



**BOARD OF EXAMINERS FOR LAND SURVEYORS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-2241**

**Meeting Minutes for November 16, 2023
First Floor Conference Room 1B
Davy Crockett Tower**

The Tennessee Board of Examiners for Land Surveyors met on November 16, 2023, and the following business was transacted:

BOARD MEMBERS PRESENT: Jay Caughman, Justin Rains, Gary Clark

BOARD MEMBERS ABSENT: Kevin Martin

STAFF MEMBERS PRESENT: Glenn Kopchak, Heidi Overstreet, Alexandria Griffey, Philip Allocco, Erica Smith, Stuart Huffman

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

Gary Clark called the meeting to order at 10:00 am and Director Glenn Kopchak took roll call. Director Kopchak then presented a plaque to recognize the service of former board members Jackie Dillehay and Tim Lingerfelt.

AGENDA

Jay Caughman made a motion to adopt the agenda. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

MINUTES

Jay Caughman made a motion to adopt the August minutes. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

PROFESSIONAL SOCIETY REPORT

Jimmy Cleveland, Tennessee Association of Professional Surveyors (TAPS), thanked former board members Jackie Dillehay and Tim Lingerfelt for their years of service on the board and contributions to the Land Surveyor profession. Mr. Cleveland gave a brief update to the board about the upcoming Spring 2024 Conference. TAPS will be presenting a zoom meeting on December 19, 2023, to provide attendees with an opportunity to obtain their Minimum of standards and Ethics PDH's prior to the renewal period closing.

EDUCATION REPORT

Course Provider	Course Number	Course Name	Hours	Recommendation
Dr. Robert S. Freeland	1186	Legislative Advocacy for Tennessee Land Surveyors	1	Approve
TAPS	1187	How to Get the Best Price Possible	4	Approve
TAPS	1188	Suggestions on How to Manage Your Business and Sales During a Recession	4	Approve
Hayes Instrument Company	1189	Drone LiDAR & Photogrammetry Technology for Mapping	6	Approve
Alabama Society of Professional Surveyors	1190	Setting GPS Control on a Project	3.5	Approve
Alabama Society of Professional Surveyors	1191	Title Insurance and Boundary Surveys	3.5	Approve
Alabama Society of Professional Surveyors	1192	Workforce Development – Building the Land Survey Profession	1	Approve
Alabama Society of Professional Surveyors	1193	History, Education, GIS, and International Survey Foot	3.5	Approve
Alabama Society of Professional Surveyors	1194	Elevation Certificate Workshop: How to Complete the EC for Everyone	6.5	Approve
Alabama Society of Professional Surveyors	1195	Mock Trial	3.5	Approve
Lucas & Company	1196	Ethics XXIII	1.5	Approve
J.E. Campbell and Ass.	1206	The Tennessee Grid	2.5	Approve
J.E. Campbell and Ass.	1207	What Does It Mean To Be A Tennessee RLS?	2.5	Approve
J.E. Campbell and Ass.	1208	The Welcome Return of Sound Geometry	2.5	Approve
J.E. Campbell and Ass.	1209	The Measurement of Earth and Land	2.5	Approve

J.E. Campbell and Ass.	1210	Hybrid Geoid Models	2.5	Approve
J.E. Campbell and Ass.	1211	Datums and Reference Frames	2.5	Approve
Lucas & Company	1203	Government Surveys IV	1.5	Approve
TAPS	1204	Navigating Rail Surveys from the Ground Up	3	Approve
HalfMoon Education Inc.	1205	Tennessee Boundaries, Easements, and Rights-of-Way	6.5	Approve
William A. Thompson	223	Data Bases	4	Deny
William A. Thompson	557	GPS Rules	1	Approve

Jay Caughman made a motion to approve course “GPS Rules” for 1 PDH, denied course “Data Bases”, and voted to approve all other courses as listed on the education report. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

DIRECTOR’S REPORT

Budget Report

Director Glenn Kopchak reported that the expenditures trend differently each fiscal year due to renewal and non-renewal periods. The board is currently in a deficit but will trend upward due to the renewal period beginning Nov.1, 2023 through Dec.31, 2024.

NCESS Southern Zone Meeting 2024

Jay Caughman made a motion to send all the land surveyor members to the 2024 NCEES Southern Zone Meeting. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

PUBLIC COMMENT PERIOD RELATED TO ITEMS ON THE AGENDA

J. Eddie Campbell, requested the board’s opinion on a case study that he wanted to use in one of his approved courses. Due to the case study being current, the board cannot collectively give their opinion in the event it could potentially result in a complaint for which they would then need to recuse themselves.

