

1 **BEFORE THE ARIZONA STATE**
2 **BOARD OF TECHNICAL REGISTRATION**

3 **In the Matter of:**

4 **Jesus Hernandez**
5 **Non-Registrant**

6
7 **Respondent**

Case No.: P23-085

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

8
9 In the interest of a prompt and judicious resolution of the above-captioned matter
10 before the Arizona State Board of Technical Registration (“Board”) and consistent with
11 the public interest, statutory requirements, and the responsibilities of the Board, and
12 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
13 Jesus Hernandez, Non-Registrant, (“Respondent”) and the Board enter into the following
14 Recitals, Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as a
15 final disposition of this matter.

16 **RECITALS**

17 1. Respondent has read and understands this Consent Agreement and has had
18 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
19 opportunity to discuss this Consent Agreement with an attorney.

20 2. Respondent understands that he has a right to a public administrative hearing
21 concerning this case. He further acknowledges that at such formal hearing he could
22 present evidence and cross-examine witnesses. By entering into this Consent Agreement,
23 Respondent knowingly, voluntarily, and irrevocably waives his right to such an
24 administrative hearing, as well as rights of rehearing, review, reconsideration, appeal,
25 judicial review or any other administrative and/or judicial action concerning the matters
26 set forth herein.

27 3. Respondent affirmatively agrees that this Consent Agreement shall be
28 irrevocable.

1 4. Respondent understands that this Consent Agreement or any part of the
2 agreement may be considered in any future disciplinary action by the Board against him.

3 5. The Consent Agreement, any record prepared in this matter, all investigative
4 materials prepared or received by the Board and all related exhibits and materials, are
5 public records upon acceptance by the Board of this Consent Agreement and may be
6 retained in the Board's files pertaining to this matter.

7 6. Respondent understands this Consent Agreement deals with Board case
8 number P23-085 involving allegations that Respondent engaged in conduct that would
9 subject him to discipline under the Board's statutes and rules. The investigation into
10 these allegations against Respondent shall be concluded upon the Board's adoption of
11 this Consent Agreement.

12 7. Respondent understands that this Consent Agreement does not constitute a
13 dismissal or resolution of any other matters currently pending before the Board, if any,
14 and does not constitute any waiver, express or implied, of the Board's statutory authority
15 or jurisdiction regarding any other pending or future investigation, action or proceeding.

16 8. Respondent also understands that acceptance of this Consent Agreement does
17 not preclude any other agency, subdivision, or officer of this State from instituting any
18 other civil or criminal proceedings with respect to the conduct that is the subject of this
19 Consent Agreement.

20 9. Respondent acknowledges and agrees that, upon signing this Consent
21 Agreement and returning this document to the Board's Executive Director, he may not
22 revoke his acceptance of the Consent Agreement or make any modifications to the
23 document regardless of whether the Consent Agreement has been signed on behalf of the
24 Board. Any modification to this original document is ineffective and void unless
25 mutually agreed by the parties in writing.

26 10. This Consent Agreement is subject to the approval of the Board and is
27 effective only when accepted by the Board and signed on behalf of the Board. If the
28 Board does not accept this Consent Agreement, the Board retains its authority to hold a

1 formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the
2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no
3 evidentiary value and shall not be relied upon nor introduced in any action by any party,
4 except that the parties agree that should the Board reject this Consent Agreement and this
5 case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced
6 by its review and discussion of this document or any records relating thereto.

7 11. If a court of competent jurisdiction rules that any part of this Consent
8 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
9 shall remain in full force and effect.

10 12. Respondent understands that any violation of this Consent Agreement may
11 result in disciplinary action, including suspension or revocation of the registration under
12 A.R.S. § 32-150.

13 13. Respondent agrees that the Board will adopt the following Findings of Fact,
14 Conclusions of Law and Order.

15 **FINDINGS OF FACT**

16 1. The Board is the duly constituted authority for the regulation and control of
17 the profession of Land Surveying.

18 2. Respondent is not registered with the Board as a Land Surveyor, nor has he
19 ever been.

20 3. On or about January 18, 2023, Respondent completed surveying fieldwork on
21 a property in Maricopa County, producing data later used for a topographic survey map
22 and boundary survey map, for a member of the public, (“Client”).

