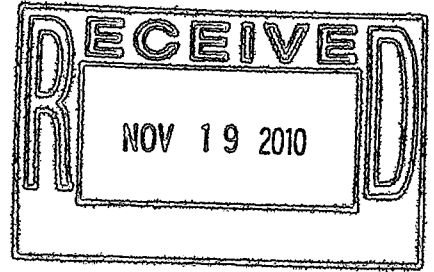


STATE OF ALABAMA  
BOARD OF LICENSURE FOR  
PROFESSIONAL ENGINEERS AND  
LAND SURVEYORS



IN RE THE MATTER OF:

Case No. 10-15-B

DEREK L. HARVEL  
HARVEL & ASSOCIATES  
H & A ASSOCIATES, LLC

**CONSENT ORDER**

Derek L. Harvel (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 14, 1991 the Board issued him a Certificate of Licensure (Licensure Number 18387) authorizing him to practice as a professional land surveyor in the State of Alabama. Respondent has held that certificate continuously from that date to the present.

Respondent stipulates on September 27, 2000, the Board issued Harvel and Associates a certificate of authorization (CA-2171-S) to practice land surveying in the State of Alabama. Respondent stipulates the firm held that certificate continuously from that date until January 31, 2008. Respondent also stipulates Board records indicate the firm H & A Associates, LLC has never been issued a Certificate of Authorization to practice land surveying in the State of Alabama.

Respondent stipulates on February 4, 2010 a complaint was filed by Ms. Regina A. Dinger, Executive Director of the Board of Professional Engineers and Land Surveyors

(hereinafter referred to as "Complainant") based on a Cease and Desist Order issued by the Georgia Board of Registration for Professional Engineers and Land Surveyors on January 11, 2010 in which Respondent admitted that on or about January 28, 2008, he placed the professional land surveyor seal and the signature of Abb W. Preston, a licensed professional land surveyor in the State of Georgia, on a land title survey for Atlas Cold Storage in Cartersville, Georgia, without Mr. Preston's permission.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated July 15, 2008 for the Cole Companies project located at 1484 Seventh Street South, Clanton, Alabama without obtaining a certificate of authorization from the Board for land surveying.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated August 18, 2008 for the Cole Real Estate Investment project located at 3052 Jefferson Avenue SW, Birmingham Alabama without obtaining a certificate of authorization for land surveying.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated December 27, 2009 for the Azalea Hills project located at 5801 East Shirley Lane, Montgomery, Alabama without obtaining a certificate of authorization for land surveying.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated January 30, 2010 for the Hibbert Sporting Goods project located at 451 Industrial Lane, Birmingham, Alabama without obtaining a certificate of authorization for land surveying.

Respondent stipulates he entered into a contract with the firm Bock and Clark in July 2007 agreeing his firm H & A Associates, LLC located at 2021 Danville Park Drive, # 5. Decatur, Alabama 35603, would provide land surveying services in the State of Georgia and indicated in Exhibit A of the contract he was licensed to provide land surveying services in the

states of Georgia, Tennessee and West Virginia without obtaining professional land surveyor licensure in those states.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated August 29, 2008 for the Advanced Auto project located at 1023 Hwy 98 By-Pass, Columbia, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated August 29, 2008 for the Mrs. Winners project located at 977 Goodman Road, Horn Lake, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated July 17, 2007 for the Super Stop project located at 1281 Hwy 49 South, Richland, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated December 11, 2006 for The Pantry Inc., project located at 696 Highway 6 East Batesville, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated November 8, 2006 for the ARC Walgreens project located at Devereux Road and Linda Lee Drive, Natchez, MS by placing the professional land

surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated July 6, 2005 for the Wal-Mart project located at 350 Wal-Mart Circle Pontotoc, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated May 13, 2008 for the AIMCO project located at 280 Little Rock, Decater Road, Decatur, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated May 13, 2008 for the AIMCO project located at 3590 Albermarle Road, Jackson, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated March 1, 2007 for the Residence Inn - Jackson project located at 881 East River Place, Jackson, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated February 27, 2007 for the ING Clarion Homewood Suites Jackson-Ridgeland project located at 881 East River Place, Jackson, MS by placing the

professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated July 28, 2003 for the Briar Crest Extended Care project located at 16056 Boundry Drive, Ashland, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated July 28, 2003 for the Rest Haven Nursing Home project located at 103 Cunningham Drive, Ripley, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated November 7, 2003 for the AmSouth Bank project located at 401 Central Avenue, Laurel, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated November 16, 2007 for the Orchard Advisory LLC project located at 2563 Goodman Road, Horn Lake, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated November 17, 2008 for the Express Oil Change project located at 1045 West Goodman Road, Horn Lake, MS by placing the professional land

surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated October 8, 2008 for the Leggett & Platt Inc. project located at 288 Industrial Circle, Pontotoc, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated October 15, 2008 for the 84 Lumber project located at 2112 Nicholson Avenue, Waveland, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated December 20, 2005 for the United Rentals (North America), Inc. project located at 12101 Seaway Road, Gulfport, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated May 25, 2005 for the Amerihost Inn project located at 1350 Warrenton Road, Vicksburg, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated June 23, 2003 for the Captain D's project located at 3588 North Gloster Street, Tupelo, MS by placing the professional land surveyor seal and

signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated May 30, 2003 for the Hampton Inn project located at 4301 Hardy Street, Hattiesburg, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated April 9, 2004 for the U.S. Restaurant Properties project located at 4230 South Metro Drive, Jackson, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he provided land surveying services through his firm H & A Associates, LLC relative to a survey dated April 26, 2004 for the Valenti Development Group project located at 7910 Craft-Goodman Road, Branch, MS by placing the professional land surveyor seal and signature of Mr. Gerald Martin, a licensed professional land surveyor in the state of Mississippi, on the survey without Mr. Martin's knowledge or consent.

