

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE
BUILDINGS 68-69
CRANSTON, RI 02920

IN THE MATTER OF :
 :
MERLYN J. JENKINS AND :
MERLYN J. JENKINS & ASSOCIATES, INC., : DBR No. 12DP029
 :
RESPONDENT. :

CONSENT ORDER

The Director ("Director") of the Rhode Island Department of Business Regulation ("Department") and the State Board of Registration for Professional Land Surveyors ("Board") enter into this Consent Order ("Order") pursuant to R.I. Gen. Laws §§ 42-14-16, 42-35-9, 5-8.1-1 *et seq.*, and 5-84-1 *et seq.*, with regard to the above-referenced Respondents. The Director and the Board have determined to resolve this matter, after instituting administrative proceedings, and entering this Order, making the findings, imposing sanctions and permanently barring Respondents from engaging in any licensed or registered activity as set forth below.

The Director and the Board find the following:

A. FINDINGS

1. On or about April 10, 2012, the State Board of Registration for Professional Land Surveyors ("Land Surveyors Board") reviewed an investigatory report regarding alleged unlicensed land surveying activity by Respondent and recommended that this Order be issued by the Director.

2. A complaint alleging unlicensed land surveying by Respondent was initiated by the Land Surveyors Board after two surveys of land were brought to its attention.
3. The two alleged unlicensed surveys of land involved: (i) plans for Shaw's Plaza, Greeneville Street in the City of Pawtucket, Rhode Island and was performed for The Orin Group LLC which is located at 10 Northwest Avenue, Suite 200 Talimadge, OH 44278 and is dated January 12, 2007 and (ii) plans for land owned by Arkwright, Inc. which is located at 538 Main Street in Fiskeville, Rhode Island for American National which is located at 4125 State Route 43 in Kent, Ohio 44240 and is dated October 2, 2008.
4. The plans referenced in paragraph 3 above were signed and sealed by Respondent with a fraudulent Rhode Island seal or an unauthorized seal. These plans further indicate that Respondent is a duly registered Rhode Island land surveyor, or can be taken to indicate such.
5. A search of the Land Surveyors Board's database indicated that Respondent is not and has never been a Rhode Island registered land surveyor.
6. Respondent is registered as a Land Surveyor in Pennsylvania.
7. On May 9, 2012, the Director of the Department issued an Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer ("Order to Show Cause") scheduling the matter for a prehearing conference on June 19, 2012.
8. After the commencement of the Order to Show Cause, Respondents presented mitigating evidence which supported Respondents' request for leniency in the sanctions imposed.

B. VIOLATIONS

9. Respondent has violated:

- a. R.I. Gen. Laws § 5-8.1-12 by unlawfully signing and sealing the above-referenced plans and practicing and/or offering to practice land surveying in the State of Rhode Island;
- b. R.I. Gen. Laws § 5-8.1-13 by engaging in unlicensed activity without the requisite certificate of authorization;
- c. R.I. Gen. Laws §§ 5-8.1-14 and 17 by practicing and/or offering to practice land surveying in the State of Rhode Island.

C. SANCTIONS

10. Based on the above violations, the Board is respectfully requesting that the following sanctions be imposed:

- a. Respondent is hereby ordered to cease and desist from any activity under R.I. Gen. Laws § 5-8.1-1 *et seq.*
- b. Respondents' request for a Hearing is hereby withdrawn.
- c. The Board has taken into account mitigating factors presented by Respondent in reducing the penalty imposed in this matter.
- d. Pursuant to R.I. Gen. Laws § 5-84-5, an administrative penalty of ten thousand dollars (\$10,000), payable in five monthly payments of \$1,667 and a sixth monthly payment of \$1,665 beginning on the date this Consent Order is executed by Respondent. Each subsequent payment shall be delivered to the Department within 30 days of the prior payment. If Respondent fails to make a monthly payment within ten days of the due date, the Department will refer this matter to the

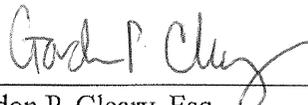
Attorney General for prosecution and request any and all appropriate relief.

- e. If Respondents fail to abide by any of the requirements of this Consent Order the Director may initiate further administrative proceedings and impose penalties against Respondents including such additional administrative penalties as deemed appropriate by the Director. Respondents shall be provided with notice and opportunity of hearing should the Director deem to take such further action.

RECOMMENDATION

CONSENTED TO AS TO FORM AND SUBSTANCE BY:

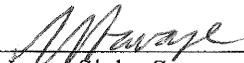
Respondents by:



Gordon P. Cleary, Esq.

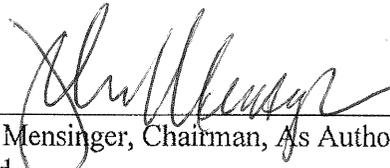
Date: 11/19/12

Department by:



Neena Sinha Savage, Esq.
Chief of Legal Services

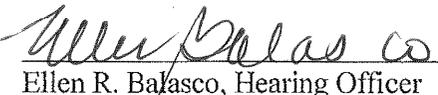
Date: 11/26/12



John Mensinger, Chairman, As Authorized,
Board

Date: 11/27/12

RECOMMENDED BY:



Ellen R. Balasco, Hearing Officer

Date: 11/27/12

ORDER

I hereby approve reject the Consent Order as agreed to by and between the parties in the above entitled matter.

Order Number: 12-065


Paul McGreevy, Director

Date: 11/28/2012

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED, RESPONDENT'S LICENSE SHALL BE SUBJECT TO SUSPENSION OR REVOCATION.

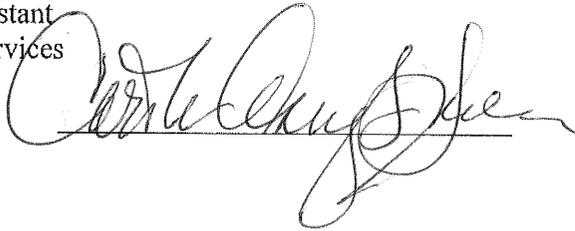
CERTIFICATION

I hereby certify that on this 27th day of November ~~August~~ 2012 a copy of this Consent Order was sent by first class mail postage prepaid and certified mail to:

Merlyn J. Jenkins
Merlyn J. Jenkins & Associates, Inc.
412 W. Market Street
Pottsville, PA 17901

and by email to:

State Board of Registration for Professional Land Surveyors
Louis A. DeQuattro, Jr. CPA, Esq., Deputy Director
Dawne Broadfield, Administrative Assistant
Neena Sinha Savage, Chief of Legal Services

A handwritten signature in cursive script, appearing to read "Louis A. DeQuattro, Jr.", is written over a horizontal line.