

**BEFORE THE IOWA ENGINEERING AND LAND SURVEYING
EXAMINING BOARD**

IN THE MATTER OF:)	CASE NO. 13-04
)	
)	
Kirk D. Eschliman, PLS)	CONSENT AGREEMENT AND ORDER
PE #09961)	
Respondent.)	

The Iowa Engineering and Land Surveying Examining Board (“**Board**”) and Kirk Eschliman (“**Respondent**”) enter into this Consent Agreement and Order (“**Agreement**”) pursuant to Iowa Code §§ 17A.10(1), 272C.3(4)(a) (2020), and Iowa Administrative Code r. 193—7.42:

A. Legal Authority and Jurisdiction

1. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 272C, and 542B.
2. The Board has authority to take disciplinary action against Respondent under Iowa Code chapters 272C and 542B, and Iowa Administrative Code rule 193C—9.3.

B. Facts

3. Respondent is a licensed professional land surveyor in Iowa. The Board issued Respondent his license as a professional land surveyor on June 17, 1982.

4. In June 2011, Case No. 10-44, Respondent signed a consent order admitting to having practiced professional engineering without proper licensure in violation of Iowa Code sections 542B.1, 542B.15, 542B.21(2) (2011), and Iowa Administrative Code rule 193C—8.2(2).

5. In January 2015, Case No. 13-04, Respondent signed a consent order admitting to having failed to comply with minimum land surveying standards when performing surveying services in violation of Iowa Administrative Code rule 193—9.3(2)(d) and was ordered to resubmit corrected plats of survey to the Board.

6. In July 2015, Case No. 15-09 the Board found that Respondent failed to comply with an order imposing discipline in violation of Iowa Code section 272C.3(2)(a) (2015) because Respondent failed to resubmit the corrected plats of survey from Case No. 13-04.

7. As a result of Case No. 15-09, on July 29, 2015, Respondent's license was suspended indefinitely until he complied with the remedial action provisions of the Case No. 13-04 consent order.

8. Respondent's has never resubmitted the corrected plats of survey to the Board as required by the consent order in Case No. 13-04 and therefore his license remains suspended.

9. In 2018 and 2019 the Board received several complaints alleging Respondent used his father Dale Eschliman's (Dale) seal and forged Dale's signature on land surveying documents and that Respondent was practicing land surveying without a license.

10. In a certified letter dated March 21, 2019, after many previous attempts to contact Respondent using other methods, Board staff asked Respondent to respond to the allegations that Respondent was using Dale's seal and forging the signature of Dale on land surveying documents and that Respondent was practicing land surveying without a license.

11. In the March 21 letter, Board staff identified sixteen plats of survey that were at issue, and asked Respondent to provide a full written account of his involvement with the surveys. These plats are identified as:

File 2016-00007922	File 2016-00009785
File 2016-00008377	File 2016-00011326
File 2016-00008378	File 2016-00011327
File 2016-00008382	File 2017-00000384
File 2016-00009780	File 2017-00000388
File 2016-00009781	File 2017-00000389
File 2016-00009783	File 2018-00001466
File 2016-00009784	File 2018-00002100

12. Additionally, Board staff contacted Dale asking about the sixteen plats of survey and in a letter dated May 23, 2019 Dale wrote "I did not sign and seal any of the plats referenced in your letter. I can not explain how my signature and seal were placed on the plats because I had no knowledge of any such work in that locality."

13. In a letter to Board staff dated December 6, 2019, Respondent stated that "[t]he allegations listed in the Complaint of preparing Signed and Sealed Plans while Dale R. Eschliman's Iowa Professional License was under suspension are correct. I further state that Dale R. Eschliman, whose Certificate, Signature and Seal, was not aware of the use of his License during this time. I, alone, am responsible for these actions."

14. On or about September 6, 2019, Respondent signed and stamped or otherwise caused his signature and land surveyor's seal to be affixed to document titled as "ALTA/NSPS Land Title Survey" which states that it was recorded in Polk County, Iowa, Recorder's Office as "Document No. 014713030001."

15. Respondent's license was suspended when he signed and stamped the ALTA/NSPS Land Title Survey.

C. Violations

16. Respondent committed sixteen (16) counts of knowingly presenting as his own license, signature, or seal of another or of a fictitious licensee, or otherwise falsely impersonating a person holding an engineering or land surveying license. Iowa Admin. Code r. 193C—9.3(3)(f).

17. Respondent committed seventeen (17) counts of representing himself as a professional land surveyor after his license had been suspended. Iowa Admin. Code r. 193C—9.3(3)(g).

18. Respondent willfully and repeatedly violated the provisions of Iowa Code chapter 272C or 542B and administrative rules adopted by the Board in the administration or enforcement of such chapters. Iowa Code § 542B.21(9); Iowa Admin Code r. 193C—9.3(7).

D. Consent Agreement

19. Respondent has a right to a hearing on the charges but waives Respondent's right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Agreement. This Agreement constitutes discipline against Respondent and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and Iowa Administrative Code rule 193—7.42. Respondent acknowledges that Respondent had an opportunity to review this Agreement with legal counsel before signing it.

20. Respondent agrees the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.

21. This Agreement shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations.

22. This Agreement is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22.

23. Failure to comply with the provisions of this Agreement shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a). However, no action may be taken against Respondent for violations of these provisions without a hearing or waiver of hearing.

24. This Agreement is subject to approval of the Board:

a. If the Board fails to approve this Agreement, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter;

b. If the Board approves this Agreement, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

1. **License Revocation.** Respondent's license as a professional land surveying is hereby revoked pursuant to Iowa Code § 542B.21(3) for making misleading, deceptive, untrue or fraudulent representations in the practice of Respondent's profession and engaging in unethical conduct or practice harmful to the public and § 542B.21(9) for willful or repeated violations of the provisions of Iowa Code chapter 542B.

2. **Civil penalty.** Respondent shall pay a civil penalty of \$17,000. *See* Iowa Code § 542B.27(2) & (3); Iowa Admin Code r. 193C—9.5.

Respondent shall pay the first \$5,000 of this penalty within sixty (60) days of the date this Agreement is signed by all parties. Respondent shall pay the second \$5,000 of this penalty within ninety (90) days of the date this Agreement is signed by all parties. Respondent shall pay the remaining \$7,000 of this penalty within one hundred and twenty (120) days of the date this Agreement is signed by all parties.

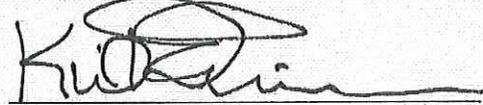
This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Iowa Engineering and Land Surveying Examining Board, Iowa Professional Licensing Bureau, 200 E. Grand Ave, Ste. 350, Des Moines, IA 50309. All civil penalty payments shall be deposited into the State of Iowa general fund.

3. **Notify All Clients.** Respondent shall notify all clients for whom he sealed plats of survey after his license was suspend on July 29, 2015, that the documents were sealed while his license was lapsed and that therefore the seal is invalid. Proof of client notification shall be submitted to the Board within ninety (90) days of the date this Agreement is signed by all parties.

4. **Future Compliance.** Respondent will cease all practice of land surveying in Iowa without an active Iowa license as a professional land surveyor in good standing. See Iowa Code § 542B.27(1)(f).

AGREED AND ACCEPTED:

Respondent



By: Kirk Eschliman

March 10, 2020

Date

The Iowa Engineering and Land Surveying
Examining Board



By: ~~Laura Sievers~~, Board Chair

Lisa VanDenBerg

3/12/20

Date