

APR 11 2017
SECRETARY
B.T.R.

BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION

In the Matter of:

Case No.: P17-023 & P17-070

Craig Smith

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

Non-registrant

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, Craig Smith ("Respondent"), Non-Registrant, 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 P17-023 & P17-070 involving allegations that Respondent engaged in conduct
9 that would subject him to discipline under the Board's statutes and rules. The
10 investigation into these allegations against Respondent shall be concluded upon the
11 Board's adoption of 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 occupation of Land Surveying.

18 2. Respondent is not registered with the Board as a Land Surveyor.

19 3. Respondent is the owner of KSE Design Group; a firm that is registered with
20 the Board (#16903).

21 4. The Alleger, Richard Waage R.L.S. #39954, at the time of the alleged
22 offense, was the land surveyor and principal registrant of record for KSE Design Group.

23 5. Since 2013, the Alleger had been working for Respondent on the
24 ALTA/ASCM Land Title Survey project on a portion of the Northeast Quarter of Section
25 29, Township 4, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa
26 County, Arizona. Due to health reasons, the Alleger was not able to complete the field
27 work for the project.

28 6. On January 29, 2016, the Alleger received a call from Respondent who

1 requested that the ALTA /ACSM survey project be completed that day. The Alleger told
2 Respondent the survey could not be completed that quickly. Later that day, when the
3 Alleger stopped at the Respondent's office, he observed Respondent with mylars for the
4 project and was told by the Respondent that he had just recorded the documents. During
5 the visit Alleger inquired of Respondent who signed the documents prior to recording.
6 Respondent told the Alleger that he signed the documents.

7 7. The Alleger admitted that he provided KSE Design Group with an electronic
8 version of his stamp and signature, but stated that he had not reviewed nor approved the
9 final plans before recording.

10 8. On December 5, 2016 an Enforcement Advisory Committee was convened to
11 review this case. The committee interviewed the Respondent and Alleger, and reviewed
12 the evidence in this case. The committee found that Respondent or one of Respondent's
13 employees applied Alleger's seal and signature to the professional documents associated
14 with the ALTA/ACSM project.

15 9. On or about January 24, 2017, the Alleger filed a second complaint against
16 Respondent after he checked the County Recorder's office for similar surveys in which
17 his stamp was fraudulently used. Alleger discovered a Parcel Map and Legal Description
18 for the Rancho Cabrillo School Parcel, Happy Valley Road and Dysart Road, Maricopa
19 County, Arizona that was sealed with the Alleger's seal. The Alleger stated he did not
20 work on that project and had no knowledge of it until he discovered it in the County
21 records. He did not place his stamp and signature on the document.

22 10. On or about February 22, 2017, Board staff received a response to the
23 January 24, 2017 complaint from Respondent's attorney in which he stated that
24 Respondent applied the Alleger's signature and seal to the Rancho Cabrillo School Parcel
25 project. Respondent's attorney also made a request to consolidate the new complaint,
26 P17-070, with the older complaint, P17-023, for settlement purposes.

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1 CONCLUSIONS OF LAW

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

3 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
4 pursuant to A.R.S. § 32-125(D), in that Respondent, a non-registrant, caused or permitted
5 the illegal use of a registrant's seal and signature.

6 3. The conduct alleged in the Findings of Fact, constitutes grounds for
7 discipline pursuant A.R.S. § 32-145(4), in that Respondent used the certificate of
8 registration of another.

9 ORDER

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

12 1. Assurance of Discontinuance. Respondent shall not practice, offer to
13 practice, or by any implication hold himself out as qualified to practice Land Surveying
14 as defined by A.R.S. § 32-101.B(27) until such time the Respondent is registered by the
15 Board and is in full compliance with the Board's Rules and Statutes.

16 2. CIVIL PENALTY. Within Twenty-Four (24) months from the effective
17 date of this Consent Agreement, Respondent shall pay a civil penalty of Four Thousand
18 Dollars (\$4,000.00). Twenty-Three (23) monthly payments of One Hundred Sixty-Seven
19 (\$167.00) Dollars and a twenty fourth and final payment of One Hundred Fifty-Nine
20 (\$159.00) Dollars shall be paid by certified check or money order made payable to the
21 State of Arizona Board of Technical Registration.

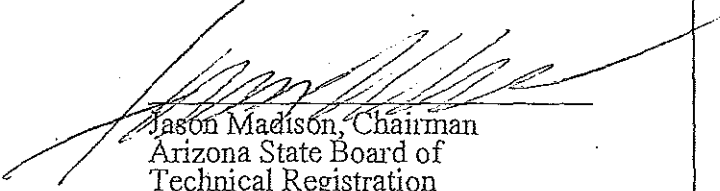
22 3. COST OF INVESTIGATION. Within Twelve (12) months from the
23 effective date of this Consent Agreement, Respondent shall pay the cost of investigation
24 of this case to the Board in the amount of One Thousand One Hundred Seventy-Five
25 (\$1,175.00) Dollars. Eleven monthly payments of Ninety-Eight (\$98.00) Dollars and a
26 twelfth and final payment of Ninety-Seven (\$97.00) Dollars shall be paid by certified
27 check or money order made payable to the State of Arizona Board of Technical
28 Registration, per the provisions of A.R.S. § 32-128(H).

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

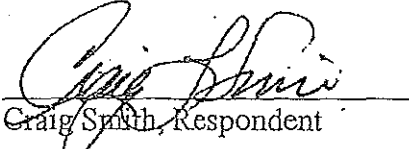
4 5. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
5 complying with this Consent Agreement.

6 6. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
7 to fulfill the requirements of this Order, the Board may seek a Petition for Injunction in
8 accordance with the provisions set forth in A.R.S. § 32-106.01.

9
10 ACCEPTED and ORDERED this 23 day of MAY, 2017.

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13 
14 Jason Madison, Chairman
Arizona State Board of
Technical Registration

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16 Consent Agreement and Order, No. P17-023 & P17-070 accepted this 12th day of
17 April, 2017.

18 
19 Craig Smith, Respondent

20 ORIGINAL filed this 23 day of
21 MAY, 2017, with:

22
23 Arizona State Board of Technical Registration
1110 W. Washington, Suite 240
24 Phoenix, AZ 85007

25 COPY of the foregoing mailed via Certified Mail
26 No. 9214 8901 9434 4600 0172 11 and
27 First Class mail this 25 day of MAY, 2017, to:
28

1 Craig Smith
KSE Design Group
2 2525 W. Greenway Rd. #306
Phoenix, AZ 85023
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By: Doug Bremer