Tim Lingerfelt briefed the board on the current licensure law, processes, and pathways. To remove impediments to licensure, Tim Lingerfelt suggested allowing experience to be considered prior to passing the Fundamentals in Surveying (FS) exam and the decoupling of the Principles and Practice of Surveying (PS) exam.

The board broke for a 10-minute recess

LEGAL

Legal Report (Presented by: Erica Smith)

1. 2023030341

License Status: ACTIVE

First Licensed: 7/10/1997 Expires: 12/31/2023

Disciplinary History: None

Complainant purchased land that had been previously surveyed by Respondent. When Complainant closed on the land in December 2020, the survey listed 153.89 acres. Complainant alleges several discrepancies with the survey including references to points that did not actually exist where the survey said they did. Complainant further alleges they found a survey for property adjacent to his that did not line up with Respondent's survey. Complainant states this adjacent survey referenced several iron pins that had been placed that Complainant was able to locate but were not mentioned in Respondent's survey. Complainant communicated these discrepancies with Respondent, and it was determined that his survey needed to be corrected. Respondent and his crew came back out to the property and submitted a revised survey that listed 140.86 acres but still had discrepancies based on errors Complainant could allegedly see on the property. Respondent agreed to come back to make further revisions with Complainant overseeing the work this time. Respondent submitted another corrected survey in June of 2021 which listed 149.63 acres. Complainant submitted this version of the survey to the local county property assessor where it was filed, with the title and deed being updated. Complainant takes issue with the fact TN Property Viewer has not been updated and blames Respondent's survey. Complainant claims they were informed by someone who works with updating TN Property Viewer that the legal description does not "close" and does not align with the visual map. Complainant does not believe Respondent is fit to be a licensed surveyor and alleges Respondent has provided inaccurate and incomplete survey information to the extent that it cannot be used or trusted.

Respondent states they were hired by the realtor selling the property at issue. Respondent detailed the steps they took when surveying the property, some of which was very steep. Respondent met Complainant and his wife while they were out on the property and notes Complainant informed him of how knowledgeable Complainant was concerning land surveying. Respondent alleges Complainant went around the property and pulled up control points which cost him an extra full day's work. Respondent's crew had to set up close to where they believed the control point had been set when they went back out to the property because Complainant continued to pull up the control points. Respondent blames this for the errors in acreage.

Respondent had to re-survey parts of the property and eventually corrected the legal description and the plat and paid for the deed of correction to be made. Respondent also provided a letter from the realtor that hired him regarding Complainant's attitude and reactions regarding the surveying of the property. The realtor has worked with Respondent many times and notes how accommodating Respondent has been any time there have been issues with a survey. The realtor stated they walked the entire property, which had never been surveyed before, with the original owner and explains it was a very strenuous and difficult terrain that took almost 4 hours to walk the property line. They used a GPS and gave this information to Respondent to give them somewhere to start. The realtor states how difficult Complainant was to work with and that he repeatedly behaved and took actions to show that he felt he knew more about the land than the surveyor or the original owner. Complainant's realtor allegedly agreed. The realtor noted that this property was like many farms in the rural areas of Tennessee that have never been surveyed. Deeds can be written just stating adjoining properties as borders and never having metes and bounds or legal descriptions. State tax maps are often wrong, and many landowners will see a map on the property data assessment website and believe that is how their property is, even though it can be incorrect. Tax maps can show shifted border lines due to satellite views from different angles and many times there are no physical boundaries between the properties to survey. This can put surveyors in a difficult spot because they have nothing to survey by. A surveyor will have to rely on the owner and neighboring property owners to come to an agreement where the property line will be. Here, Respondent does not understand why Complainant would file a complaint two years after the survey had been completed when they felt they bent over backwards to make sure the survey was completed to Complainant's satisfaction.

Counsel finds no clear evidence of incompetence or negligence on behalf of Respondent considering all of the facts present in this situation. Complainant provided a rebuttal and there is simply a lot of conflicting reports from the Complainant and the Respondent. Considering Respondent has been licensed for over 26 years as a land surveyor without issue, Counsel recommends dismissal.

RECOMMENDATION: Dismiss

BOARD DECISION: Close with a letter of instruction.

2. 2023035821

License Status: Active

First Licensed: 7/29/2003 Expires: 12/31/2023

Disciplinary History: 2020009651 – Letter of warning.

