BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION

In the Matter of:
Dennis Hustead
Land Surveyor
Registration No. 16840

Case No.: P16-008

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

Respondent

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 et seq., and A.A.C. R4-30-120(G), the undersigned party, Dennis Hustead ("Respondent"), holder of Registration No. 16840, 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. He further 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. The Consent Agreement, any record prepared in this matter, all investigative materials prepared or received by the Board and all related exhibits and materials, are public records (as defined in A.R.S. § 41-158.18) 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 P16-008 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 also 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 the Board’s Executive Director, 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. 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 event that the Board does not approve this Consent Agreement, it is withdrawn and shall be 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. 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.

2. Respondent is the holder of Arizona Registered Land Surveyor Registration No. 16840.

3. Firm, PK Surveying, is not, nor has it ever been, registered with the Board.

4. On or about April 10, 2007, a land survey was performed for the property located at Lot 56 Porter Acres Unit Two. The survey map displays the Respondent’s initials as the reviewer. The map also displays the firm name of PK Surveying.

5. On or about May 14, 2015, during a phone interview, the Respondent stated he had the mistaken understanding that PK Surveying was registered with the Board. Respondent further stated that as a practice, Mr. Miernicki, a non-registrant, obtained clients, performed the field work and would then plot the survey. The Respondent stated he would then review and seal the survey, and that Mr. Miernicki would give him part of
the fees collected.

6. On or about June 19, 2015, Respondent stated that he believed he was the Responsible Registrant for PK Surveying.

7. On or about August 13, 2015, Respondent met with Boards staff and expressed his willingness to comply with the Board’s rules and statutes. He also stated that he did not realize he was doing anything wrong because he thought Mr. Miernicki had registered the firm, PK Surveying, with the Board.

8. On or about August 25, 2015, Respondent submitted a written statement to the Board stating he had nothing to do with the survey in question. Respondent also stated that he has not placed his seal on work performed by Paul Miernicki.

9. On or about August 26, Board staff contacted Respondent to gain clarification on the written statement. The written statement submitted by Respondent contradicted previous statements made to Staff by Respondent during interviews. Respondent stated that he has never signed or sealed a survey or document under the title PK Surveying.

10. On or about August 26, Board staff performed an online search of Arizona county recorder sites for surveys stamped and sealed by Respondent under PK Surveying. The search yielded two surveys stamped and sealed by Respondent. On or about January 12, 2012, Respondent signed and sealed a Lot Split Parcel 303-54-14H under firm PK Surveying. On or about February 23, 2014, Respondent signed and sealed a Final Plat for Parcels 504-44-015W and 504-44-016X under firm PK Surveying.

CONCLUSIONS OF LAW

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

2. Pursuant to A.R.S. § 32-128.C.3, it is unlawful for a Registrant to aid or abet unregistered or uncertified practice.

3. Pursuant to A.R.S. § 32-128.C.4 in relation to Board rule R4-30-301.16, it is unlawful for a registrant to sign or seal any professional document not prepared by registrant or bona fide employee.
4. The conduct alleged in the Findings of Fact constitutes grounds for discipline against Respondent pursuant to A.R.S. § 32-106.02.

ORDER

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

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

2. ASSURANCE OF DISCONTINUANCE. Respondent, Dennis Hustead, shall not sign, seal or stamp any professional document not prepared by Respondent or Respondent’s bona fide employee under the direct supervision of Respondent.

3. STAYED SUSPENSION AND PROBATION. Respondent’s registration as Land Surveyor No. 16840, shall be suspended for twenty-four (24) months; however, the suspension is stayed for as long as Respondent remains in compliance with this Order. During the stay of suspension, Respondent’s registration as a Professional Land Surveyor is placed on probation for twenty-four (24) months. If Respondent is non-compliant with any terms of this Order during the twenty-four (24) month stayed suspension and probation period, the stay of the suspension shall be lifted and Respondent’s registration as a Professional Engineer shall be automatically suspended without a formal hearing, and remain suspended until Respondent is compliant with all terms of this Order. If Respondent completes all terms of this Order prior to the twenty-four (24) month stayed suspension and probation period, Respondent may seek an early termination of this Order by requesting a formal review by the Board. The Board may also consider Respondent’s non-compliance with this Order as a separate violation of A.R.S. § 32-150.

4. ADMINISTRATIVE PENALTY. Respondent shall pay an administrative penalty of Three Thousand Two Hundred Dollars ($3,200.00) within twenty-four (24) months. Payments of One Hundred Thirty Five Dollars ($135.00) for twenty-three (23) months and one payment of Ninety Five Dollars ($95) in month twenty-four (24), are to
be made on the first of each month to the Board by cashier’s check or money order made payable to the Arizona State Board of Technical Registration.

5. COST OF INVESTIGATION. Within thirty (30) days 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 Three Hundred Twenty Eight Dollars ($328.00) 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).

6. OBEY ALL LAWS. During the probationary period, 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.

7. 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.

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

9. 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 to be heard, may revoke, suspend or take other disciplinary actions against the registration. The issue at such a hearing will be limited solely to whether this Order has been violated.

ACCEPTED and ORDERED this 21st day of _July_ 2015.

[Signature]
Edward T. Marley, Chairman
Arizona State Board of Technical Registration
Consent Agreement and Order, No. P16-008 accepted this 1st day of September, 2015.

Dennis Hustead, Respondent

ORIGINAL filed this 29th day of September, 2015, with:

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

COPY of the foregoing mailed via Certified Mail No. 7014 1200 0000 6616 3632 and First Class mail this 2nd day of October, 2015, to:

Dennis Hustead, RLS
568 W Moon Valley Dr.
Phoenix, AZ 85023

By: /s/ [Signature]