

**BEFORE THE ARKANSAS STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS**

Complainant:

Arkansas State Board of Licensure for
Professional Engineers and Professional
Surveyors

Case #2012-05

Respondent:

Bartley W. McMillen, PS
Arkansas Land Surveying
1300 Tony Circle
Conway, AR 72034-5588

CONSENT AGREEMENT AND ORDER

The Arkansas Board of Licensure for Professional Engineers and Professional Surveyors (hereinafter "the Board") and Bartley W. McMillen (AR-PS #1430, hereinafter "McMillen") agree as follows in full settlement of the charges in this disciplinary matter.

FINDINGS OF FACT

F1. McMillen is a licensed Professional Surveyor in Arkansas, and the Board has jurisdiction over his conduct.

F2. McMillen was retained by a client to perform a survey and divide a parcel of land in Van Buren County, Arkansas.

F3. McMillen performed the survey and delivered the plat of the work to the client on February 22, 2012, and accepted payment for the work.

F4. The plat McMillen delivered to the client bore his signed Professional Surveyor seal, and a certification that the monuments called out on the plat had been set.

F5. At the time the plat was delivered to the client, two of the monuments specified on the plat as having been set by Millen had not been set.

CONCLUSIONS OF LAW

C1. McMillen's conduct, as outlined in paragraphs F1-F5, constitutes one count of fraud or deceit in the practice of surveying, in violation of Arkansas Code Annotated §17-48-102(b)(1)(A).

C2. McMillen's conduct, as outlined in paragraphs F1-F5, constitutes one count of misconduct in the practice of surveying, being in violation of Article I.D of the Board's Rules of Professional Conduct

CONSENT AGREEMENT

In the interest of a prompt and speedy settlement, consistent with the public interest and the responsibilities of the Board, the undersigned parties enter into this Consent Agreement as a final disposition of these matters presently before the Board.

A1. The Respondent has been afforded an opportunity to obtain legal counsel and has chosen to proceed with the understanding that he is admitting the facts and conduct described above in the Findings of Fact and Conclusions of Law.

A2. In lieu of a formal hearing on these issues, the Respondent agrees to issue of the following Order and waive all rights to a hearing, appeal or judicial review relating to the Order.

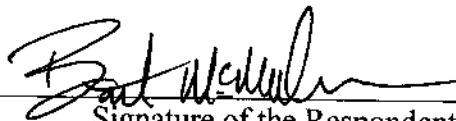
A3. The Respondent understands that all investigative materials prepared or received by the Board concerning these allegations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter. The signed original of this document shall remain a public record in the custody of the Board, and shall be made available for public inspection and copying upon request.

ORDER

O1. McMillen shall pay a \$1,000.00 civil penalty for the violations noted in Item C1 and Item C2 of the Conclusions of Law as listed above. Payment shall be made to the Board within fifty (50) days of the date this Order is served.

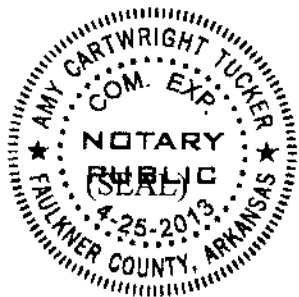
O2. McMillen shall receive a letter of reprimand for the violations noted in Item C1 and Item C2 of the Conclusions of Law as listed above.

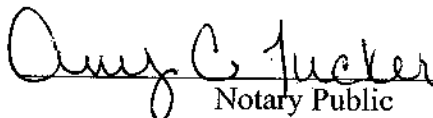
AGREED TO BY:



Signature of the Respondent

Sworn to and subscribed before me this 27th day of August, 2012






Notary Public

My commission expires: 4-25-2013

AGREED TO AND ORDERED BY:



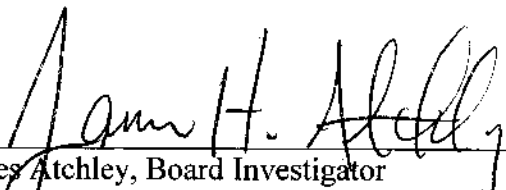
Steve W. Haralson, Executive Director
Arkansas Board of Licensure for Professional
Engineers and Professional Surveyors

Certificate of Service

I, James Atchley, Investigator of the Arkansas Board of Licensure for Professional Engineers and Professional Surveyors, do hereby swear and affirm that a true and correct copy of the attached was sent by U.S. Mail to the following addresses with proper postage affixed on this 29th day of August, 2012, to:.

Mr. Bartley W. McMillen, PS
Arkansas Land Surveying
1300 Tony Circle
Conway, AR 72034-5588

Mr. Joe Don Winningham
Osment & Winningham, PLLC
P.O. Box 56
Conway, AR 72033



James Atchley, Board Investigator
Arkansas Board of Licensure for Professional
Engineers and Professional Surveyors