

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

DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES,

PETITIONER,

v.

CASE NO. 1808-36614
Agency Clerk No. B30433

DAN ALLEN WILCOX, JR.

RESPONDENT.

_____ /

FINAL ORDER

THIS CAUSE came before the Florida Board of Professional Surveyors and Mappers (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, at a duly noticed meeting on May 24, 2021, in Various Locations (Virtual meeting), Florida, for consideration of the proposed Settlement Stipulation. The Respondent, Dan Allen Wilcox, Jr., was present at the hearing. The Florida Department of Agriculture and Consumer Services (Petitioner) was represented by Funmi Ojetayo, Esq.

SUMMARY

1. On March 30, 2020, the Department issued an Administrative Complaint against the Respondent, attached hereto as "Exhibit A" and is incorporated herein.
2. On June 24, 2020, the Department received Respondent's executed Election of Rights form, indicating that he desired a Settlement Stipulation to resolve the instant case.
3. Respondent's Settlement Stipulation was submitted in lieu of the Board moving forward with further legal proceedings with respect to this case.
4. The Board has considered Respondent's Settlement Stipulation.

Upon consideration of the Administrative Complaint, the Settlement Stipulation, and being otherwise fully advised of the premises, **IT IS HEREBY ORDERED AND ADJUDGED:**

A. The Respondent's Settlement Stipulation is hereby approved and adopted. The Settlement Stipulation is attached as "Exhibit B" and is incorporated herein.

B. The Respondent's Settlement Stipulation is accepted in resolution of this case.

C. The parties shall adhere to and abide by all the terms and conditions of the Settlement Stipulation.

D. Failure to comply with the terms of the Settlement Stipulation shall cause the Respondent to be subjected to further discipline.

E. This Final Order shall be placed in and become a part of the Respondent's official records and shall take effect upon being filed with the Agency Clerk of the Department of Agriculture and Consumer Services.

DONE AND ORDERED this 9 day of June, 2021.

**Patricia E.
Compton**

Digitally signed by Patricia E. Compton
DN: cn=Patricia E. Compton, o=Florida
Department of Agriculture and Consumer
Services, ou=Consumer Services,
email=patricia.compton@fdacs.gov, c=US
Date: 2021.06.09 10:36:22 -04'00'

Patricia Compton
Executive Director
Florida Board of Professional Surveyors
and Mappers
For Nick Campanile, Chair

NOTICE OF RIGHTS

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 9.100, Florida Rules of Appellate Procedures. 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.

Rendered this 10th day of June, 2021.



Agency Clerk

Copies by Certified U.S. Mail

Mr. Dan Allen Wilcox, Jr., PSM #LS5749
65 South County Road 135
Bunnell, Florida 32110

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DAN ALLEN WILCOX, JR.

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner Florida Department of Agriculture and Consumer Services (“Petitioner” or “Department”) files this Administrative Complaint before the Board of Professional Surveyors and Mappers (“Board”) against Respondent, Dan Allen Wilcox, Jr., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of land surveying and mapping, pursuant to Chapter 472, Florida Statutes.
2. At all times material to this Complaint, Respondent was a surveyor licensed to engage in the practice of professional surveying and mapping within the state of Florida, having been issued license number LS 5749.
3. Respondent’s address of record is 65 South County Road 135, Bunnell, Florida 32110.

4. A complaint was filed with the Department on July 26, 2018, by an anonymous complainant (“Complainant”), alleging numerous Standards of Practice errors on a survey as prepared by the Respondent on or about December 2016.

5. On or about June 5, 2019, Stephen E. Sharpe, PLS, licensed as a professional surveyor and mapper, reviewed the documentation of Respondent’s Surveys in question, using the Standards of Practice (“SOP”) in force at that time pursuant to Florida Administrative Code Chapter 5J-17, and found the following regarding Respondent:

a. Noncompliance with Rule 5J-17.051(2)(b)3, in that the survey measurement records provided for the Foundation and Final Surveys are not dated.

b. Noncompliance with Rule 5J-17.051(3)(b)1, in that the Foundation and Final Surveys are not consistent with the types of surveys defined in paragraphs 5J-17.050(10)(a)-(k), Florida Administrative Code.

c. Noncompliance with Rule 5J-17.051(3)(b)11.b, in that the abbreviation “IR” is not defined in the survey legend. The legend lists only “IR&C,” but this is not used as a label on the lot corners.

d. Noncompliance with Rule 5J-17.052(2)(a)7.c, in that the survey map does not show a comparison between recorded directions and distances and field measured directions and distances to an identifiable reference point.

e. Noncompliance with Rule 5J-17.052(2)(b)3, in that the survey map does not state the size and cap identification of the iron rods found at the lot corners.

