BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION

In the Matter of:

James Brucci Land Surveyor Registration No. 29865

Respondent

Case No.: P24-002

CONSENT AGREEMENT and ORDER OF DISCIPLINE

In the interest of a prompt and judicious resolution of the above-captioned matter before the Arizona State Board of Technical Registration ("Board") and consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. § 32-101 <u>et seq.</u>, and A.A.C. R4-30-120(G), the undersigned party, James Brucci ("Respondent"), holder of Registration No. 29865, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final disposition of this matter.

RECITALS

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

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

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

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

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

6. Respondent understands this Consent Agreement deals with Board case number P24-002 involving allegations that Respondent engaged in conduct that would subject him to discipline under the Board's statutes and rules. The investigation into these allegations against Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

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

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

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

10. Respondent understands this Consent Agreement is subject to the approval of
the Board and is effective only when accepted by the Board and signed on behalf of the
Board. If the Board does not accept this Consent Agreement, the Board retains its

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

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

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

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

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of Land Surveying in the State of Arizona.

Respondent is the holder of Arizona Land Surveyor Registration No. 29865, 2. issued by the Board on January 10, 1996.

3. At all times relevant to the allegations of this Consent Agreement, Arizona Land Surveyor Registration No. 29865 was active.

4. On or about December 14, 2022, Respondent, through his firm, entered into a written contract with a member of the public ("Client") to produce a topographic survey and a boundary survey of Client's property in Phoenix, Arizona.

5. On or about January 31, 2023, Respondent prepared and sealed a topographic survey for Client's property.

6. On or about March 28, 2023, Respondent prepared and sealed a boundary survey for Client's property.

7. On or about March 29, 2023, Respondent recorded the boundary survey with the Maricopa County Recorder's Office.

8. On or about June 27, 2023, the Board received a complaint, which included an allegation that Respondent's boundary survey of Client's property incorrectly showed the property corners on a parallelogram as opposed to a rectangle as shown on the City of Phoenix plat map, which caused the boundaries to have a 2.11 foot slant.

9. On or about May 22, 2024, an Enforcement Advisory Committee ("EAC") meeting was convened to review the allegations against Respondent. At the conclusion of the EAC meeting, the Committee determined that Respondent failed to apply the appropriate technical knowledge and skill while providing professional services, in that he did not include a pre-existing fence line in his recorded boundary survey. Although the fence line was shown in Respondent's unrecorded topographic survey, the Committee found that the fence line should have been included in Respondent's recorded boundary survey as well because it was viable evidence of a possible alternate position for the property boundary line, and therefore required recordation.

10. During his EAC meeting interview, Respondent acknowledged that a fence line can be valid evidence of a property boundary line, and said a surveyor should consider it. Respondent said in this case he considered the fence line, but did not include it in his recorded boundary survey because he did not believe it represented the correct property boundary line.

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.

2. The conduct alleged in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(6), in that Respondent failed to apply the appropriate technical knowledge and skill in the practice of a Board regulated profession.

<u>ORDER</u>

Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues

the following Order:

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2 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of 3 Reprimand.

2. ADMINISTRATIVE PENALTY. Within Twelve (12) Months from the effective date of this Consent Agreement, Respondent shall pay an administrative penalty of One Thousand Five Hundred Dollars (\$1,500.00) by certified check or money order made payable to the State of Arizona Board of Technical Registration.

3. COST OF INVESTIGATION. Within Twelve (12) Months from the effective date of this Consent Agreement, Respondent shall pay the cost of investigation of this case to the Board in the amount of One Hundred Seventy-Nine Dollars (\$179.00) by certified check or money order made payable to the State of Arizona Board of Technical Registration, according to the provisions of A.R.S. § 32-128(H).

4. OBEY ALL LAWS. Respondent shall obey all federal, state, and local laws as well as all rules governing the practice of Land Surveying in the State of Arizona. The Board shall consider any violation of this paragraph to be a separate violation of the rules and statues governing the Arizona Board of Technical Registration. The Board may also consider Respondent's non-compliance with this Order as a separate violation of A.R.S. § 32-150.

5. RENEWAL OF REGISTRATION. Respondent shall timely renew his Arizona registration as a Land Surveyor, and timely pay all required registration fees.

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

7. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with complying with this Consent Agreement.

26 8. NONCOMPLIANCE. If Respondent violates this Order in any way or fails to fulfill the requirements of this Order, the Board, after giving notice and the opportunity 28 to be heard, may revoke, suspend or take other disciplinary actions against the

1	registration. The issue at such a hearing will be limited solely to whether this Order has
2	been violated.
3	ACCEPTED and ORDERED this <u>26th</u> day of <u>August</u> , 2024.
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5	Michael Kolejka, R.A., Chairman
6	Arizona State Board of
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10	August, 2024. Agreement and Order, No. P24-002 accepted this 216 th day of
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12	James Brucci, Respondent
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<u>August</u> , 2024, with:		
Arizona State Board of Technical 1110 W. Washington, Suite 240 Phoenix, AZ 85007	Registration	
COPY of the foregoing mailed vi No. 9214 8901 9434 4600 098	ia Certified Mail 3 88 and	
First Class mail this <u>27th</u> da		_, 2024, to:
James Brucci 8671 E Thomas Rd Scottsdale, AZ		
85251		
By:		
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