

BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION

In the Matter of:)
William Graham, R.L.S.)
Registration No. 14184)
Respondent)

Case No.: P16-035

**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 *et seq.*, and A.A.C. R4-30-120(G), the undersigned party, William Graham ("Respondent"), holder of Registration No. 14184, 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.

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 (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this
6 Consent Agreement and may be retained in the Board's files pertaining to this matter.

7 6. Respondent understands this Consent Agreement deals with Board case
8 number P16-035 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 practice of Land Surveying in the State of Arizona.

18 2. Respondent is the holder of Arizona Registered Land Surveyor Registration
19 No. 14184.

20 3. In 2003, and 2015, Respondent signed and sealed a boundary survey in the
21 back O'Beyond Subdivision, Yavapai County, Arizona.

22 4. On December 11, 2015, the Board received a complaint alleging that
23 Respondent failed to meet Arizona Boundary Survey Minimum Standards in possible
24 violation of R4-30-301(13).

25 5. On April 11, 2016, the Board's Enforcement Advisory Committee ("EAC")
26 convened to review the complaint against the Respondent. After interviewing the Allegor
27 and the Respondent, and reviewing the evidence, the committee concluded that the
28 Respondent failed to conduct a land survey in accordance with the Arizona Boundary

1 Survey Minimum Standards in violation of ARS 32-128(C) (4) as it relates to R430-
2 301(7) and (13). The EAC found:

3 a. Respondent, after rejecting an existing monument, failed to create a results-of-
4 survey drawing that discloses the evidence and reason for not accepting the monument,

5 b. Respondent accepted an engagement in which the duty to the client or public
6 conflicted with the Respondent personal interest without making a full written disclosure
7 of all material facts of the conflict to each person who might be related to or affected by
8 the engagement.

9 **CONCLUSIONS OF LAW**

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

11 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
12 pursuant to A.R.S. § 32-128(C) (4) as it relates to A.A.C. R4-30-301 (13) in that
13 Respondent rejected an existing monument, fail to create a results-of-survey drawing that
14 disclosed the evidence and reason(s) for not accepting the monument, in violation of
15 Arizona Boundary Survey Minimum Standards.

16 3. The conduct alleged in the Findings of fact constitutes grounds for discipline
17 pursuant to A.R.S. 32-128(C)(4) as it relates to R4-30-301(7) in that Respondent
18 accepted an engagement in which the duty to the client or public conflicted with the
19 Respondent's personal interest without making a full written disclosure of all material
20 facts of the conflict to each person who might be related to or affected by the
21 engagement.

22 **ORDER**

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

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

27 2. ADMINISTRATIVE PENALTY. Within thirty (30) days from the
28 effective date of this Consent Agreement, Respondent shall pay an administrative penalty

1 of Two Thousand Dollars (\$2000.00) by certified check or money order made payable to
2 the State of Arizona Board of Technical Registration.

3 3. COST OF INVESTIGATION. Within thirty (30) days from the effective
4 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
5 case to the Board in the amount of Five Hundred and Forty One Dollars (\$541.00) by
6 certified check or money order made payable to the State of Arizona Board of Technical
7 Registration, according to the provisions of A.R.S. § 32-128(H).

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

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

13 6. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
14 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity
15 to be heard, may revoke, suspend or take other disciplinary actions against the
16 registration. The issue at such a hearing will be limited solely to whether this Order has
17 been violated.

18 ACCEPTED and ORDERED this 28th day of JUNE, 2016.

19
20 E. Leroy Brady
21 E. Leroy Brady, Chairman
22 Arizona State Board of
23 Technical Registration

24 Consent Agreement and Order, No. P16-035 accepted this 13th day of
25 JUNE, 2016.

26 William Graham
27 William Graham, Respondent

28 ORIGINAL filed this 28 day of
JUNE, 2016, with:

1 Arizona State Board of Technical Registration
2 1110 W. Washington, Suite 240
3 Phoenix, AZ 85007

4 **COPY** of the foregoing mailed via Certified Mail
5 No. 7015 3010 0000 3864 7726 and

6 First Class mail this 29 day of JUNE, 2016, to:

7 William Graham
8 1785 W. State Route 89A,
9 Suite 1-A
10 Sedona, AZ 86336

11 By: D. Braemar