6. Florida Administrative Code Rule 5J-17.010(3) states in pertinent part:

Licensees ... shall be disciplined for failing to abide by the Standards of Practice set out in Rule Chapter 5J-17.050 through 5J-17.052, F.A.C.

7. §472.0351(1)(h), Fla. Stat., states in pertinent part:

The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

...

(h) Failing to perform any statutory or legal obligation placed upon a licensed surveyor and mapper; violating any provision of this chapter, a rule of the board or department...

COUNT I

8. Petitioner incorporates and restates the allegations in paragraphs 1 – 7.

9. Section 472.0351(1)(h), Florida Statutes, subjects a licensee to discipline for violating a rule of the board or department.

10. Rule 5J-17.051(2)(b)3, F.A.C., states that measurement and computation records must contain sufficient data to substantiate the surveying and mapping products.

11. Respondent violated §472.0351(1)(h), Fla. Stat., through a violation of Florida Administrative Code Rule 5J-17.051(2)(b)3, in that the survey measurement records provided for the Foundation and Final Surveys are not dated. Therefore, the measurement records do not appear to contain sufficient data to substantiate the surveying and mapping products.

COUNT II

12. Petitioner incorporates and restates the allegations in paragraphs 1 –7.

13. Section 472.0351(1)(h), Florida Statutes, subjects a licensee to discipline for violating a rule of the board or department.

14. Rule 5J-17.051(3)(b)1, F.A.C., states that each survey map and report shall state the type of survey it depicts consistent with the types of surveys defined in paragraphs 5J-17.050(10)(a)-(k), F.A.C. It further states that a licensee may not avoid the minimum standards required by rule of a particular survey type merely by changing the name of the survey type to conform with what standards or lack of them the licensee chooses to follow.

15. Respondent violated §472.0351(1)(h), Fla. Stat., through a violation of Florida Administrative Code Rule 5J-17.052(3)(b)1, in that the Foundation and Final Surveys are not consistent with the types of surveys defined in paragraphs 5J-17.050(10)(a)-(k), Florida Administrative Code.

COUNT III

16. Petitioner incorporates and restates the allegations in paragraphs 1 –7.

17. Section 472.0351(1)(h), Florida Statutes, subjects a licensee to discipline for violating a rule of the board or department.

18. Rule 5J-17.051(3)(b)11.b, F.A.C., states that abbreviations relating to survey matters must be clearly shown within a legend or notes appearing on the face of the map or report.

19. Respondent violated §472.0351(1)(h), Fla. Stat., through a violation of Florida Administrative Code Rule 5J-17.051(3)(b)11.b, in that the abbreviation “IR” is not defined in the survey legend. The legend lists only “IR&C,” but this is not used as a label on the lot corners.

COUNT IV

20. Petitioner incorporates and restates the allegations in paragraphs 1 –7.

21. Section 472.0351(1)(h), Florida Statutes, subjects a licensee to discipline for violating a rule of the board or department.

22. Rule 5J-17.052(2)(a)7.c, F.A.C., states that a comparison between recorded directions and distances with field measured directions and distances to the nearest street intersection, right of way intersection or other identifiable reference point shall be shown on the survey map.

23. Respondent violated §472.0351(1)(h), Fla. Stat., through a violation of Florida Administrative Rule 5J-17.052(2)(a)7.c, in that the survey map does not show a comparison between recorded directions and distances and field measured directions and distances to an identifiable reference point.

COUNT V

24. Petitioner incorporates and restates the allegations in paragraphs 1 –7.

25. Section 472.0351(1)(h), Florida Statutes, subjects a licensee to discipline for violating a rule of the board or department.

26. Rule 5J-17.052(2)(b)3, F.A.C., states that all monuments, found or placed, must be described on the survey map. The corner descriptions shall state the size, material, and cap identification of the monument as well as whether the monument was found or set.

27. Respondent violated §472.0351(1)(h), Fla. Stat., through a violation of Florida Administrative Code Rule 5J-17.052(2)(b)3, in that the survey map does not state the size and cap identification of the iron rods found at the lot corners.

WHEREFORE, Petitioner respectfully requests an order from the Board imposing one or more of the following penalties: imposition of an administrative fine not to exceed one thousand dollars (\$1,000.00) for each count or separate offense, issuance of a reprimand, assessment of costs associated with investigation

and prosecution, imposition of any or all penalties delineated within Section 472.0351(2), Florida Statutes, and/or any other relief that the Board or the Department is authorized to impose pursuant to Chapter 472, Florida Statutes, and/or the rules promulgated thereunder.

Signed this 30th day of March, 2020.



