

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

IN THE MATTER OF:

Matthew S. Kountz
Geo Surveying
129 Club Drive
Fairhope, AL 36532

Respondent



**Case No. 2020-25
2021-07
2021-14**

CONSENT ORDER

Matthew S. Kountz and his firm Geo Surveying (hereinafter referred to as "Respondent") hereby stipulates and agrees, subject to approval of the Alabama Board of Licensure for Professional Engineers and Land Surveyors (hereinafter referred to as the "Board") as follows:

STIPULATED FACTS

Respondent stipulates on July 13, 2020, a complaint was received from Salvatore Migliore indicating Respondent possibly violated Title 34 of the Code of Alabama in connection with the providing of land surveying services for a project in Foley, Alabama that started in May 2020.

Respondent stipulates on July 15, 2020, and September 1, 2020, he was sent notification of the Migliore complaint and a request that he provide a response to the complaint, by standard mail, certified mail, and email. Attempts to contact Respondent by telephone were also made between August 5, 2020, and December 3, 2020, with voicemail messages left for him to contact the Board concerning the open investigation. Respondent failed to respond to the Board inquiry within 60 days of receipt of the inquiry.

Respondent stipulates after receiving formal disciplinary charges from the Board he made contact with the Board on May 3, 2021 and the investigation resumed. The investigation determined in May 2020, Respondent was hired by Salvatore Migliore to perform a survey for a property located in Foley, Alabama. A \$350 deposit was made but Respondent had not

produced a survey at the time the complaint was filed with the Board on July 10, 2020. Mr. Migliore received a finished survey around July 24, 2020.

Respondent stipulates on January 7, 2021, the Board received a complaint from Jim Cassidy indicating Respondent possibly violated Title 34 of the Code of Alabama in connection with the providing of land surveying services for a project in Magnolia Springs, Alabama that started in June 2019.

Respondent stipulates between January 12, 2021, to February 10, 2021, he was sent notification of the Cassidy complaint and a request that he provide a response to the complaint, by standard mail, certified mail, and email. Respondent failed to respond to the Board inquiry within 60 days of receipt of the inquiry.

Respondent stipulates after receiving formal disciplinary charges from the Board he then made contact with the Board on May 3, 2021 and the investigation resumed. The investigation determined in June 2019, Respondent was hired by Jim Cassidy to perform a boundary survey and to stake the west line of a wooded waterfront parcel in Magnolia Springs, Alabama. Respondent accepted an \$800 deposit to perform the work; but did not provide the agreed upon services and a complaint was filed with the Board on January 7, 2021. Respondent reimbursed Jim Cassidy \$1,111.41 for the cost of the survey, civil court fees and attorney fees in May 2021.

Respondent stipulates on February 9, 2021, a complaint was received from Linda Walker indicating Respondent possibly violated Title 34 of the Code of Alabama in connection with the providing of land surveying services for a survey project of a 3 Lot Minor Subdivision on Morphy Road in Fairhope, Alabama for which he was paid in May 2020.

Respondent stipulates between February 10, 2021 and March 17, 2021, he was sent notification of the Walker complaint and a request that he provide a response to the complaint, by standard mail, certified mail, and email. Respondent failed to respond to the Board inquiry within 60 days of receipt of the inquiry.

Respondent stipulates after receiving formal disciplinary charges he made contact with the Board on May 3, 2021 and the investigation resumed. The investigation determined that in

May 2020, Respondent was hired by Linda Walker to provide surveying services for a property in Fairhope, Alabama and was paid \$2,200 on May 18, 2020. Respondent had not provided the agreed upon surveying services by February 9, 2021 when the complaint was filed with the Board. Respondent reimbursed Linda Walker \$2,200 on May 19, 2021.

STIPULATED CONCLUSIONS OF LAW

Respondent stipulates he is subject to the provisions of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11 and the jurisdiction of the Board.

Respondent stipulates his conduct as set forth in the foregoing "Stipulated Facts" constitutes a violation of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11(a)2, § 34-11-(a)13, and the Administrative Code of the Board § 330-X-14-.06 (a)(5) and (13).

Respondent stipulates his conduct as set forth in the "Stipulated Facts" is a violation of one or more of those statutes set forth above, and it is subject to disciplinary action under Title 34, Chapter 11, Code of Alabama 1975.