23 4. On or about January 31, 2023, Respondent sent an email to Client with the
24 completed topographic survey attached. Respondent’s email included the title “Land
25 Surveyor” in the signature line below Respondent’s name, leading Client to believe that
26 he was a Registered Land Surveyor and qualified to perform Land Surveying services.

27 5. On or about February 18, 2023, Respondent sent another email to Client
28 containing a request for payment of provided Land Surveying services. Respondent’s

1 email included the title “Land Surveyor” in the signature line below Respondent’s name,
2 leading Client to believe that he was a Registered Land Surveyor.

3 6. On or about February 22, 2023, the Board received a complaint, which
4 included allegations that Respondent practiced Land Surveying while holding himself out
5 as a qualified Land Surveyor without registration with the Board.

6 7. On or about March 13, 2023, Respondent acknowledged the following:

7 a) Respondent conducted the surveying fieldwork on Client’s property for
8 a topographic survey map and boundary survey map.

9 b) Respondent included the title “Land Surveyor” under his name in the
10 signature line of his email correspondence with Client.

11 8. On or about May 17, 2023, Client indicated that Respondent verbally referred
12 to himself as a “Land Surveyor” upon their first meeting, and again on multiple occasions
13 throughout the surveying process.

14 **CONCLUSIONS OF LAW**

15 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq,
16 including A.R.S. § 32-106.02(A).

17 2. The conduct alleged in the Findings of Fact, constitutes grounds for
18 discipline pursuant to A.R.S. § 32-106.02(A), A.R.S. § 32-121, and A.R.S. § 32-145(1),
19 in that Respondent practiced, offered to practice, or by any implication held himself out
20 to be qualified as a Land Surveyor without registration with the Board.

21 **ORDER**

22 Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues
23 the following Order:

24 1. **CIVIL PENALTY.** Within Ninety (90) days from the effective date of this
25 Consent Agreement, Respondent shall pay a civil penalty of Seven Hundred and Fifty
26 Dollars (\$750.00) by certified check or money order made payable to the State of
27 Arizona Board of Technical Registration, according to the provisions of A.R.S. § 32-
28 106.02(A).

1 2. COST OF INVESTIGATION. Within Thirty (30) Days from the effective
2 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
3 case to the Board in the amount of One Hundred Forty Four Dollars (\$144.00) by
4 certified check or money order made payable to the State of Arizona Board of Technical
5 Registration, according to the provisions of A.R.S. § 32-128(H).

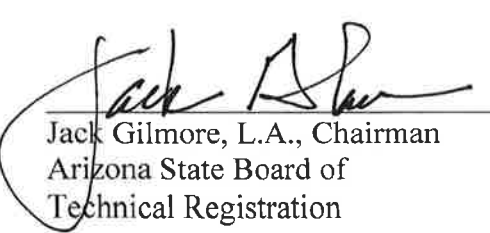
6 3. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws,
7 related to the practice of Land Surveying in the State of Arizona. The Board shall
8 consider any violation of this paragraph to be a separate violation of the statutes
9 governing the Arizona Board of Technical Registration.

10 4. EFFECTIVE DATE. The effective date of this Consent Agreement is the
11 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
12 effective date is the later of the two dates.

13 5. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
14 complying with this Consent Agreement.

15 6. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
16 to fulfill the requirements of this Order, the Board may seek a Petition for Injunction in
17 accordance with the provisions set forth in A.R.S. § 32-106.01.

18
19 ACCEPTED and ORDERED this 27 day of JULY, 2023.

20
21
22 
23 Jack Gilmore, L.A., Chairman
24 Arizona State Board of
25 Technical Registration

26 JULY Consent Agreement and Order, No. P23-085 accepted this 27 day of
27 _____, 2023.

28 
Jesus Hernandez, Respondent

1 **ORIGINAL** filed this 28 day of

2 July, 2023, with:

3 Arizona State Board of Technical Registration
4 1110 W. Washington, Suite 240
5 Phoenix, AZ 85007

6 **COPY** of the foregoing mailed via Certified Mail
7 No. 9214 8901 9434 4600 0931 92 and
8 First Class mail this 28 day of July, 2023, to:

9 Jesus Hernandez
10 PO Box 1388
11 Scottsdale, AZ 85252

12 By: Daniel Carthel

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