

1 irrevocable.

2 4. Respondent understands that this Consent Agreement or any part of the
3 agreement may be considered in any future disciplinary action by the Board against him.

4 5. The Consent Agreement, any record prepared in this matter, all investigative
5 materials prepared or received by the Board and all related exhibits and materials, are
6 public records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this
7 Consent Agreement and may be retained in the Board's files pertaining to this matter.

8 6. Respondent understands this Consent Agreement deals with Board case
9 number P17-074 involving allegations that Respondent engaged in conduct that would
10 subject him to discipline under the Board's statutes and rules. The investigation into
11 these allegations against Respondent shall be concluded upon the Board's adoption of
12 this Consent Agreement.

13 7. Respondent understands that this Consent Agreement does not constitute a
14 dismissal or resolution of any other matters currently pending before the Board, if any,
15 and does not constitute any waiver, express or implied, of the Board's statutory authority
16 or jurisdiction regarding any other pending or future investigation, action or proceeding.

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

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

27 10. This Consent Agreement is subject to the approval of the Board and is
28 effective only when accepted by the Board and signed on behalf of the Board. If the

1 Board does not accept this Consent Agreement, the Board retains its authority to hold a
2 formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the
3 Board does not approve this Consent Agreement, it is withdrawn and shall be of no
4 evidentiary value and shall not be relied upon nor introduced in any action by any party,
5 except that the parties agree that should the Board reject this Consent Agreement and this
6 case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced
7 by its review and discussion of this document or any records relating thereto.

8 11. If a court of competent jurisdiction rules that any part of this Consent
9 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
10 shall remain in full force and effect.

11 12. Respondent understands that any violation of this Consent Agreement may
12 result in disciplinary action, including suspension or revocation of the registration under
13 A.R.S. § 32-150.

14 13. Respondent agrees that the Board will adopt the following Findings of Fact,
15 Conclusions of Law and Order.

16 **FINDINGS OF FACT**

17 1. The Board is the duly constituted authority for the regulation and control of
18 the practice of Professional Land Surveying in the State of Arizona.

19 2. Respondent is the holder of Arizona Professional Land Surveyor Registration
20 No. 16580.

21 3. Respondent is Firm Principal for Respondent Firm, holder of Firm
22 Registration No. 15456.

23 4. On or about January 23, 2017, Respondent Firm engaged in a land surveying
24 project for Kevin Schafer and Pat Lawton located at 16390 S. Sycamore Ridge Trl., Vail,
25 AZ. Respondent Firm was not registered with the Board at the time of project
26 engagement. Subsequently, Respondent Firm registration was renewed with the Board on
27 April 20, 2017.

28 5. On or about February 27, 2017, the Board received a complaint alleging that

1 Respondent and Respondent Firm entered into a contract for land surveying services and
2 then failed to provide timely and competent professional services in accordance with the
3 terms of the contract as specified in the complaint. It is further alleged that Respondent,
4 though Respondent Firm, engaged in the practice of a Board regulated profession though
5 an unregistered firm.

6
7 6. On or about May 5, 2017, Board staff received a written statement from
8 Respondent, in which he wrote that Respondent had no knowledge or information
9 concerning the transactions related to the project in the complaint. Respondent stated
10 further that he has never made himself responsible for Respondent Firm and the decision
11 to sign the firm application on behalf of Respondent Firm was an ill-considered act.

12 7. On or about October 26, 2017, Board staff received professional documents
13 signed and sealed by Respondent as the principal registrant for Respondent Firm for the
14 following land surveying projects; a Parcel Split for M. Adolfo and M. Aguilar, located
15 in Green Valley, AZ on November 25, 2009, and a survey and parcel split for Giuseppe
16 and Rocio Prestini, located at 1850 Patagonia Hwy., Nogales, AZ on May 3, 2017.

17 8. On or about November 27, 2017, Board staff received two assessments of the
18 professional documents signed and sealed by Respondent. Both assessments were
19 conducted by Registered Land Surveyors who serve on the Board's Enforcement
20 Advisory Committee. The assessments conducted on the two projects sealed by
21 Respondent identified significant deficiencies in Respondent's practice and Respondent's
22 failure to adhere to the Arizona Boundary Survey Minimum Standards.

23 9. On or about February 9, 2018, Respondent attorney requested that the case be
24 settled through a Voluntary Surrender of Respondent's land surveyor registration.

25 CONCLUSIONS OF LAW

- 26 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
27 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
28 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(13), in that
Respondent failed to conduct a Land Boundary Survey in accordance with the Arizona

1 Boundary Survey Minimum Standards

2 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
3 pursuant to A.R.S. § 32-121 and A.R.S. § 32-142, in that Respondent Firm practiced a
4 Board regulated profession without firm registration.

5 4. The conduct alleged in the Findings of Fact constitutes grounds for discipline
6 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(4) and (20), in that
7 Respondent, firm principal in responsible charge of Respondent Firm, engaged in the
8 practice of land surveying through an unregistered firm.

9 **ORDER**

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

12 1. **VOLUNTARY SURRENDER.** Respondent agrees to voluntarily surrender
13 his Registered Land Surveyor Registration No. 16580.

14 2. **VOLUNTARY SURRENDER OF FIRM REGISTRATION CARD.**
15 Respondent agrees to voluntarily surrender his Firm Registration Card identifying
16 Nogales Engineering Company as a registered firm. Upon acceptance of this Consent
17 Agreement by the Board, Respondent Firm registration with the Board shall be dissolved.

18 3. **EFFECTIVE DATE.** The effective date of this Consent Agreement is the
19 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
20 effective date is the later of the two dates.

21 ACCEPTED and ORDERED this 27 day of February, 2018.

22
23 
24 _____
Alejandro Angel, P.E., Chairman
Arizona State Board of
25 Technical Registration

26 Consent Agreement and Order, No. P17-074 accepted this 20th day of
27 Feb., 2018.

28 Manuel Montano
Manuel Montano, Respondent

1 ORIGINAL filed this 1st day of

2 MARCH, 2018, with:

3 Arizona State Board of Technical Registration
4 1110 W. Washington, Suite 240
Phoenix, AZ 85007

5 COPY of the foregoing mailed via Certified Mail
6 No. 9214 8901 9434 4600 0319 03 and

7 First Class mail this 1st day of MARCH, 2018, to:

8 Manuel Montano
9 510 N. McNab Drive
Nogales, AZ 85621

10
11 By:  _____

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