



BEFORE THE ARIZONA STATE  
BOARD OF TECHNICAL REGISTRATION

In the Matter of:  
Jerry Weir, Land Surveyor  
Registration No. 32237  
Respondent

Case No.: P16-053

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, Jerry Weir ("Respondent"), holder of Registration No. 32237, 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 P16-053 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 Land Surveyor Registration No. 32237.

19 3. On March 1, 2016, the Board received a complaint alleging that Respondent  
20 failed to conduct a land survey in accordance with the Arizona Boundary Survey  
21 Minimum Standards, in possible violation of A.R.S. 32-128(C)(4).

22 4. On July 21, 2016, the Board's Enforcement Advisory Committee ("EAC")  
23 convened to review the complaint against the Respondent. After interviewing the Allegor  
24 and the Respondent, and reviewing the evidence, the committee concluded that  
25 Respondent failed to conduct 3 land surveys in accordance with the Arizona Boundary  
26 Survey Minimum Standards in violation of A.R.S. 32-128(C)(4) as it relates to R430-  
27 301. The EAC found:

28 a. Respondent failed to search for existing monuments in document 2016-0010053

1 b. Respondent failed to set a monument at an actual corner even though it was  
2 practical to do so in the survey represented in 2016-0010053.

3 c. Respondent set a reference point instead of setting a monument representing a  
4 boundary corner when it may have been practical to do so, without any explanation in the  
5 survey represented in document 2015-0712139.

6 d. Respondent failed to verify locations established by Respondent with existing  
7 physical evidence in the survey represented in document 2015-0712138.

8 e. Respondent failed to provide an explanation or witness corner for a point that  
9 was not set in the survey represented in 2015-0712138.

### 10 CONCLUSIONS OF LAW

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

12 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline  
13 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301 (6) (13) in that a  
14 Registrant shall apply technical knowledge and skill that would be applied by other  
15 qualified registrants who practice the same profession and shall conduct a land survey  
16 engagement in accordance with Arizona Boundary Survey Minimum Standards.

### 17 ORDER

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

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

22 2. STAYED SUSPENSION AND PROBATION. Respondent's registration  
23 as Land Surveyor #32237, shall be suspended; however, the suspension is stayed for as  
24 long as Respondent remains in compliance with this order. During the stay of suspension,  
25 Respondent registration as a Land Surveyor is placed on probation for twelve (12)  
26 months. If Respondent is non-compliant with any terms of this Order during the twelve  
27 (12) month stayed suspension and probation period, the stay of the suspension shall be  
28 lifted and Respondent's registration as a Land Surveyor shall be automatically be

1 suspended. If Respondent completes all terms of this Order prior to the twelve (12)  
2 month suspension period, Respondent may seek an early termination of this order by  
3 requesting a formal review by the Board.

4 3. PEER REVIEW. Within twelve (12) months of the effective date of this  
5 Consent Agreement Respondent shall submit his next two (2) Land Boundary Survey  
6 projects for peer review. Within thirty (30) days of the effective date of this Consent  
7 Agreement. Respondent shall furnish to the Board, the name of an Arizona registered  
8 Land Surveyor ("Peer Reviewer") who agrees to review and report on Respondent's  
9 work. The proposed peer reviewer shall have at least five years of actual engagement as a  
10 registered Land Surveyor, shall be registered and in good standing with the Board and  
11 shall not have received any disciplinary action from the Board within the last three years.  
12 Respondent shall submit to the Board a current resume detailing the qualifications of the  
13 proposed peer reviewer, and an Affidavit and Agreement to conduct peer review signed  
14 by the proposed peer reviewer. Upon approval by the Board of the peer reviewer,  
15 Respondent shall ensure that the peer reviewer provides a written report to the Board  
16 after each peer reviewed project describing any deficiencies in Respondent's practice,  
17 and certifying that the peer reviewed project provided to the client by the Respondent is  
18 in compliance with Board rules and statutes. Respondent shall not give final approval on  
19 any projects to a client, contractor, any regulatory or review body or any other person  
20 until the project has been reviewed and approved by the peer reviewer. Respondent shall  
21 retain the peer reviewer at his own expense.

22 4. CORRECTED SURVEY. Within six months (6) from the effective date of  
23 this Consent Agreement, Respondent shall complete a re-survey of the subject parcels to  
24 be recorded with the Maricopa County recorder, amending the previous record of survey.

25 5. ADMINISTRATIVE PENALTY. Within ninety days (90) days from the  
26 effective date of this Consent Agreement, Respondent shall pay an administrative penalty  
27 of One Thousand Dollars (\$1000.00) by check or money order made payable to the state  
28 of Arizona Board of Technical Registration.

1           6.       COST of INVESTIGATION. Within sixty (60) days from the effective date  
2 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to  
3 the Board in the amount of Nine Hundred Dollars (\$900.00) by check or money order  
4 payable to the state of Arizona Board of Technical Registration, according to the  
5 provisions of A.R.S. 32-128(H).

6           7.       OBEY ALL LAWS. During the probationary period, Respondent shall obey  
7 all federal, state and local laws, as well as all rules governing the practice of land  
8 surveying in the state of Arizona. The Board shall consider any violation of this  
9 paragraph to be a separate violation of the rules and statutes governing the Arizona Board  
10 of Technical Registration.

11           8.       RENEWAL of REGISTRATION. During the probationary period,  
12 Respondent shall timely renew his Arizona registration as a land surveyor and timely pay  
13 all required registration fees.

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

17           10.      COSTS OF COMPLIANCE. Respondent shall pay all costs associated  
18 with complying with this Consent Agreement.

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

24           ACCEPTED and ORDERED this 27<sup>th</sup> day of SEPTEMBER, 2016.

25  
26           E. Leroy Brady

27           E. Leroy Brady, Chairman  
28           Arizona State Board of  
                Technical Registration

1 Consent Agreement and Order, No. P16-053 accepted this 3 day of X  
2 September, 2016.

3  
4 X Jerry Weir  
Jerry Weir, Respondent

5 ORIGINAL filed this 27 day of  
6 SEPTEMBER, 2016, with:

7 Arizona State Board of Technical Registration  
8 1110 W. Washington, Suite 240  
9 Phoenix, AZ 85007

10 COPY of the foregoing mailed via Certified Mail  
11 No. 7016 0750 0000 2510 0598 and  
12 First Class mail this 29 day of SEPTEMBER, 2016, to:

13 Jerry Weir  
14 15802 N. 18<sup>th</sup> street  
15 Phoenix, AZ 85022

16 By: J. Hannon