

BEFORE THE INDIANA STATE  
BOARD OF REGISTRATION FOR  
LAND SURVEYORS  
CAUSE NO.: SBRLS 93-22

STATE OF INDIANA, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
TIMOTHY F. OWENS, )  
License No. LS 80040242, )  
 )  
Respondent. )

**FILED**  
**MAY 28 2002**  
**IPLA**

ORDER TO SHOW CAUSE

Comes now the Indiana State Board of Registration for Land Surveyors, on its own motion and hereby ORDERS Respondent Timothy F. Owens, to appear before the Board on June 14, 2002 at 9:00 a.m. in Room 12, of the Conference Center, Indiana Government Center South, 402 W. Washington St., Indianapolis, Indiana. Respondent is to show cause why further disciplinary action should not be imposed due to noncompliance with his probationary terms as set forth in the Board's Final Order issued February 21, 1996, as modified by several orders and now fully contained in the Order Modifying and Correcting January 23, 2001 Order, which was issued on February 16, 2001, and the Order issued on February 8, 1999, in that the Respondent apparently failed to comply with the terms of his probation by not filing the required monthly reports by the fifth day of the following month since the report for July 2001 was filed on August 16, 2001. Another issue to be addressed is that he has not paid the \$50 monthly installment as provided for in the Board's July 10, 1998 Order, addressing payment of the \$3000 civil penalty imposed in the Board's September 12, 1997 Order, since August 2001.

Failure to pay a civil penalty when due is a basis for the suspension of a land surveyor's registration. A third issue is that the Board's records show that the Respondent's registration expired on July 31, 2000 even though he continued to practice until at least July 2001.

Copies of the February 16, 2001 and the February 8, 1999 Orders (which fully state the requirements of the Respondent's Probation as they currently exist) are attached hereto as Exhibit A and Exhibit B respectively and made apart hereof.

Additional information pertinent to this matter is as follows:

1. This notice is being provided to Respondent Timothy F. Owens, 5429 Cove Court, Fort Wayne, IN 46825.

2. This notice is being provided to counsel for the Respondent, Richard E. Beers, BEERS, MALLERS, BACKS & SALIN, 1100 Fort Wayne National Bank Building, Fort Wayne, IN 46802 and Timothy J. Haffner & Laura C. O'Donnell, BAKER & DANIELS, 111 E. Wayne Street, Suite 800, Fort Wayne, IN 46802.

3. This notice is being provided to counsel for the State of Indiana, David W. Stewart, Deputy Attorney General, Office of the Attorney General, Indiana Government Center South, 402 W. Washington Street, 5<sup>th</sup> Floor, Indianapolis, IN 46204 telephone no. (317) 232-3572.

4. The official cause number of this action is SBRLS 93-22.

5. The Board is empowered to hold this disciplinary hearing pursuant to the authority of IC 25-1-11, IC 25-21.5 and IC 4-21.5-3.

6. The Board will be presiding as administrative law judge and may be contacted to obtain information concerning hearing schedules and procedures by mail in care of the Indiana Professional Licensing Agency, Room E034, Indiana Government Center South, 302 W. Washington St., Indianapolis, Indiana 46204, or may be contacted by telephone by calling Mary Kate Adams at (317) 232-6674.

7. A party who fails to attend or participate in a prehearing conference, hearing or other later stage of this proceeding may be held in default or have the proceeding dismissed under section 24 of IC 4-21.5-3.

All of which is ORDERED, ADJUDGED AND DECREED, this 28th day of May, 2002.

REGISTRATION FOR LAND  
SURVEYORS

By: E. R. Gray, III  
E. R. Gray, III  
Chairman

*MKA*

Copies to:

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Laura C. O'Donnell  
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**FILED**  
**FEB 16 2001**  
**IPLA**

**ORDER MODIFYING AND CORRECTING JANUARY 23, 2001, ORDER**

On January 23, 2001, the Board issued an Order subsequent to the hearing on the Board's Order to Show Cause. The Board being duly advised hereby modifies and corrects said order so that it reads as follows:

Findings of Fact

1. This matter is before the Board on the Board's Order to Show Cause dated September 1, 2000.
2. By its Final Order dated February 21, 1996, as modified by the Board's Findings of Fact, Conclusions of Law and Order issued on June 25, 1996, and an Order issued on February 8, 1999, the Board placed the Respondent's license on probation status. Under the terms of the probation, the Respondent was to submit copies of his surveys to the Board on a monthly basis. These surveys do not comply with 865 IAC 1-12 in many ways.
3. The Respondent fails to discuss the cause and amount of uncertainty in the lines and corners that he finds or establishes as required under 865 IAC 1-12-12(a)(1).

**Exhibit**  
**A**

4. The Respondent fails to show angles or bearings as required under 865 IAC 1-12-13(4).
5. The Respondent fails to show all pertinent dimensions as required under 865 IAC 1-12-13(5).
6. The Respondent fails to show sufficient data to clearly indicate his theory of location as required under 865 IAC 1-12-13(15).
7. The Respondent fails to show measurements with the number of significant figures representative of the precision of the work as required under 865 IAC 1-12-7(b)(3).
8. The Respondent failed to show adjoining parcels on all surveys as required under 865 IAC 1-12-13(11).

#### Conclusions of Law

1. The Respondent is subject to the imposition of further sanctions under the terms of his probation.
2. Further sanctions are appropriate due to these findings and because Respondent failed to comply with 865 IAC 1-12 despite numerous appearances before this Board.

