

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

JAN 26 2009

**IN RE THE MATTER OF:
MICHAEL G. MOATES**

CASE NO. 05-65-B

CONSENT ORDER

The Alabama Board of Licensure for Professional Engineers and Land Surveyors (hereafter "Board") has charged Michael G. Moates (hereafter "Respondent") with a violation of §34-11-11(a)(2), Code of Alabama (1975), and of §330-X-11-.03(4)(a.) and (b.), and of §330-X-14-.06(a.) 1, 5, and 6 of the Board's Administrative Code. Subject to approval by the Board, the Parties, desiring to avoid the necessity of a formal hearing, do hereby enter into this Consent Order in lieu of further proceedings.

STIPULATED FACTS

1. Respondent stipulates that on December 23, 1992, the Board issued to him a Certificate of Licensure (License Number 19262) authorizing him to practice as a professional land surveyor in the State of Alabama. Respondent stipulates that he has held that license continuously from that date to present.

2. Respondent stipulates that a complaint (Case No. 05-65-B) was filed with the Board on September 2, 2005, relative to the allegation that he had placed his professional surveyor seal and signature on formal documents prepared by an individual whose license to practice land surveying had been revoked.

3. Respondent stipulates that he entered into an arrangement with Steven H. Gay, a professional land surveyor whose license was then revoked, to review and place his professional license number, seal, and/or signature on at least one land survey prepared by Mr. Gay and at least

one application for a permit to install an onsite sewage disposal system prepared by Mr. Gay. Further, the Respondent stipulates that he received payment for same from Mr. Gay on at least one occasion

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Title 34, Chapter 11, Code of Alabama (1975).

2. The Respondent, in his capacity as a licensed professional land surveyor, is subject to the provisions of Title 34, Chapter 11, Code of Alabama (1975), and the Rules and Regulations of the Administrative Code of the Board.

3. The charges against the Respondent, as stated in the complaint filed on September 2, 2005, constitute a violation of §34-11-11(a)(2), Code of Alabama (1975), and of §330-X-11-.03(4)(a.) and (b.), and of §330-X-14-.06(a.) 1, 5, and 6 of the Board's Administrative Code.

4. A violation of §34-11-11(a)(2), Code of Alabama (1975), and of §330-X-11-.03(4)(a.) and (b.), and of §330-X-14-.06(a.) 1, 5, and 6 of the Board's Administrative Code is grounds for disciplinary action against the Respondent by the Board pursuant to Title 34, Chapter 11, Code of Alabama (1975), which includes the imposition of fines, the institution of a probationary period, and the publication of the disciplinary action in the public record.

STIPULATED DISPOSITION

1. The Respondent stipulates that his conduct constituted a violation of the rules and regulations set forth above, that he has a right to a hearing on the charges with representation by legal counsel, that he is waiving this right and submitting himself to discipline for same as set forth herein, and that he does so as a compromise of the claims asserted against him and solely for the purpose of resolving this administrative proceeding in an expeditious manner without either Party having to

incur further cost or expense.

2. The Respondent submits to the authority of the Board and agrees to the herein stated disciplinary action of the Board.

3. The Respondent enters into this compromise agreement for the purpose of avoiding further administrative or criminal actions being taken against him by the Board with respect to the allegations made in the Complaint filed against him. The Respondent understands and acknowledges that the Board will meet to discuss the approval of this Consent Order on March 5, 2009, at 9:00 a.m. in Montgomery, Alabama. By entering into this Consent Order, the Respondent understands he is waiving his right to be present at this hearing.

4. The Respondent understands that this Consent Order must be accepted by the Board to become binding.

5. The Parties stipulate that, should the Board not accept the terms of this Consent Order, a new Hearing Date shall be set for consideration of the Complaint made against the Respondent by the Board and that neither the Stipulated Facts, or the Stipulated Conclusions of Law made in this Consent Order, or the agreement by the Respondent to submit to the disciplinary powers of the Board shall prejudice the Respondent nor shall the contents hereof be considered by the Board in any subsequent Hearings or decisions made by the Board with respect to the Respondent. Further, the Board's failure to accept this Consent Order shall not unfairly or illegally prejudice the Board or any of its members from further participation or resolution of these proceedings.

6. Respondent Michael G.. Moates agrees to the imposition of administrative fine in the amount of One Thousand Dollars (\$1,000.00) to be paid by check or money order to the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors on or before the thirtieth (30th) day following the date the Final Order is entered in this cause.

7. The Respondent understand and stipulates that his failure to pay this amount in full within the time allotted will result in his license to practice land surveying in the State of Alabama to be revoked upon ratification of the Board.

8. Respondent understands and agrees to be on probation for a period of six (6) months from the date he executes this Consent Order and, during such time, to abide by all provisions of Title 34, Chapter 11, Code of Alabama (1975), and the Rules and Regulations of the Administrative Code and the Rules of Professional Conduct promulgated therewith.

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

10. The Respondent understands and agrees that this Consent Order and any subsequently entered Final Order will become a matter of public record, but that the Board will not publish the terms, conditions, or findings thereof except in the Board's own newsletter, on its website, and on the NCEES Enforcement Exchange.

11. Upon the official entry by the Board of a Final Order incorporating this Consent Order, the Respondent agrees to expressly waive all further procedural steps, the right to seek judicial review, and the right to challenge or contest the validity and contents of the Consent Order and the Final order of the Board.

EXECUTED, this the ___ day of January, 2009.



Michael G. Moates
Respondent

Approved: 

Benjamin H. Albritton
Assistant Attorney General for the Board

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

IN RE THE MATTER OF:

MICHAEL G. MOATES

CASE NO. 05-65-B

FINAL ORDER

On March 5, 2009 at 9:00 a.m. 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. Don T. Arkle, Mr. Al I. Reisz, Mr. William C. Ulrich, Jr, Mr. C. Michael Arnold, and Mr. Preston L. Jackson. Also present at the Board Meeting were Ms. Regina Dinger, Executive Director of the Board, and Mr. William R. Huett, Assistant Executive Director and Investigator for the Board. Mr. Benjamin Albritton, Assistant Attorney General, appeared as counsel for the Board.

This Final Order is presented to the Board upon a Consent Order signed by Mr. Michael G. Moates (hereinafter referred to as "Respondent") that was received on January 26, 2009. In said Consent Order, Respondent stipulated that he violated the Code of Alabama 1975 § 34-11-11(a) (2) and the Rules of Professional Conduct of the *Administrative Code*, § 330-X-11-.03(4) a & b and § 330-X-14-.06(a) 1, 5 and 6.

Upon Consideration of the above it is ORDERED that the Consent Order dated January 26, 2009 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 5th day of March 2009.



Don T. Arkle

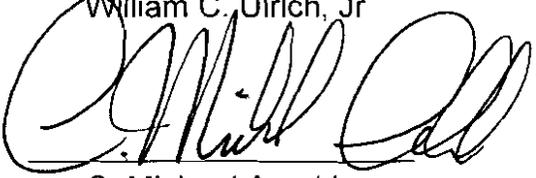
RECUSED



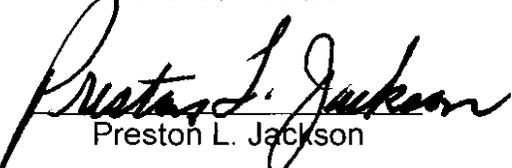
Al I. Reisz



William C. Ulrich, Jr



C. Michael Arnold



Preston L. Jackson