STIPULATED DISPOSITION

Respondent shall not in the future violate the provisions of Title 34, Chapter 11, Code of Alabama 1975.

Respondent understands this Consent Order and subsequent Final Order will be a public record, and this information will be placed on the Board's website, in its newsletter, and on enforcement Exchange of the NCESS website.

Respondent agrees to submit to the Board with this signed Consent Order a check made payable to the PE/LS Fund in the amount of one thousand five hundred dollars (\$1,500) as payment of a fine.

Respondent agrees to complete the three professional development hour course (Incident at Morales) sponsored by the Murdough Center for Engineering Professionalism at Texas Tech University within three months of the date of the Final Order. Respondent understands this course cannot be used to meet the PDH requirements for license renewal.

Respondent agrees to submit to the Board a list of his clients (and their contact information) every (90) ninety days for one year from the date the final order is issued. Respondent understands that three to five clients will be selected from each list and contacted to determine the timeliness of the surveying services he provided.

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.

Respondent agrees to comply with the terms of this Consent Order and understands failure to comply with the terms of the Consent Order may result in additional charges or discipline.

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 occur at a scheduled meeting of the Board.

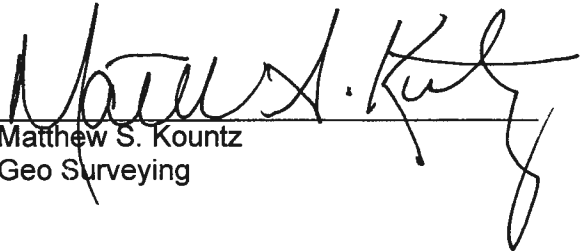
Respondent understands he has the right to seek the advice of legal counsel. Respondent also understands he has the right to a formal fact-finding hearing before the Board, to compel the testimony of witnesses, to cross-examine witnesses against him, and to obtain judicial review of the Board's decision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

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.


Respondent, for the purpose of avoiding further administrative action with respect to this Cause executes this Consent Order. It is agreed that presentation to and consideration of the Consent Order by the Board requires certain factual information related to this matter be disclosed to the Board members. Should the Consent Order not be accepted by the Board, it is therefore, expressly agreed that the reviewing, and consideration of this Consent Order, and the information provided to the Board for their review, shall not unfairly prejudice the Board and

shall in no way act to disqualify any Board member from any further participation in this matter through its resolution, including, but not limited to, any contested hearing on this matter should one be necessary. 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 and all stipulations hereinabove are thereby rescinded.

SIGNED this the 27TH day of AUGUST, 2021.


Matthew S. Kountz
Geo Surveying

APPROVED:


Benjamin H. Albritton
Assistant Attorney General

STATE OF ALABAMA BOARD OF LICENSURE
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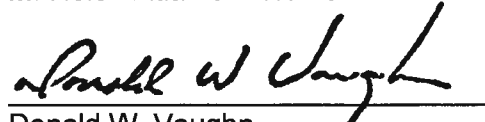
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FINAL ORDER

The Alabama Board of Licensure for Professional Engineers and Land Surveyors having considered the consent order signed by Matthew S. Kountz, in which he stipulated he violated Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11(a)(2), § 34-11-11(a)(2) and the Administrative Code of the Board § 330-X-14.06(a)(5) and (13) approves the Consent Order and issues this Final Order.

The Consent Order and Final Order take immediate effect and Matthew S. Kountz is **ORDERED** to abide by the Consent Order and Final Order as agreed upon by the Board. **ENTERED** this the 14th day of September 2021.


M. Helen Adams-Morales

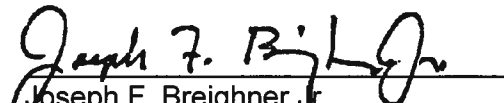

Donald W. Vaughn

DID NOT ATTEND

Elaine B. Walton


John E. Averett

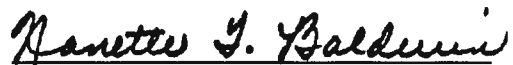

Gregory Robinson


Joseph F. Breighner Jr.

RECUSED

Randall D. Whorton


Nathan G. Johnson


Nanette T. Baldwin