Amanda B. McKibben
Senior Attorney
Florida Bar No. 104788
Department of Agriculture and Consumer Services
407 South Calhoun Street
Suite 520
Tallahassee, Florida 32399
(850) 245-1024
Amanda.McKibben@FDACS.gov

PCP Date: October 28, 2019

PCP Members: Petzold, Talbott, Hyde

Certified U.S. Mail, Return Receipt # 7019 0160 0000 0402 6288

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with §§120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoenas and subpoenas duces tecum issued on his or her behalf if a hearing is requested. Florida Administrative Code Rule 28-106.111 provides in part that if Respondent fails to request a hearing within twenty-one (21) days of receipt of an agency pleading, Respondent waives the right to request a hearing on the facts alleged.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to §472.0351(4)(a), Florida Statutes, the Board may assess costs and attorneys fees related to the investigation and prosecution of the case against the Respondent in addition to any other discipline imposed.

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CASE NO. 1808-36614

DAN ALLEN WILCOX, JR.

RESPONDENT.

_____ /

SETTLEMENT STIPULATION

Petitioner, the Department of Agriculture and Consumer Services ("Department"), and Respondent, Dan Allen Wilcox, Jr., pursuant to Section 120.57(4), Florida Statutes, stipulate and agree to the following Settlement Stipulation and entry of a Final Order of the Board of Professional Surveyors and Mappers ("Board"), incorporating the Stipulated Facts and Stipulated Disposition in this matter.

STIPULATED FACTS

1. Petitioner is the state agency charged with regulating licensed professional surveyors and mappers in the state of Florida pursuant to Chapter 472, Florida Statutes.
2. For all times pertinent hereto, Respondent was a licensed professional surveyor and mapper in the state of Florida having been issued license number LS 5749. Respondent's address of record is 65 South County Road 135, Bunnell, Florida 32110.
3. On or about March 30, 2020, in Department Case No. 1808-36614, Petitioner issued an Administrative Complaint against Respondent alleging that Respondent violated

Chapter 472, Florida Statutes, and/or other applicable statutes, and/or the rules enacted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

4. For the purposes of these proceedings, Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

5. Respondent admits that, as a licensed professional surveyor and mapper, he is subject to the provisions of Chapter 472, Florida Statutes, and the jurisdiction of the Department and the Board.

6. Respondent admits the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 472, Florida Statutes.

7. Respondent agrees that this Settlement Stipulation is a fair, appropriate and acceptable disposition of this case.

8. Respondent agrees the Board's acceptance of this Settlement Stipulation constitutes disciplinary action within the meaning of Sections 472.033 and 472.0351, Florida Statutes.

STIPULATED DISPOSITION

9. **REPRIMAND:** The Board shall issue a Reprimand against Respondent's license.

10. **FINE:** The Board shall impose an administrative fine of **Five Thousand Dollars and Zero Cents (\$5,000.00)** against Respondent's license which Respondent shall pay to: Florida Department of Agriculture and Consumer Services, Board of Professional Surveyors and Mappers, Attention: Executive Director, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, within ninety (90) days of the entry of the Final Order accepting this Settlement Stipulation. **All fines**



shall be paid by cashier's check or money order. Respondent's failure to pay the fine by the time it is due may result in further disciplinary action by the Board.

11. **COSTS:** Pursuant to Rule 5J-17.06, Florida Administrative Code, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case. Respondent agrees that the amount of the Department costs to be paid in this case is **Six Hundred Fifty-Nine Dollars and Seventeen Cents (\$659.17)**. Respondent shall pay such administrative costs to: Florida Department of Agriculture and Consumer Services, Board of Professional Surveyors and Mappers, Attention: Executive Director, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, within ninety (90) days of the entry of the Final Order accepting this Settlement Stipulation. All costs shall be paid by cashier's check or money order. Respondent's failure to pay the costs by the time due may result in further disciplinary action by the Board.

12. **PROBATION:** Probation shall take effect **immediately** upon the date the Board's Final Order is rendered in this matter. If Respondent fails to comply with any terms of probation, the matter shall be referred to the Department for further prosecution and additional discipline, including additional fines and costs, and/or other appropriate discipline. Terms of probation shall be as follows:

a. All documents required to be submitted by Respondent under this paragraph 12 shall be filed with the Board of Professional Surveyors and Mappers, Attention: Executive Director, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500 ("Board Office").

b. Respondent may complete performance of these terms of probation no earlier than ninety (90) days from the date on which the Board approved this Settlement Stipulation, which is


6.7.2024

listed below. Continuing education courses completed as part of this probation shall not be counted toward the continuing education requirement for renewal of the Respondent's license under Chapter 472, Florida Statutes.