Complainant states they hired Respondent to perform a survey and agreed to the terms and price. Complainant then entered the address and parcel numbers for the

tract to be surveyed into Respondent's data system. Complainant alleges Respondent surveyed the wrong tract. Complainant feels an additional charge of \$400 to survey the correct tract is bad business and took advantage of the fact that Complainant had a time-sensitive situation with a pending closing on the property.

Respondent states that Complainant went through a process where they are first emailed a quote with a link from the Tennessee Property Viewer or KGIS to the corresponding property which a client must confirm is the correct property. Once a client is on the schedule, a courtesy notification is sent out which would allow the client to make changes and verify the job is correct before it begins. Respondent states Complainant initially provided a physical address to the "wrong" property and the link that was sent to them used this address, which Complainant confirmed. The link also states, "click here to ensure that we are quoting the correct property." After the survey was completed, Complainant emailed Respondent to inform him that they had surveyed the wrong property. Respondent did charge for the additional work to go back and survey the correct tract but put Complainant ahead of all other jobs to get it completed as fast as possible. Respondent feels they have done all they can do to reduce the risk of miscommunications.

It does appear that Complainant entered the correct address and parcel number into the data system, but it also appears Respondent surveyed the correct address the first time. The issue arises with the parcel numbers associated in and around the address. This seems to be a miscommunication that does not rise to the level of a violation of our rules and statutes. Counsel recommends dismissal.

RECOMMENDATION: Dismiss

BOARD DECISION: Concur

3. 2023043371

License Status: Active

First Licensed: 2/13/2002 Expires: 12/31/2023

Disciplinary History:

Complainant alleges a survey completed by Respondent's was incorrect as to its location, which resulted in property being transferred. The complaint includes correspondence from TDEC as it relates to stream alterations, imagery of a certain portion of the stream, conveyances to property owners, two boundary surveys, parcel data, and affidavits attesting to stream alterations and the location of a certain property stake.

Respondent has prior history with Complainant and had previously been hired to flag some common property lines with three different owners. Complainant told the

Respondent that an involved creek had moved at some point in the past. Respondent did not find evidence of that claim except where a culvert had been removed somewhere on the upper end, away from the property boundary. An adjoining landowner hired the Respondent to survey her property shortly after having a survey done by a different surveyor. Respondent came up a with significantly different boundary solution and reached out to the other surveyor. Respondent claims that surveyor admitted his survey was incorrect, the property owner would receive a refund and that he would remove his set corners. Unfortunately, that surveyor has since passed away. Respondent believes his solution fits the intention of the deed, and this complaint is based in a property dispute that will likely end up in court.

An expert review was conducted. Although lacking a few technical items, Respondent's survey has a reasonable location which seems to reflect the original intent of the conveyance. It is worth noting that he did depict the other surveyor's lines on his work and went the extra distance in reaching out to the other surveyor to discuss the differences in location. The expert did find the following technical violations:

1. Respondent's survey is a Category IV survey. Per Rule 0820-03.05, Surveyor is to use current standards and applications set by Rule 0820-03-.07(5). Per this rule, GPS surveys require the Land Surveyor to use the current GPS standards as set by the Board. Respondent's survey does not include the required GPS information as called for in Rule 0820-03-.11.
2. Rule 0820-03-.06 (8). Respondent's survey contains the following note: This plat is subject to any and all rights-of-way, easements and / or restrictions that may exist written or unwritten. Because the record document specifically calls out a right-of-way across the subject property, a note specifically calling out this easement out would have been appropriate.
3. Rule 0820-03-.07(b)7. Respondent's survey does not include a ratio of precision (or relative positional accuracy) of the unadjusted survey.

Counsel recommends issuing a Letter of Warning spelling out the technical errors in the survey as dictated by the expert review.

RECOMMENDATION: Letter of Warning

BOARD DECISION: Close with a letter of instruction.

4. 2023049441
License Status: UNLICENSED
Disciplinary History: None.

Complainant alleges Respondent provided a business card to another person who then showed it to Complainant. Complainant alleges the third party, as well as another person, said Respondent had identified himself as a land surveyor. The business card lists a company name which incorporates "Land Surveying" in its title and email address, and the Respondent's name is above the words "Owner/Surveyor". However, there are no words referring to being licensed or a license number.

