

**STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS**

DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES,

Petitioner,

DOAH Case No.: 14-4291
Case No. 1202-05065
Agency Clerk No. A82636

v.

JOHN C. MINDER,

Respondent.

FINAL ORDER

THIS CAUSE came before the Board of Professional Surveyors and Mappers ("Board") pursuant to Sections 120.569 and 120.57(1), Florida Statutes, at a duly noticed public meeting held on May 6, 2015 in Tallahassee, Florida for consideration and final action. Respondent was present and accompanied by his lawyer, Mr. H. Richard Bisbee. Petitioner was represented by Ms. Courtney Frazier.

PRELIMINARY STATEMENT

On December 3, 2012, an Administrative Complaint was filed by the Petitioner in DACS Case No. 1202-05065, alleging that the Respondent had violated the laws regulating his professional activities as a licensed professional surveyor and mapper in the State of Florida. More specifically, the Petitioner alleged that the Respondent had failed to meet Minimum Technical Standards as imposed by Rule 5J-17.052, Florida Administrative Code (F.A.C.) and had negligently prepared a survey dated December 6, 2011.

On March 13, 2013, the Administrative Complaint was resolved by entry of a "Final Order Approving Settlement Stipulation." The stipulation called for, among other items, the successful completion of probation pursuant to both the terms of the stipulation and the rules regarding probation under Rules 5J-17.083 and 5J-17.085, F.A.C.

The Respondent was scheduled to appear before the Board's Probation Committee (Committee) at their November 6, 2013 meeting. The Committee found the surveys, as submitted to them by the Respondent, unsatisfactory and exercised their right under Rule 5J-17.085(3)(b), F.A.C. to require a second set of surveys to be produced and submitted to the Committee.

Respondent submitted a second set of surveys to the Committee on February 19, 2013. The Committee found the surveys unsatisfactory pursuant to Rule 5J-17.083, F.A.C. The Committee recommended that the stay of suspension, as agreed to by the Respondent in the stipulation, be lifted until the Respondent passed the Florida Jurisdictional Exam for Professional Surveyors and Mappers. The full Board agreed and entered an "Order Lifting Stay of Suspension" which was filed on March 14, 2014.

The Respondent then filed an appeal of that Order in the Second District Court of Appeal, Case No. 2D14-1689. The Petitioner and Respondent agreed that the suspension would be stayed until the appeal was resolved. The Department then asked the appellate court to relinquish jurisdiction for a determination of whether the Respondent violated the terms of probation as ordered in the "Final Order Approving Settlement Stipulation." The appellate court relinquished jurisdiction.

On September 15, 2014, the case was referred to the Division of Administrative Hearings (DOAH). On November 17, 2014 an Amended Administrative Complaint was filed. An

administrative hearing was held before Administrative Law Judge Lynne A. Quimby-Pennock on December 4, 2014, in Sarasota, Florida. Attorney Mr. Patrick Creehan appeared on behalf of the Petitioner. Attorney Mr. H. Richard Brisbee appeared on behalf of the Respondent.

The Petitioner presented the testimony of John S. Roberts, the Executive Director of the Board at the time of the hearing. Petitioner's Exhibits 1, 3 and 4, and Respondent's Exhibit 1 were admitted into evidence. The transcript of the hearing was filed on December 30, 2014. Both parties timely filed proposed recommended orders. The recommended order was entered on February 11, 2015. No exceptions were filed.

STATEMENT OF THE ISSUE

Whether Respondent, John C. Minder, committed the violations alleged in the Amended Administrative Complaint issued by the Petitioner on November 17, 2014; and if so, what penalty should be imposed.

FINDINGS OF FACT

1. After review of the record, it is determined that the Findings of Fact set forth in paragraphs 1-15 of the Recommended Order are supported by competent, substantial evidence and the Board adopts and incorporates them as if fully set forth herein.

CONCLUSIONS OF LAW

2. The Board has jurisdiction over the subject matter and parties to this proceeding pursuant to Chapters 120 and 472, Florida Statutes.

3. The Conclusions of Law set forth in paragraphs 16-21 of the Recommended Order are supported by law and the Board adopts and incorporates them as if fully set forth herein.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that the Amended Administrative Complaint filed in this matter is hereby dismissed and the disciplinary proceeding in DACS Case # 1202-05065 is closed.

DONE and ORDERED at Tallahassee, Florida, this 8th day of May, 2015




Jenna L. Harper, Executive Director
Florida Board of Professional Surveyors
and Mappers
For Nicholas Fusco, Chair

NOTICE OF RIGHT TO APPEAL

Any party to these proceedings adversely affected by this Final Order is entitled to seek judicial review of this Final Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Judicial review proceedings must be instituted by filing a Notice of Appeal with the Department's Agency Clerk, 407 South Calhoun Street, Suite 509, Tallahassee, Florida, 32399-0800, within thirty (30) days of rendition of this order. A copy of the Notice of Appeal must be filed with the Clerk of the appropriate District Court of Appeal accompanied by any filing fees prescribed by law.

Filed with Agency Clerk this 11th day of May, 2015.



Agency Clerk

Copies furnished to:

H. Richard Bisbee
1882 Capital Circle, NE, Suite 206
Tallahassee, FL 32308

Board Counsel

Hon. Lynne A. Quimby-Pennock
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, FL 32399