

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

**IN THE MATTER OF ROBERT ALLAN CALLICOTT**

**CASE NO. 2013-13**

**CONSENT AGREEMENT**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER  
ON REMAND**

The original hearing in the above-referenced matter was held before the Arkansas State Board of Licensure for Professional Engineers and Professional Surveyors (“Board”) on May 13, 2014 at the office of the Board, 623 Woodlane Drive, Little Rock, Arkansas 72201. At that time, the Board was represented by then-Assistant Attorney General Brandon Robinson. Robert Allan Callicott (AR-PS #1522, “the Respondent”) failed to appear for this hearing.

Finding proper notice had been given Respondent, the Board, from all the evidence and testimony presented, made Findings of Fact, Conclusions of Law and ordered Respondent to pay a civil penalty of \$1,000.00 within 50 days of service of the original order and revoked the Respondent’s Professional Surveyor license. Respondent filed a timely Petition for Judicial Review in Pulaski County Circuit Court.

In a Judgment filed on September 11, 2015, Circuit Judge Morgan Welch held there was no substantial evidence of a violation of any ethical rule, and the revocation of Respondent’s license was overly harsh because the underlying offense was vague. Therefore, he set aside the sanctions imposed by the Board, and reversed the Board’s determination. The Board filed a timely appeal of Judge Welch’s decision with the Arkansas Court of Appeals.

In an opinion delivered on October 19, 2016, the Arkansas Court of Appeals reversed Judge Welch's decision and remanded the case to the Board to make specific findings of fact and conclusions of law as required by Ark. Code Ann. § 25-15-210(b)(2).

In the interest of prompt and speedy settlement of the above-captioned matter, consistent with the Order of the Arkansas Court of Appeals, the public interest, statutory requirements, and the responsibilities of the Board, the undersigned parties enter into this Consent Agreement as a final disposition of this matter on remand. The Respondent, Robert Callicott, admits the following Findings of Fact on remand, and does not contest the entry of the following Conclusions of Law on remand, and Order:

**FINDINGS OF FACT**  
**ON REMAND**

1. At all times relevant to the Complaint filed by Charles McGowan against Respondent, Robert Allan Callicott, Callicott was a Professional Surveyor properly licensed by the Arkansas Board of Licensure for Professional Engineers and Professional Surveyors.
2. In the Board hearing on May 13, 2014, James Atchley, who was the Board investigator at that time, testified that the Board received Mr. McGowan's complaint against Mr. Callicott on **June 24, 2013**. (Board hearing transcript, p. 20)
3. In his testimony in the May 13, 2014 Board hearing, McGowan confirmed he met with Callicott on April 16, 2013 at a parcel of land McGowan owns in Ouachita County, Arkansas. McGowan hired Callicott to mark the parcel boundaries on the

ground according to the survey plat and legal description under which he held title to the land.

4. During the meeting on April 16, 2013, McGowan and Callicott agreed to the price of \$1,000.00 for the proposed survey work. Mr. McGowan gave Callicott a check for \$1,000.00. Mr. McGowan testified that the check he gave to Mr. Callicott was cashed. (Board hearing transcript, p. 39)
5. In Board hearing Exhibit P2, a letter McGowan sent to Investigator Atchley, McGowan states that the check was cashed on April 19, 2013.
6. In a letter dated June 19, 2013, McGowan wrote to Callicott, sent a copy of his cancelled check, stated he had not heard from Callicott or received a copy of the survey, had tried calling Callicott but could not leave a message because Callicott's mailbox was full, and asked Callicott to call him at 870-581-2458. (Board hearing Exhibit P2.)
7. In an email dated June 20, 2013, with the subject line, "land survey in bearden, ar," McGowan contacted Callicott again and stated, "have not heard from you and need to talk to see what is up!" (Board hearing Exhibit P2)
8. In a letter dated June 21, 2013 to Investigator Atchley, McGowan stated, referring to Callicott, "I think I have been patient with this man, I have called him, left mesg. (*sic*) to call me, sent emails, wrote him letters, both in Prescott and Alexander, AR." Furthermore, McGowan stated, "I do not need his service or should I say lack of service, he is fired!" (Board hearing Exhibit P2.)