Respondent states they are a subcontracted land surveyor in Tennessee. Respondent confirms they are not licensed and has never claimed to be licensed. Respondent further argues the business card does not show that they claim to be licensed or insured. Respondent states they are subcontracted through several local licensed land surveyors and provides the names and license numbers of three licensed land surveyors. Respondent states they have never done any work for Complainant and therefore has no work product to show in relation to these allegations of unlicensed activity. Respondent does note that Complainant's husband is a licensed land surveyor.

Counsel recommends discussing this matter and deciding whether it warrants a Letter of Warning or if more information is needed to determine if there has been unlicensed activity.

RECOMMENDATION: Discuss

BOARD DECISION: Close with a letter of warning.

5. 2023044311

License Status: Active

First Licensed: 2/20/1996 Expires: 12/31/2023

Disciplinary History: None.

Complainant owns adjoining properties and wanted to do a lot line adjustment. Complainant was told they needed it "turnkey" by the planning commission. Complainant was confused because they had already had it surveyed. Complainant was directed to the county office to get a plat map because it would have been recorded. Complainant could not find a plat map and reached out to Respondent who had allegedly completed the survey and plat map in 2009. Complainant and Respondent corresponded a few times, but Complainant alleges Respondent eventually stopped communicating.

Respondent states they do not remember talking to Complainant but has been very busy. Complainant then confirmed they used a different name when communicating with Respondent. Respondent found a file that may have been related to the 5-acre

parcel at issue but states it looks different than the tax maps. Respondent states they do not generally take maps through the recording process.

Considering this complaint stems out of a survey that was done fourteen years ago and for someone other than Complainant, Counsel recommends dismissal.

RECOMMENDATION: Dismiss

BOARD DECISION: Concur

6. 202305371

License Status: Active

First Licensed: 7/13/1979 Expires: 12/31/2023

Disciplinary History: None.

Complainant alleges Respondent established a boundary survey with insufficient information and did not contact adjacent owners. Complainant alleges other surveyors have been hired who have confirmed insufficient information exist to support Respondent's work. Complainant provided a copy of a letter they sent to their neighbor where they express Respondent's survey boundaries did not conform to where their family had always been told they existed. Complainant asks their neighbor if they could meet to come to a resolution on the boundary and asked if Respondent could be involved and hopefully offer additional information to help clarify the survey results.

Respondent has confirmed they contacted Complainant and the neighbor who the survey was completed for. They have all agreed to meet at the property on a specific date and all are eager to resolve the property dispute.

There is no evidence of any violations and Counsel recommends dismissal.

RECOMMENDATION: Dismiss

BOARD DECISION: Conditional Dismissal based on the information currently on file. The Board reserves the right to re-open this complaint if new information is provided alleging further violations.

7. 2023052391

License Status: Active

First Licensed: 7/12/13 Expires: 12/31/2023

Disciplinary History: None.

Complainant alleges Respondent and their surveying company trespassed onto their land. Complainant's property is near the property that was being surveyed and they admit to having a pending court case regarding an easement and boundary issue with the owner of the land that was being surveyed. Complainant states the part of their farm that was allegedly trespassed on is managed for hunting purposes and is posted. Complainant alleges the surveyors compromised the game and stomped on grass and thickets. Complainant alleges Respondent has a bad attitude and lied about notifying both attorneys involved in the pending court case. Complainant further alleges Respondent must notify both landowners of a survey when litigation is involved but does not provide the law citation or any further information to support this allegation.

Respondent states the survey was being conducted for the purpose of locating a road and easement at issue in the pending court case. Respondent's surveyors informed Complainant that they were there to locate the road for the pending court case when Complainant approached them on the property. Respondent explained to Complainant that TCA § 62-18-124 allows professional surveyors and their personnel to go onto the lands of others when necessary to perform surveys for reasons including locating easements. Respondent stated they did notify their client's attorney about the survey and encounters with Complainant. Respondent feels Complainant is trying to impede in the survey work to prevent and/or delay the court case that was set for November 1st.

Counsel finds no evidence of any violations and recommends dismissal.

RECOMMENDATION: Dismiss

BOARD DECISION: Concur

NEW BUSINESS

The board briefly discussed the board review process regarding courses that are within 180 days of expiration. If the applicant attests there have been no material changes to the original course approved, Director Glenn Kopchak requested that the board grant administration authority to approve those courses without representing. Jay Caughman made a motion to approve administration authority to approve courses within 180 days of expiration. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

Jay Caughman made a motion to approve 2 PDHs. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

ADJOURNMENT

The meeting adjourned at 11:57 a.m.