

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 P17-019 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
5 or jurisdiction regarding any other pending or future investigation, action or proceeding.

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

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

6 10. This Consent Agreement is subject to the approval of the Board and is
7 effective only when accepted by the Board and signed on behalf of the Board. If the
8 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2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no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 Surveying, Registration No.
19 49098.

20 3. On or about June 8, 2016, Respondent was contacted by Michael Sanchez
21 and was offered \$1000.00 to seal the Stoneridge Apartment ALTA survey project in
22 Bullhead City that was prepared by Michael Sanchez, a Non-Registrant.

23 4. On or about June 23, 2016, Respondent received an incomplete version of the
24 survey from a representative of Sanchez Survey, Ron Cote, who asked Respondent to
25 send his electronic signature and seal to wrap things up on the Bullhead City survey.

26 5. On or about July 28, 2016, Board staff received a complaint alleging that
27 Respondent aided and abetted an unregistered firm in the practice of Land Surveying and
28 that Respondent failed to meet Minimum Standard Detail Requirements for an

1 ALTA/NSPS Land Title Survey at the Stone Ridge Apartments, Bullhead City, AZ.

2 6. On or about December 6, 2016, an Enforcement Advisory Committee
3 convened to review the complaint against Respondent. During the meeting, the
4 Committee found that Respondent provided services that were not within his scope of
5 knowledge and demonstrated gross negligence concerning the project. The findings of the
6 Committee are as follows:

- 7 a. Respondent aided and abetted the practice of a Non-Registrant Land
8 Surveying firm in the possible violation of A.R.S. 32-128(C)(3) by
9 providing his electronic seal for an ALTA/ACSM Land Title Survey on the
10 Stone Ridge Apartment Project in Bullhead City, Arizona in or around June
11 of 2016, for Sanchez Survey, a firm that is not registered with the Board.
- 12 b. Respondent failed to apply the same technical knowledge and skill that
13 would be applied by another qualified registrant who practice the same
14 profession in the same area at the same time in possible violation of A.R.S.
15 32-128(C)(4) as it relates to A.A.C. R4-30-301(6) by providing Land
16 Surveying services on the Stone Ridge Apartment Project in Bullhead City,
17 Arizona in or around June of 2016, that failed to meet the Minimum
18 Standard Detail Requirements for a ALTA/NSPS Land Title Survey.
- 19 c. Respondent violated A.R.S. 32-125(E), because his signature and seal
20 appear on an ALTA/ACSM Land Title Survey of the Stone Ridge
21 Apartment Project in Bullhead City, Arizona. The Committee determined
22 Respondent did not perform the ALTA survey in question. He provided an
23 electronic version of his seal and signature to persons involved with the
24 Stone Ridge Apartment Project. By the use of Respondent seal on a survey
25 plat not performed under his direct supervision, he assumes all
26 responsibilities associated with his seal and signature.
- 27 d. Respondent violated A.R.S. 32-128(C)(2), in that the proper ALTA/NSPS
28 Certification statement was not used, demonstrating gross negligence and

1 incompetence. The Committee determined that Respondent by his action
2 (or inaction) demonstrated gross negligence concerning the Stone Ridge
3 Apartment Project.

4 **CONCLUSIONS OF LAW**

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

6 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
7 pursuant to A.R.S. 32-128(C)(2), in that the proper ALTA/NSPS Certification statement
8 was not used, demonstrating gross negligence and incompetence.

9 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
10 pursuant to A.R.S. 32-128(C)(3), in that Respondent aided and abetted the practice of a
11 Non-Registrant firm by conducting an ALTA/ACSM Land Title Survey on the Stone
12 Ridge Apartment project in Bullhead City, AZ for Sanchez Survey.

13 4. The conduct alleged in the Findings of Fact constitutes grounds for discipline
14 pursuant to A.R.S. 32-128(C)(4) as it relates to A.A.C. R4-30-301(6), in that Respondent
15 failed to apply the appropriate technical knowledge and skill by providing Land
16 Surveying services on the Stone Ridge Apartment project in Bullhead City, AZ that failed
17 to meet Minimum Standard Detail Requirements.

18 5. The conduct alleged in the Findings of Fact constitutes grounds for discipline
19 pursuant to A.R.S. 32-125(E), in that Respondent signature and seal to appear on the
20 ALTA/ACSM Land Title Survey on the Stone Ridge Apartment project in Bullhead City,
21 AZ, Respondent is responsible for all documents that are signed and sealed by
22 Respondent.