Respondent stipulates he offered land surveying services through his firm H & A Associates, LLC relative to surveys for projects located in the State of Georgia by placing the professional land surveyor seal and signature of Mr. Abb W. Preston, a licensed professional land surveyor in the state of Georgia, on the surveys without Mr. Preston's knowledge or consent. The projects include: JN# 08058 Goldman Banks, 5606 Gordon Road, Mableton Georgia, JN# 08059 Goldman Banks, 5405 Jimmy Carter Blvd, Norcross, Georgia, JN# 08064 Pep Boys, 8702 Abercorn Street, Savannah, Georgia, JN# 08070 Atlas Cold Storage, 2006 Industrial Blvd, Douglas, Georgia, JN# 08073 Wachovia Bank 3579-3585 Atlanta Avenue,

Atlanta, Georgia, JN# 08187 YRC, 1892 Airport Industrial Park Drive, Marietta, Georgia and JN# 08224 Grocery Recap Sandy Plains Exchange, Marietta, Georgia.

### **STIPULATED CONCLUSIONS OF LAW**

Respondent in his capacity as a licensed Professional Land Surveyor in the State of Alabama stipulates in that capacity 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" may constitute violations Title 34, Chapter 11, Code of Alabama 1975 § 34-11-11(a) 2 and § 34-11-9(a) 8. It is also a violation of the Rules and Regulations of the Board's *Administrative Code*, § 330-X-14-.06(a) 1 and § 330-X-14-.06(a) 5.

Respondent stipulates his conduct set forth in the "Stipulated Facts" may constitute 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 his license to practice land surveying in the State of Alabama is revoked immediately upon the date of the Final Order and he shall not seek reissuance of his license to practice land surveying for a period of two (2) years after the date of Final Order.



4. Respondent shall pay the Board a fine of \$1,000.00 (one thousand dollars) within thirty days of the date a Final Order is issued by the Board.

5. 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.

6. 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.

7. 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 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.

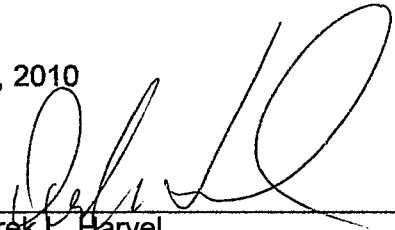
8. Respondent understands he has the right to seek the advice of legal counsel. Respondent also understands he has the right to a formal fact finding hearing before the Board, to compel the testimony of witnesses, to cross-examine witnesses against him, and to obtain judicial review of the Board's decision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

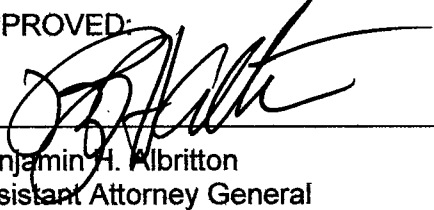
9. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review or to otherwise challenge or contest the validity of the Consent Order, the stipulated facts, conclusions of law and imposition of administrative action contained herein, and the Final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

10. 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 15<sup>TH</sup> day of NOVEMBER, 2010

  
\_\_\_\_\_  
Derek L. Harvel  
Respondent

APPROVED:  
  
\_\_\_\_\_  
Benjamin H. Albritton  
Assistant Attorney General

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

IN RE THE MATTER OF:

Case No. 10-15-B

DEREK L. HARVEL  
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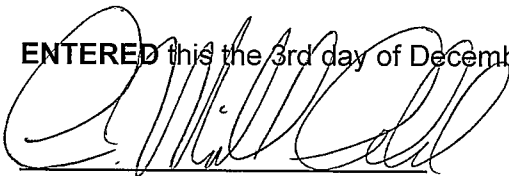
FINAL ORDER

On December 2-3, 2010, 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. William C. Ulrich, Jr., Mr. W. Gerald Wilbanks, Dr. Daniel S. Turner, Mr. Phillip E. Santora, Mr. Earl R. Foust and Mr. Don T. Arkle. Mr. Benjamin Albritton, Assistant Attorney General, appeared as counsel for the Board.

This Final Order is based upon a Consent Order signed by Mr. Derek L. Harvel, (hereafter referred to as Respondent) and dated November 15, 2010. In the Consent Order, Respondent stipulated he violated the Code of Alabama 1975, § 34-11-11(a) 2 and § 34-11-9(a) 8 and the Board's Administrative Code § 330-X-14-.06(a) 1 and § 330-X-14-.06(a) 5.

Upon Consideration of the above it is **ORDERED** that the Consent Order dated November 15, 2010 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 3rd day of December, 2010



C. Michael Arnold

NOT PRESENT

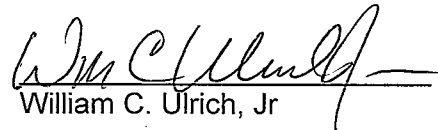
W. Gerald Wilbanks



Phillip E. Santora



Don T. Arkle



William C. Ulrich, Jr



Daniel S. Turner

**RECUSED**

Earl R. Foust