#### Order

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The Respondent's license to practice land surveying in the State of Indiana, License number LS80040242, is permanently revoked.
2. The revocation of the Respondent's license to practice land surveying in the State of Indiana is temporarily stayed until September 30, 2003. The Board will

permanently stay the permanent revocation of the Respondent's license if he does both the following:

A. He completes nine semester credit hours in three of the following four subjects with a grade of C or better in each class:

1. Boundary Surveys and Legal Principles
2. Land Survey Systems
3. Property Descriptions Analysis
4. Survey Law

B. He takes and passes Part IIB of the land surveyor examination as described in 865 IAC 1-4-3.

3. The Respondent remains on indefinite probation with the following terms and conditions:

A. The Respondent is prohibited from performing original surveys and from performing retracement or record document surveys.

B. The Respondent must obtain the education as provided for in Paragraph 2A of this Order.

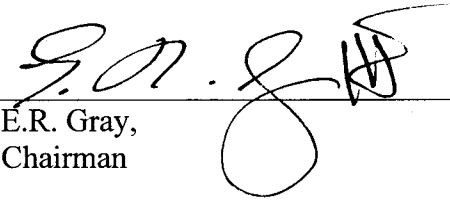
C. All other terms and conditions of the Respondent's probation as stated in the Board's February 8, 1999, Order remain in effect.

4. The Respondent's obligation to pay the \$3000 civil penalty in installments of not less than \$50 each month as stated in the Board's July 10, 1998 Order remains in effect.

ISSUED this 16th day of February, 2001.

STATE BOARD OF REGISTRATION  
FOR LAND SURVEYORS

By:

  
E.R. Gray,  
Chairman

Copies to:

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BEFORE THE INDIANA STATE  
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TIMOTHY F. OWENS, )  
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Respondent. )

**FILED**  
**FEB 08 1999**  
**IPLA**

ORDER

Comes now the Board and hearing having been held issues its Order as follows:

FINDINGS OF FACT

1. This matter is pending before the Board on Timothy F. Owens' [hereinafter "Respondent"] petition for modification of his probation. The Respondent was originally placed on probation by a Final Order issued on February 21, 1996. On May 23, 1996, the Respondent's land surveyor registration was suspended on an emergency basis, with a further hearing scheduled for June 14, 1996. That hearing resulted in a Findings of Fact, Conclusions of Law and Order issued on June 25, 1996, that terminated the emergency suspension and modified his probation. After a further hearing, the Respondent's probation was further modified by an Order issued on September 12, 1997. Another Order issued on July 10, 1998, which mostly addressed his paying a civil penalty imposed in the September 12, 1997, Order, stated that his probation "as stated in the June 25, 1996 Findings of Fact, Conclusions of Law and Order, as modified under the Board's Order dated September 12, 1997, shall remain in effect." The Respondent's probation therefore currently limits his practice to survey location reports (as stated in paragraph 1A of the September 12, 1997, Order) and requires him to submit copies of his survey location reports, comply with IC 25-21.5 and 865 IAC, and makes him subject to a show cause hearing for noncompliance with the requirements of his probation (as stated in Paragraphs 3(c), 3(d), 3(f) and 5 of the Order in the June 25, 1996 Findings of Fact, Conclusions of Law and Order).

2. The Respondent has asked that his probation be modified to allow him to do more than just surveyor location reports because surveyor location reports are not going to be accepted because of the practice of the board of realtors in Fort Wayne thus having the effect of further restricting his practice.

3. Considering the circumstances described in Finding of Fact No. 2 and that the Board has not been able to address his ability to properly conduct original or retracement surveys because he has been prohibited from doing them since September, 1997, the Respondent has demonstrated that changed circumstances exist that warrant modification of the probationary

**Exhibit**  
**B**

order. However, it is necessary that his practice continue to be restricted in an attempt to assure that the Respondent is able to conduct surveys as required by the Board's rules.

#### CONCLUSIONS OF LAW

1. Indiana Code 25-1-11-12(c) reads as follows:

The board may . . . modify [a probation] if the board finds after a hearing . . . that changed circumstances warrant a modification of the order.

2. In order to modify a probation, the individual who is on probation must demonstrate that changed circumstances warrant a modification of the order. Because he has done so, the Respondent qualifies for a modification of his probation.

#### ORDER


IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Timothy F. Owens' probation is modified (combining the June 25, 1996, and September 12, 1997, orders with the changes made in this order) to read as follows:

1. The Respondent's registration as a land surveyor is on probation indefinitely.
2. The requirements of the probation are that:
  - A. The Respondent may continue to do an unlimited number of surveyor location reports and plot plans. The restriction on the remainder of the Respondent's practice is modified to allow him to do up to six original or retracement surveys a month.
  - B. The Respondent shall submit to the Board copies of all original or retracement surveys, and survey location reports by the fifth day (or first business day thereafter) of the month following the month in which the survey work is done.
  - C. All monthly reports shall be delivered or mailed by registered or certified mail to the office of the Indiana Professional Licensing Agency, Indiana Government Center South, Room E034, 402 West Washington Street, Indianapolis, Indiana 46204.
  - D. The Respondent shall comply with all provisions of IC 25-21.5 and Title 865 of the Indiana Administrative Code.
  - E. Within six months of the issuance of this Order, the Respondent must attend a seminar in theory of location or legal aspects of land surveying, and provide to the Board written documentation of his attendance.
  - F. No later than February 5, 1999, the Respondent shall submit to the Board a list of the land surveying references in his library.
3. The failure of the Respondent to comply with the requirements of his probation may subject him to a show cause hearing and the imposition of further sanctions.

4. The Respondent shall not have a right to petition for withdrawal of his probation for six months.

ISSUED this 8th day of February, 1999.

STATE BOARD OF REGISTRATION  
FOR LAND SURVEYORS

By:   
Patrick Cunningham  
Chairman

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