9. McGowan testified in the Board hearing that he never heard from Callicott after their initial meeting in Ouachita County, Arkansas on April 16, 2013. (Board hearing transcript, p. 40)
10. McGowan testified that he and Callicott spent about an hour together at the property on April 16, 2013. McGowan testified that he left the property before Callicott because his vehicle was parked in front. (Board hearing transcript, p. 40)
11. McGowan testified that although Callicott claims he spent more time at the property after McGowan left, and Callicott claims he returned to the property, McGowan took pictures of the property on September 3, 2014, and the only marks on the property were from a prior survey. (Board hearing transcript, p. 40)
12. McGowan testified that the stakes he left on April 16, 2013 for Callicott to use were still in the same place McGowan left them. (Board hearing transcript. P. 40)
13. On June 24, 2013, Investigator Atchley mailed a copy of McGowan's complaint to Callicott and requested a response on or before July 19, 2013. (Board hearing Exhibit P3)
14. On July 19, 2013, Investigator Atchley received Callicott's response. (Board hearing Exhibit P4). In his response, Callicott states, "Before I could return to the field and perform any additional work on this [McGowan's] project, I received a request from a regular client on a large project. Due to the urgent nature of this other project and the remote nature of the site, I was out of contact while working on this project for about ten (10) weeks. During that time, I was not in contact with McGowan and I did not perform any further work on this project."

15. On July 22, 2013, Investigator Atchley sent a follow-up letter to Callicott because his response raised additional questions. Atchley requested the name and contact information for the “regular client” Callicott mentioned in his response, specific dates and lengths of time for each visit he made to the McGowan site, details of the “large project,” including what the project was about, where it was located, why he was “out of contact” to the extent that Callicott could not receive or respond to communications from an active client, and copies of any documents in Callicott’s possession regarding the case, including work orders, interim communications, and research documents. (Board hearing Exhibit P5)
16. In Callicott’s response, received by Investigator Atchley on August 21, 2013, Callicott explains that a non-disclosure agreement he has with the regular client prevents him from providing the information Atchley requested in his follow-up letter.
17. Callicott did not provide the information Atchley requested concerning McGowan’s case, such as work orders, interim communications, or research documents.

**CONCLUSIONS OF LAW**  
**(ON REMAND)**


1. Callicott’s actions, as set forth above in Findings of Fact # 4-9, constitute a violation of A.C.A. § 17-48-205(a)(1)(K) in that Callicott accepted \$1,000.00 from McGowan in exchange for work that Callicott never completed.

2. Callicott's actions, as set forth above in Findings of Fact # 4-9 and 19, constitute a violation of the preamble of the Rules of Professional Conduct because Callicott failed to faithfully serve the legitimate interest of his client, McGowan.
3. Callicott's actions, as set forth above in Finding of Fact # 16-17, constitute a violation of A.C.A. § 17-48-205(a)(1)(E), in that he failed to provide follow-up information during the investigation of a formal complaint by the Board.

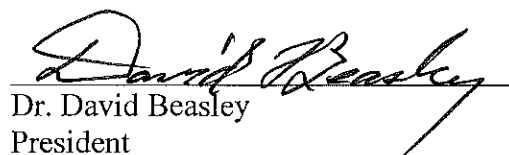
**ORDER**

1. Callicott is ordered to pay a civil penalty totaling \$1,000.00 within fifty (50) days of receipt of these Findings of Fact, Conclusions of Law, and Order (on remand).

Respondent acknowledges its right to consult with counsel and voluntarily agrees to enter into this Consent Agreement on its own volition and without reliance upon any representations by the Board or any representative thereof, other than expressly set forth herein. Respondent hereby waives any further procedural steps including, without limitation, his/her right to a hearing and all rights to seek judicial review or to otherwise challenge or contest the validity or enforceability of this Consent Agreement. **This agreement is not effective until approved by the Board.**

  
Robert Callicott  
Respondent

14 March 2017  
Date

  
Dr. David Beasley  
President

3/14/17  
Date

ARKANSAS BOARD OF LICENSURE FOR  
PROFESSIONAL ENGINEERS AND SURVEYORS