

1 **BEFORE THE ARIZONA STATE**

2 **BOARD OF TECHNICAL REGISTRATION**

3 **In the Matter of:**

Case No.: P17-082

4 **Jeremy Dalmacio**
5 **Registered Land Surveyor**
6 **Registration No. 49864**

Respondent

CONSENT AGREEMENT
 and
 ORDER OF DISCIPLINE

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8
9 In the interest of a prompt and judicious resolution of the above-captioned matter
10 before the Arizona State Board of Technical Registration (“Board”) and consistent with
11 the public interest, statutory requirements, and the responsibilities of the Board, and
12 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
13 Jeremy Dalmacio (“Respondent”), holder of Registration No. 49864 and the Board, enter
14 into the following Recitals, Findings of Fact, Conclusions of Law and Order (“Consent
15 Agreement”) as a final disposition of this matter.

16 **RECITALS**

17 1. Respondent has read and understands this Consent Agreement and has had
18 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
19 opportunity to discuss this Consent Agreement with an attorney.

20 2. Respondent understands that he has a right to a public administrative hearing
21 concerning this case. He further acknowledges that at such formal hearing he could
22 present evidence and cross-examine witnesses. By entering into this Consent Agreement,
23 Respondent knowingly, voluntarily, and irrevocably waives his right to such an
24 administrative hearing, as well as rights of rehearing, review, reconsideration, appeal,
25 judicial review or any other administrative and/or judicial action concerning the matters
26 set forth herein.

27 3. Respondent affirmatively agrees that this Consent Agreement shall be
28 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 P17-082 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. 49864.

20 3. On March 22, 2017, the Board received a complaint alleging Respondent
21 performed a boundary survey at 748 E. Baylor Ln. Chandler, Arizona and 26718 S.
22 Sossaman Rd. Queen Creek, Arizona that may have failed to meet Arizona Boundary
23 Survey Minimum Standards (“ABSMS”).

24 4. On March 13, 2018, an Enforcement Advisory Committee was convened at
25 the Board office to review the complaint against the Respondent. After interviewing the
26 Allegor and Respondent, and considering the evidence presented in this case, the
27 Committee determined that Respondent failed to conduct his land surveys for each of the
28 two projects in accordance with Arizona Boundary Survey Minimum Standards. The

1 Committee found that:

2 a. Regarding the project at 748 E. Baylor Ln. Chandler, Arizona, Respondent
3 failed to establish a monument at its eastern terminus, leaving a line that has no physical
4 end point, as required in ABSMS# 11A.

5 b. Regarding the project at 26718 S. Sossaman Rd. Queen Creek, Arizona,
6 Respondent failed to accept three witness corners and a monument without an
7 explanation as to why they were not accepted, as required in ABSMS# 8A.

8 **CONCLUSIONS OF LAW**

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

14 **ORDER**

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

17 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
18 Reprimand.

19 2. STAYED SUSPENSION AND PROBATION. Respondent's registration as
20 a Registered Land Surveyor, No. 49864, shall be suspended for six (6) months; however,
21 the suspension is stayed for as long as Respondent remains in compliance with this
22 Order. During the stay of suspension, Respondent's registration as a Registered Land
23 Surveyor is placed on probation for six (6) months. If Respondent is non-compliant with
24 any terms of this Order during the six (6) month stayed suspension and probation period,
25 the stay of the suspension shall be lifted and Respondent's registration as a Registered
26 Land Surveyor shall be automatically suspended without a formal hearing, and remain
27 suspended until Respondent is compliant with all terms of this Order. If Respondent
28 completes all terms of this Order prior to end of the six (6) month stayed suspension and

1 probation period, Respondent may be eligible for early termination of probation.

2 3. CORRECTED SURVEY. Within sixty (60) days from the effective date of
3 this Consent Agreement, Respondent shall make the necessary corrections to the two
4 surveys and submit said surveys to Board Staff to be approved by an EAC member
5 before recording the survey.

6 4. ADMINISTRATIVE PENALTY. Within six (6) months from the effective
7 date of this Consent Agreement, Respondent shall pay an administrative penalty of Five
8 Hundred Dollars (\$500.00) by certified check or money order made payable to the State
9 of Arizona Board of Technical Registration.

10 5. COST OF INVESTIGATION. Within six (6) months from the effective date
11 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to
12 the Board in the amount of Six Hundred Eighty-Four Dollars (\$684.00) by certified check
13 or money order made payable to the State of Arizona Board of Technical Registration.
14 Respondent shall make monthly payments of One Hundred Fourteen (\$114) Dollars on
15 the first of each month, in accordance with the provisions of A.R.S. § 32-128(H).

16 6. OBEY ALL LAWS. During the probationary period, Respondent shall obey
17 all federal, state and local laws, as well as, all rules governing the practice of Land
18 Surveying in the State of Arizona. The Board shall consider any violation of this
19 paragraph to be a separate violation of the rules and statues governing the Arizona Board
20 of Technical Registration. The Board may also consider Respondent's non-compliance
21 with this Order as a separate violation of A.R.S. § 32-150.

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

25 8. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
26 complying with this Consent Agreement.

27 9. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
28 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity

1 to be heard, may revoke, suspend or take other disciplinary actions against the
2 registration. The issue at such a hearing will be limited solely to whether this Order has
3 been violated.

4
5 ACCEPTED and ORDERED this 22 day of May, 2018.

6
7 
8 Alejandro Angel, P.E., Chairman
9 Arizona State Board of
10 Technical Registration

11 Consent Agreement and Order, No. P17-082 accepted this 11TH day of
12 APRIL, 2018.

13 
14 Jeremy Dalmacio, Respondent

15 ORIGINAL filed this 29 day of
16 MAY, 2018, with:

17 Arizona State Board of Technical Registration
18 1110 W. Washington, Suite 240
19 Phoenix, AZ 85007

20 COPY of the foregoing mailed via Certified Mail
21 No. 9214 8901 9434 4600 0368 92 and
22 First Class mail this 29 day of MAY, 2018, to:

23
24 Jeremy Dalmacio
25 ~~9699 E. Bartley Rd.~~ 24468 N. CORN ST.
26 ~~Florence, AZ 85132~~ FLORENCE, AZ 85132

27
28 By: 