

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

**DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES,**

Petitioner,

vs.

**Case No. 1810-43613
Agency Clerk No. B27951**

JBROWN PROFESSIONAL GROUP, INC.

Respondent,

FINAL ORDER

THIS CAUSE came before the Florida Board of Professional Surveyors and Mappers (Board) pursuant to sections 120.569 and 120.57(2), Florida Statutes, at a duly noticed meeting on October 30, 2020, in Various Locations (virtual meeting), Florida, for consideration of the Respondent's administrative charges and the Department's proposed disciplinary action. The Respondent, JBrown Professional Group, Inc., was present at the hearing and represented by Don Niesen, Esq. The Florida Department of Agriculture and Consumer Services (Petitioner) was represented by Funmi Ojetayo, Esq.

SUMMARY

1. On June 5, 2020, the Department issued an Administrative Complaint against the Respondent, attached hereto as "Exhibit A" and is incorporated herein.
2. On September 15, 2020, the Department received Respondent's executed Election of Rights form.
3. Respondent requested an informal hearing.

4. The Board has considered Respondent's testimony as well as the Department's recommendation.

Upon consideration of the Administrative Complaint, the testimony provided at the hearing, and being otherwise fully advised of the premises, **IT IS HEREBY ORDERED AND ADJUDGED:**

A. The Administrative Complaint's counts numbered two and three are **DISMISSED**. The Letter of Guidance is attached as "Exhibit B" and is incorporated herein.

B. The Administrative Complaint's count numbered one is upheld and carries the following disposition:

1. **REPRIMAND:** The Board shall issue a Reprimand against Respondent's license.
2. **FINE:** The Board shall impose an administrative fine of **Two Hundred Fifty Dollars and Zero Cents (\$250.00)** 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 one hundred eighty (180) days of the entry of the Final Order. **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.
3. **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. The amount of the Department costs to be paid in this case is **Nine Hundred Eighty-Nine Dollars and Eighty-Four**

Cents (\$989.84). 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 one hundred eighty (180) days of the entry of the Final Order. **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

C. 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.

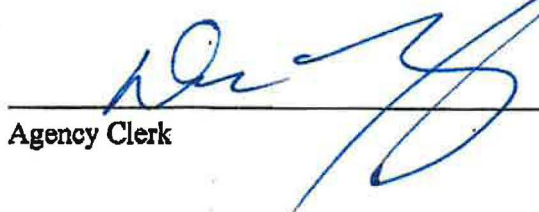
DONE AND ORDERED this 12 day of November, 2020.


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 17th day of Nov., 2020.



Agency Clerk

Copies by Certified U.S. Mail

JBrown Professional Group, Inc.
c/o Don Niesen
Niesen, Price, Worthy, Campo, P.A.
5216 Southwest 91st Dr.
Gainesville, FL 32608

Sent via Certified mail:

7019-0160-0000-0402-6448

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. 1810-43613

JBROWN PROFESSIONAL GROUP, INC.

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, JBrown Professional Group, Inc., 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 business entity licensed to engage in the practice of professional surveying and mapping within the state of Florida, having been issued license number LB 8031.
3. Respondent’s address of record is 3530 Northwest 43rd Street, Gainesville, Florida 32606.

4. A complaint was filed with the Department on September 25, 2018, by Lee Malis ("Complainant"), alleging numerous Standards of Practice errors on surveys as prepared by the Respondent on or about November 2017 and August 2018.

5. On or about July 15, 2019, Joseph S. Boggs, 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(3)(d), in that Respondent did not identify a single date of survey for the surveys marked as Exhibits 6-B, 8-B, and 8-C. Exhibits 6-A and 8 have the same date of field measurement. Field notes show that measurements taken on August 27, 2018 were not reflected by that date on those two surveys.

b. Noncompliance with Rule 5J-17.052(2)(a)7.a, in that Respondent's surveys do not show any information regarding the lots or parts of lots for Brown's Addition, Block 3 (as recorded in Plat Book A, Page 64, Public Records of Alachua County, Florida).

c. Noncompliance with Rule 5J-17.052(3)(b) and (c), in that Respondent's surveys show structures that cross the West property line, but none

of the surveys show the extent of the apparent physical use or label the structure as an apparent physical use.

