shall be completed at a 2-year or 4-year institution. Respondent shall submit a written request for pre-approval of any course(s) on Wisconsin statutory and administrative rule requirements that he is considering to the Land Surveyor Section Monitoring Liaison within thirty (30) days of the date of this Order, at the address listed below.

b. Respondent Jason J. Poupore shall take and successfully complete any examination required to successfully complete the course(s), with at least a grade of B, within six (6) months of the effective date of this Order. Respondent shall submit evidence of his successful completion of the required education and any examination required to successfully complete the course(s) to the Department Monitor at the address listed below.

c. The education and examination completed pursuant to this requirement shall not be used to satisfy any land surveyor education requirements that are or may be instituted by the Section or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that:

4. Respondent Jason J. Poupore shall, within ninety (90) days of the effective date of this order, pay COSTS in the amount of SEVEN HUNDRED TWENTY DOLLARS (\$720.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

5. 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 that Respondent fails to timely submit payment of the costs, or fails to timely submit the written request to the Section for pre-approval of the education course(s), or fails to complete the required education, or fails to successfully complete any required examination, or fails to submit evidence of the completion of the education and required examination to the Department Monitor as ordered and as set forth above, Respondent's license (number 8-2744) may, in the discretion of the Section or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs, education, any required examination, and submission of the evidence of successful completion of the education and required examination.

IT IS FURTHER ORDERED that:

6. This Order is effective on the date of its signing.

Dated this 24th day of August, 2011.

WISCONSIN LAND SURVEYOR SECTION

By: 