

**STATE OF ALABAMA
BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND
LAND SURVEYORS**

IN RE THE MATTER OF:

Case No. 10-40-B

JOHNNY E. MAXWELL

CONSENT ORDER

Johnny E. Maxwell, a licensed Alabama professional land surveyor (hereinafter referred to as "Respondent") hereby stipulates and agrees, subject to approval of the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors (hereinafter referred to as the "Board") as follows:

STIPULATED FACTS

Respondent stipulates on June 7, 1996 the Board issued him a Certificate of Licensure (Licensure Number 21174) authorizing him to practice as a professional land surveyor in the State of Alabama. Respondent stipulates he held that certificate continuously from that date until October 22, 2008 when it was placed in retired status. Respondent stipulates his Certificate of Licensure for land surveying was returned to active status on August 5, 2009.

Respondent stipulates on July 28, 2010 the Board received a complaint from Mr. Charles D. England, a licensed Alabama professional land surveyor (hereinafter referred to as "Complainant") alleging Respondent provided a survey of property located in Sumter County, Alabama which may have contained errors and violations of the standards of practice for land surveying in Alabama. The complaint further indicated Mr. Temple Ennis, an unlicensed individual, may have performed the survey of the property without Respondent's direct supervision.

Respondent stipulates on September 7, 2007, he provided a survey for Mr. Tommy Coats and Ms. Tina Yelverton, of property located in Sumter County, Alabama which contained errors and violations of the standards of practice for land surveying in Alabama.

Respondent stipulates he established an arrangement with Mr. Temple Ennis, an unlicensed individual, to obtain surveying jobs, perform the fieldwork and produce drawings for Respondent to review in exchange for seventy percent of any money received. Respondent stipulates Board records indicate Mr. Temple Ennis has never held a license to practice land surveying in the State of Alabama.

STIPULATED CONCLUSIONS OF LAW

Respondent stipulates in his capacity as a licensed Professional Land Surveyor in the State of Alabama he is subject to the provisions of Title 34, Chapter 11, Code of Alabama 1975, and the Rules and Regulations of the *Administrative Code* of this Board.

Respondent stipulates his conduct as set forth in the foregoing "Stipulated Facts" constitutes violations of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11(a)(2), and violations of the Rules of Professional Conduct of the *Administrative Code* § 330-X-14-.05(g) and § 330-X-14-.06(a)(1).

Respondent stipulates his conduct set forth in the "Stipulated Facts" constitutes a violation of those rules and statutes set forth above, and he is subjecting himself to disciplinary action under Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11.

STIPULATED DISPOSITION

1. Respondent shall not in the future violate the provisions of Title 34, Chapter 11, Code of Alabama 1975, or the Rules and Regulations of the Administrative Code and the Rules of Professional Conduct promulgated together.

2. Respondent understands this Consent Order and subsequent Final Order will become a matter of public record.

3. Respondent agrees he shall pay a fine of \$500.00 (five hundred dollars) to the Board within thirty days of date of Final Order.

4. Respondent understands his licenses to practice land surveying in the State of Alabama shall be subject to one (1) year **probation** commencing upon date of Final Order.

5. Respondent agrees he shall attend (via classroom) a Board approved Standards of Practice for Land Surveying in Alabama course within six (6) months of date of Final Order.

6. Respondent agrees he shall complete the professional surveyor ethics course provided by New Mexico State University within six (6) months of Final Order.

7. Respondent agrees failure to submit payment of the specified penalty within six months of the date of the Final Order shall cause his license to practice land surveying in the State of Alabama to be revoked. Respondent understands this matter would be presented to the Board for ratification at its next regularly scheduled meeting. Respondent further understands he has the right to appear at that meeting and present any pertinent information to the Board for its consideration.

8. Respondent understands this Consent Order is subject to the approval of the Board and has no force and effect until a Final Order based upon it is rendered by the Board.

9. Respondent agrees any violation of the terms of this Consent Order, may result in the Board filing additional charges in accordance with the Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11.

10. Respondent understands in order to make a decision relative to approving this Consent Order discussions must take place between Board members, Board Staff and Board Counsel. Respondent understands that this discussion will take place at the Board's next regularly scheduled meeting in Montgomery Alabama. Respondent understands he has the right to be present when this matter is discussed but hereby waives that right.

11. Respondent understands he has the right to seek the advice of legal counsel. Respondent also understands he has the right to a formal fact finding hearing before the Board, to compel the testimony of witnesses, to cross-examine witnesses against him, and to obtain judicial review of the Board's decision in said formal hearing but expressly waives these rights with execution of this Consent Order and Final Order of the Board.

12. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review or to otherwise challenge or contest the validity of the Consent Order, the stipulated facts, conclusions of law and imposition of administrative action contained herein, and the Final Order of the Board incorporating said Consent Order.

13. Respondent, for the purpose of avoiding further administrative action with respect to this cause executes this Consent Order. Should the Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of the Consent Order by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation in or resolution of these proceedings. Likewise, if this Consent Order is not accepted, the Board shall not take into consideration the contents of this Order as evidence of an admission.

SIGNED this the 10th day of February, 2011



Johnny E. Maxwell
Respondent

APPROVED:



Benjamin H. Albritton
Assistant Attorney General

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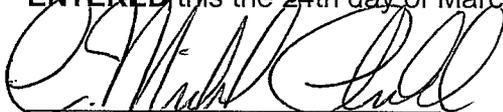
FINAL ORDER

On March 24-25, 2011, the Alabama Board of Licensure for Professional Engineers and Land Surveyors convened for a regularly scheduled Board meeting. The Board Members in attendance at the meeting were: Mr. C. Michael Arnold, Mr. W. Gerald Wilbanks, Dr. Daniel S. Turner, Mr. Phillip E. Santora, Mr. Earl R. Foust and Mr. Don T. Arkle.

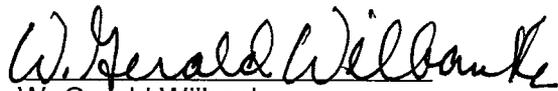
This Final Order is based upon a Consent Order signed by Johnny E. Maxwell, (hereafter referred to as Respondent) and dated February 10, 2011. In the Consent Order, Respondent stipulated he violated the Code of Alabama 1975, § 34-11-11(a)(2), and the Rules of Professional Conduct of the *Administrative Code* § 330-X-14-.05(g), and § 330-X-14-.06(a)(1).

Upon Consideration of the above it is **ORDERED** that the Consent Order dated February 10, 2011 is adopted by the Board and hereby made a part of this Final Order. It is further **ORDERED** that Respondent abide by the Final Order in this manner.

ENTERED this the 24th day of March, 2011



C. Michael Arnold



W. Gerald Wilbanks

RECUSED

Phillip E. Santora



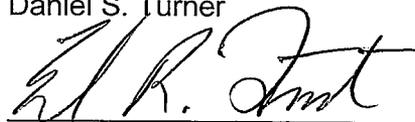
Don T. Arkle

DID NOT ATTEND

William C. Ulrich, Jr



Daniel S. Turner



Earl R. Foust