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(3)(d), F.A.C., states that all survey maps must reflect a survey date, which is the last date of data acquisition. It further states that when the graphics of a map are revised, but the survey date stays the same, the map must list dates for all revisions.

11. Respondent violated §472.0351(1)(h), Fla. Stat., through a violation of Florida Administrative Code Rule 5J-17.051(3)(d), in that Respondent did not identify a single date of survey for the surveys marked as Exhibits 6-B, 8-B, and 8-C. Exhibits 6-A and 8 have the same date of field measurement. Field notes show that measurements taken on August 27, 2018 were not reflected by that date on those two surveys.

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-17.052(2)(a)7.a, F.A.C., states that surveys of all or part of a lot which is part of a recorded subdivision shall show the lot and block numbers or other designations, including those of adjoining lots.

15. Respondent violated §472.0351(1)(h), Fla. Stat., through a violation of Florida Administrative Code Rule 5J-17.052(2)(a)7.a, in that Respondent's surveys do not show any information regarding the lots or parts of lots for Brown's Addition, Block 3 (as recorded in Plat Book A, Page 64, Public Records of Alachua County, Florida).

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-17.052(3)(c), F.A.C., states that all apparent physical use onto or from adjoining property must be indicated, with the extent of such use shown or noted upon the map.

19. Respondent violated §472.0351(1)(h), Fla. Stat., through a violation of Florida Administrative Code Rule 5J-17.052(3)(c), in that Respondent's surveys show structures that cross the West property line, but none of the surveys show the extent of the apparent physical use or label the structure as an apparent physical use.

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 6301

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.

OFFICE OF GENERAL COUNSEL
(850) 245-1000
(850) 245-1001 FAX



THE MAYO BUILDING
407 SOUTH CALHOUN STREET
TALLAHASSEE, FLORIDA 32399-0800

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE "NIKKI" FRIED

Please Respond to:
Funmi Ojetayo, Sr. Attorney
Office of the General Counsel
407 S. Calhoun Street, Ste. 520
Tallahassee, FL 32399-0800
Phone (850) 245-1029
Fax (850) 245-1001
Funmi.Ojetayo@fdacs.gov

November 11, 2020

JBrown Professional Group, Inc.
c/o Don Niesen
Niesen, Price, Worthy, Campo, P.A.
5216 Southwest 91st Dr.
Gainesville, FL 32608
don@npw-law.com

RE: FDACS v. JBrown Professional Group, Inc., Case No.: 1810-43613

Dear JBrown Professional Group, Inc.:

The Florida Board of Professional Surveyors & Mappers has found probable cause in the above-referenced cases and has entered an order finding that you violated certain provisions of Chapter 472, Florida Statutes, and/or the rules promulgated thereunder. At its October quarterly meeting on October 29, 2020, the Board resolved to levy penalties on one (1) of the three (3) counts in the Administrative Complaint, and to issue a **Letter of Guidance in lieu of penalties** on the remaining counts 2-3.

The Board recommends Respondent(s) specifically review the following rules of the Board which were in effect at the time of your fieldwork.

- Rule 5J-17.052(2)(a)7.a, F.A.C., states that surveys of all or part of a lot which is part of a recorded subdivision shall show the lot and block numbers or other designations, including those of adjoining lots.
- Rule 5J-17.052(3)(c), F.A.C., states that all apparent physical use onto or from adjoining property must be indicated, with the extent of such use shown or noted upon the map.

It is the Board's belief that you should review this case and refresh your understanding of Chapter 472, Florida Statutes, and Florida Administrative Code Chapter 5J-17, to serve as a guide for future conduct. Should you have any questions about your case, please feel free to reach out to Board staff accordingly.

Sincerely,

Funmi Ojetayo, Esq.
Senior Attorney