23 **ORDER**

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

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

28 2. STAYED REVOCATION AND PROBATION. Respondent's registration

1 as a Registered Land Surveyor Registration No. 49098, shall be revoked; however, the
2 revocation is stayed for twenty-four (24) months as long as Respondent remains in
3 compliance with this Order. During the stay of revocation, Respondent's registration as a
4 Professional Land Surveyor is placed on probation. If Respondent is non-compliant with
5 any terms of this Order, the stay of the revocation shall be lifted and Respondent's
6 registration as a Professional Land Surveyor shall be automatically revoked without a
7 formal hearing. The Board may also consider Respondent's non-compliance with this
8 Order as a separate violation of A.R.S. § 32-150.

9 3. RESTRICTION OF PRACTICE. Respondent's registration as a Registered
10 Land Surveyor #49098, shall be restricted, prohibiting Respondent from performing any
11 ALTA Land Title Surveys until the Respondent provides proof to the Board that he has
12 successfully completed a minimum of nine (9) hours of Board approved training in
13 ALTA/NSPS Land Title Surveys.

14 4. PEER REVIEW. Within twenty-four (24) months, Respondent shall
15 submit his next two (2) Boundary Surveying projects and his next two (2) ALTA/NSPS
16 Land Title Surveys for peer review. Within Thirty (30) days of the effective date of this
17 Consent Agreement, Respondent shall furnish to the Board, the name of an Arizona
18 registered Professional Land Surveyor ("Peer Reviewer") who agrees to review and
19 report on Respondent's work. The proposed Peer Reviewer shall have at least five years
20 of actual engagement as a Land Surveyor, shall be registered and in good standing with
21 the Board and shall not have received any disciplinary action from the Board within the
22 last three years. Respondent shall submit to the Board a current resume detailing the
23 qualifications of the proposed Peer Reviewer, and an Affidavit and Agreement to
24 Conduct Peer Review signed by the proposed Peer Reviewer. Upon approval by the
25 Board of the Peer Reviewer, Respondent shall ensure that the Peer Reviewer provides a
26 written report to the Board after each peer reviewed project describing any deficiencies in
27 Respondent's practice, and certifying that the peer reviewed project provided to the client
28 by the Respondent is in compliance with Board rules and statutes. Respondent shall not

1 give final approval on any projects to a client, contractor, any regulatory or review body
2 or any other person until the project has been reviewed and approved by the Peer
3 Reviewer. Respondent shall retain the Peer Reviewer at his own expense.

4 5. REMEDIAL TRAINING. Within ninety (90) days of the effective date of
5 this Consent Agreement, Respondent shall provide proof to the Board that he has
6 successfully completed a minimum of nine (9) hours of Board approved remedial training
7 in conducting ALTA/NSPS Land Title Surveys.

8 6. PROFESSIONAL ETHICS COURSE. Within in ninety (90) days of the
9 effective date of this Consent Agreement, Respondent shall provide proof to the Board
10 that he has successfully completed a Board approved professional ethics course totaling
11 at least eight (8) hours.

12 7. ADMINISTRATIVE PENALTY. Within twenty-four (24) months from
13 the effective date of this Consent Agreement, Respondent shall pay an administrative
14 penalty of Seven Thousand Dollars (\$7000.00). Respondent shall make monthly
15 payments of Three Hundred Dollars (\$300.00) per month for the first twenty-three (23)
16 months, and one monthly payment of One Hundred Dollars (\$100.00) on the twenty
17 fourth (24th) month, by certified check or money order made payable to the State of
18 Arizona Board of Technical Registration.

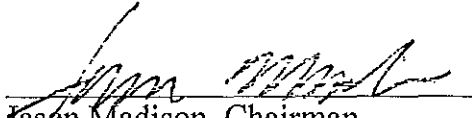
19 8. COST OF INVESTIGATION. Within six (6) months from the effective
20 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
21 case to the Board in the amount of Three Hundred Thirty-Three Dollars (\$333.00) by
22 certified check or money order made payable to the State of Arizona Board of Technical
23 Registration, according to the provisions of A.R.S. § 32-128(H).

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

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

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

6
7 ACCEPTED and ORDERED this 28th day of MARCH, 2017.

8
9 
10 Jason Madison, Chairman
11 Arizona State Board of
12 Technical Registration

13 Consent Agreement and Order, No. P17-019 accepted this 24 day of
14 MARCH, 2017.

15 
16 Terry Yarborough, Respondent

17 ORIGINAL filed this 28 day of
18 MARCH, 2017, with:

19 Arizona State Board of Technical Registration
20 1110 W. Washington, Suite 240
21 Phoenix, AZ 85007

22 COPY of the foregoing mailed via Certified Mail
23 No. 9214 8901 9434 4600 0128 41 and

24 First Class mail this 30 day of MARCH, 2017, to:

25 Terry Yarborough
26 325 Roosevelt Ave
27 Pomona, CA 91767

28 By: 