c. Continuing Education: Respondent shall complete eighteen (18) credit hours of Board approved continuing education courses in **Standards of Practice (SOP)**, nine (9) of which shall be in-person, within one hundred and twenty (120) days from the date the Board's Final Order is rendered in this matter. If extenuating circumstances prevent Respondent from completing the in-person courses within the aforementioned timeframe, Respondent shall notify the Board office within 30 days of the completion deadline, and an extension may be granted accordingly. Respondent shall submit proof of completion of the above-mentioned course to the Board Office within the allotted time frame.

d. Liability Insurance: Respondent shall submit proof of professional liability insurance pursuant to Section 472.015(5), Florida Statutes, to the Board Office within ninety (90) days of the from the date the Board's Final Order is rendered in this matter, or a statement that professional liability insurance is not required.

STANDARD PROVISIONS

13. From the date of entering this Settlement Stipulation, Respondent shall not violate Chapter 472, Florida Statutes, or the administrative rules promulgated pursuant thereto.

14. Respondent understands a violation of any term of this Settlement Stipulation shall constitute a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapter 472, Florida Statutes.

15. It is expressly understood that this Settlement Stipulation is subject to the approval



6.7.2021

of the Board and the Department, and has no force and effect until the Board enters a Final Order incorporating the terms of this agreement.

16. Respondent executes this Settlement Stipulation to avoid further administrative action and avoid incurring expenses associated with further litigation with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Settlement Stipulation. If this Settlement Stipulation is not approved by the Board, then neither party may use this Settlement Stipulation against the other and this Settlement Stipulation shall be deemed null and void. Furthermore, should this Settlement Stipulation not be accepted by the Board, it is agreed that presentation to and consideration of this Settlement Stipulation and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

17. Respondent understands that this Settlement Stipulation, and the subsequent Final Order incorporating the same, will not in any way preclude additional proceedings by the Board and/or Department against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint (Attached as Exhibit A).

18. Upon the Board's adoption of this Settlement Stipulation, Respondent waives all further procedural steps, and waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Settlement Stipulation and the Final Order of the Board incorporating the terms of the Settlement Stipulation.

19. Respondent waives the right to seek any attorney's fees or costs from the Board or Department in connection with this disciplinary proceeding or any appeal thereafter.

A handwritten signature in dark ink, followed by the date "6-7-2021" written below it.

20. Respondent enters into this Settlement Stipulation freely and voluntarily. Respondent acknowledges that no promises were made to the Respondent regarding the disposition of this case or any other case that may be pending now or in the future before this Board, except the terms of this Settlement Stipulation.

21. Respondent understands the Final Order entered in this case may be used in future cases to seek enhanced penalties if Respondent commits a violation after the filing date of this Settlement Stipulation and Final Order.

22. If Respondent holds any other professional or occupational license, Respondent understands and acknowledges that this Settlement Stipulation and Final Order may be used as grounds for discipline against any other license held by the Respondent.

23. Venue for any action arising out of this Settlement Stipulation and Final Order shall be in Leon County, Florida.

24. This Settlement Stipulation constitutes the entire agreement between the Department and Respondent, including anyone acting for, associated with, or employed by either party, concerning only those matters specified above and supersedes any prior discussions, agreements, or understandings. No modification or waiver of any provision is valid unless the parties complete and properly executed a written amendment to the Settlement Stipulation.

25. This Settlement Stipulation is and shall be deemed jointly drafted and written by all parties to it and shall not be construed or interpreted against any party.

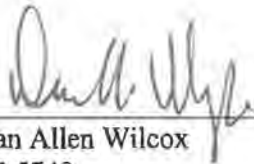
26. To the extent any portion of this Settlement Stipulation is prohibited by law for any reason, such prohibition shall not affect any other provision of this Settlement Stipulation.

WHEREFORE, the parties hereto request the Board of Professional Surveyors and


6.7.2021

Mappers to enter a Final Order accepting and implementing the terms contained herein.

SIGNED this 7th day of June, 2021.

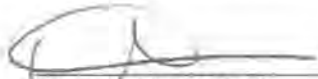

Dan Allen Wilcox
LS 5749

STATE OF FLORIDA

COUNTY OF Flagler

BEFORE ME personally appeared Dan Allen Wilcox, whose identity is known to me or who produced _____ (type of identification) and who, under oath, acknowledges that his/her signature appears above.

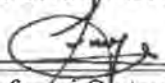
SWORN TO and subscribed before me this 7th day of June, 2021.


NOTARY PUBLIC
My Commission Expires: 01-16-2022

 Stephanie M. Ward
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG166350
Expires 1/16/2022

APPROVED this 8th day of June, 2021.

DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES


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