

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

**Complainant:**

Arkansas State Board of Licensure for  
Professional Engineers and Professional  
Surveyors

**Case #2006-14**

**Respondent:**

Ben Kittler, Jr, PS  
Dept of Agriculture, Land Survey Div  
11701 Interstate 30, Suite 323  
Little Rock, AR 72209-7061

**DISMISSAL ORDER**

The Arkansas Board of Licensure for Professional Engineers and Professional Surveyors (hereinafter "the Board") registered a complaint on October 20, 2006, charging Ben Kittler, Jr (AR-PS #568, hereinafter "Kittler") with violation of Arkansas Code Annotated §17-48-102 (incompetence and/or negligence in the practice of surveying).

**FINDINGS OF FACT**

1. Kittler is now, and was at all times relevant to the complaint, a licensed Professional Surveyor, and the Board has jurisdiction over his conduct.
2. Hope Engineers, Inc (then Kittler's employer) was retained to survey a parcel of property in Grant County, Arkansas, and quoted a price of \$1500 to \$1800 to the client.

3. When the survey plat was delivered, it was accompanied by an invoice for \$3500, and the boundary lines depicted on the plat did not agree with a landmark established by a previous survey in the area.

4. That landmark was set by Jesse Kervin (AR-PS #519, lapsed/retired December 31, 2005) and referenced in a plat prepared for an adjoining landholder.

5. The Kervin plat was not filed or otherwise published, and Kittler did not have access to it at the time of his survey.

6. Kittler found the landmark during his fieldwork and noted the presence of the landmark on the plat he prepared. In his Answer to the complaint, Kittler presented a valid reason for not yielding to the landmark during the conduct of his field measurements.

#### **CONCLUSIONS OF LAW**

Upon review of the evidence in its possession, the Board finds the conduct by Kittler described in the Findings of Fact does not warrant further investigation or other action.

The matter of fees is one of contract and outside the jurisdiction of the Board.

#### **ORDER**

Based on these Findings and Conclusions, the complaint against Kittler is dismissed.

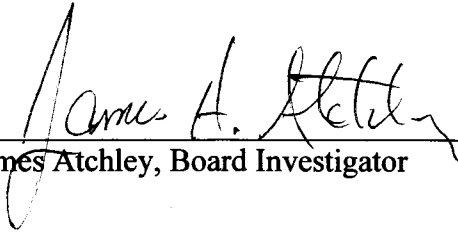
SO ORDERED this 30<sup>th</sup> day of November, 2010

  
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Board President

**CERTIFICATE OF SERVICE**

I, James Atchley, Investigator of the Arkansas State Board of Licensure for Professional Engineers and Professional Surveyors, do hereby certify that I have served a copy of the attached order by mailing a copy of same, by first class mail on this 30<sup>th</sup> day of November, 2010, to:

Ben Kittler, Jr. PS  
Dept of Agriculture, Land Survey Div  
11701 Interstate 30, Suite 323  
Little Rock, AR 72209-7061

  
James Atchley, Board Investigator