

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

**ARKANSAS STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND PROFESSIONAL
LAND SURVEYORS**

COMPLAINANT

Case #2012-12

RUSSELL A. PODGORNYY, PS

RESPONDENT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

A hearing on the above-referenced matter was held before the Arkansas Board of Licensure for Professional Engineers and Professional Surveyors (“the Board”) on May 14, 2013, at the office of the Board, 623 Woodlane Drive, Little Rock, Arkansas.

Russell A. Podgorny (AR-PS #1282, hereinafter “Podgorny”) appeared before the Board and was represented by counsel. The Board was represented by Assistant Attorney General Brandon Robinson.

On the basis of the testimony and other evidence presented during the hearing, the Board makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

F1. Podgorny is a Professional Surveyor in Arkansas, holds license #1282, and the Board has jurisdiction over his conduct.

F2. Dale King of Ozarks Realty placed a work order with Podgorny to survey a parcel in Searcy County.

F3. Podgorny performed the survey and filed a sealed plat of the work dated March 23, 2012.

F4. The plat Podgorny filed depicted the western boundary of the parcel almost due north/south (GPS/grid basis of bearing), and the boundary line passing east of an existing septic tank system.

F5. Podgorny returned to the parcel sometime after the property was conveyed and removed the survey markers referenced on the March 23, 2012 plat.

F6. Podgorny filed a second plat of the same parcel dated June 4, 2012. The plat depicted the western boundary of the parcel with an approximately ten degree eastern bearing.

F7. The practical effect of the new property boundary was to move the existing septic tank system from the adjacent parcel to the surveyed parcel.

F8. After being notified of the complaint against him for the foregoing conduct, Podgorny filed a third plat of the parcel dated September 13, 2012, with yet another opinion of where the boundary of the parcel might be.

CONCLUSIONS OF LAW

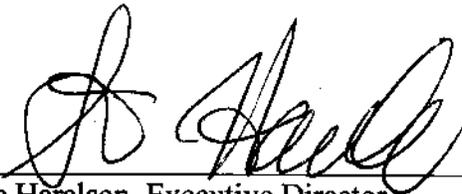
C1. Podgorny's conduct as outlined in paragraphs F1-F8 constitutes negligence in the practice of surveying, being in violation of Arkansas Code Annotated §17-48-205(B).

ORDER

O1. The Respondent is ordered to pay a \$500.00 civil penalty for the violation described above. Payment must be received by the Board within fifty (50) days of service of this Order.

These Findings of Fact, Conclusions of Law, and Order constitute the final written decision of the Board in this matter. This Order may be appealed within thirty days (30) days of service, as specified in the Arkansas Administrative Procedures Act, according to provisions of Arkansas Code Annotated §25-15-212.

Dated this 30th day of May, 2013.

A handwritten signature in black ink, appearing to read "S Haralson", written over a horizontal line.

Steve 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 address with proper postage affixed on this 5th day of June, 2013, to:

Mr. Russell Podgorny, PS
AR Land Surveyors
2121 Marion County 4026
Everton, AR 72633-9646

James H. Atchley

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

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Return Receipt Fee (Endorsement Required) 2.55
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City, State, Zip+4

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JUN 5 2013
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7002 0510 0001 8878 5347

SENDER COMPLETE THIS SECTION

1. Article Addressed to:
**Mr. Russell Podgorny, PS
AR Land Surveyors
2121 Marion County 4026
Everton, AR 72633-9646**

2. Article Number
(Transfer from service label) **7002 0510 0001 8878 5347**

PS Form 3811, August 2001

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2ACPM1-03-P-4061