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 Allegor Respondent
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**BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION**

In the Matter of:
Robert Canady
Land Surveyor
Registration No. 53145
Respondent

Case No.: P18-022

**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, Robert Canady (“Respondent”), holder of Registration No. 53145, 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 P18-022 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. 53145.

20 3. On September 8, 2017, the Board received a complaint alleging Respondent
21 performed a boundary survey at S/E Quarter of Section 16, Township 21 North, Range 7
22 East of the Gila and Salt River Meridian, Coconino County, AZ that may have failed to
23 meet Arizona Boundary Survey Minimum Standards (“ABSMS”)

24 4. On December 6, 2017, an Enforcement Advisory Committee was convened
25 at the Board office to review the complaint against the Respondent. After interviewing
26 the Allegor and Respondent, and considering the evidence presented in this case, the
27 committee substantiated the allegations brought forward by the Allegor against the
28 Respondent as follows:

1 a. Respondent, by noting that a number of corners are "to be set P.K. Nail and
2 Tag" and the use of "proposed monuments", demonstrated a lack of understanding that
3 monuments need to be set before recording the survey to ensure that future surveyors can
4 retrace that survey as required in ABSMS 8.E,

5 b. Respondent rejected a found monument from a prior survey. The
6 committee opined that calling the monument off and holding record is not sufficient
7 when prior surveys show evidence which may support acceptance of the found
8 monument as required in ABSMS 4 & 11,

9 c. Respondent used the incorrect terminology, "Found and Used". Respondent
10 explained the numbers on the pins were not readable. No ties to determine how
11 boundaries were determined as required in ABSMS 11,

12 d. Respondent stated, "Variable Width Public R.O.W.", but showed no
13 dedicated streets with fixed widths on the maps as required in ABSMS 11.E.

14 e. Respondent made no reference to any plats or documents that created Lot
15 and Block numbers as required in ABSMS 11.E,

16 f. Respondent failed to reference information for the easement shown on
17 Milton Rd. He also failed to list bearings or distances shown for this easement to explain
18 its relationship to the property as required in ABSMS 11.E,

19 g. Respondent failed to reference a building as described with "Mag nail in
20 wall" and pointed out in a prior survey as required in ABSMS 4 & 11,

21 h. Respondent failed to contact the Alleger in an attempt to resolve the
22 disagreements pertaining to the survey as required in ABSMS 7.

23 CONCLUSIONS OF LAW

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

25 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
26 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(13), in that
27 Respondent failed to conduct a land boundary survey in accordance with the Arizona
28 Boundary Survey Minimum Standards.

1 standing with the Board and shall not have received any disciplinary action from the
2 Board within the last three years. Respondent shall submit to the Board a current resume
3 detailing the qualifications of the proposed Peer Reviewer, and an Affidavit and
4 Agreement to Conduct Peer Review signed by the proposed Peer Reviewer. Upon
5 approval by the Board of the Peer Reviewer, Respondent shall ensure that the Peer
6 Reviewer provides a written report to the Board after each peer reviewed project
7 describing any deficiencies in Respondent's practice, and certifying that the peer
8 reviewed project provided to the client by the Respondent is in compliance with Board
9 rules and statutes. Respondent shall not give final approval on any projects to a client,
10 contractor, any regulatory or review body or any other person until the project has been
11 reviewed and approved by the Peer Reviewer. Respondent shall retain the Peer Reviewer
12 at his own expense.

13 4. REMEDIAL TRAINING. Within ninety (90) days of the effective date of
14 this Consent Agreement, Respondent shall provide proof to the Board that he has
15 successfully completed a minimum of eight (8) hours of Board approved remedial
16 training in conducting Land Boundary Surveys.

17 5. ADMINISTRATIVE PENALTY. Within ten (10) months from the effective
18 date of this Consent Agreement, Respondent shall pay an administrative penalty of One
19 Thousand Dollars (\$1,000.00) by certified check or money order made payable to the
20 State of Arizona Board of Technical Registration. Respondent shall make monthly
21 payments of One Hundred Dollars (\$100.00) on the first of each month. Payments are to
22 be made by certified check or money order, payable to the Arizona Board of Technical
23 Registration, in according to the provisions of A.R.S. § 32-128(H).

24 6. COST OF INVESTIGATION. Within ninety (90) days from the effective
25 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
26 case to the Board in the amount of Five Hundred Seventy-Two Dollars (\$572.00) by
27 certified check or money order made payable to the State of Arizona Board of Technical
28 Registration, according to the provisions of A.R.S. § 32-128(H).

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

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

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

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

17
18 ACCEPTED and ORDERED this 27 day of February, 2018.

19
20 
21 _____
22 Alejandro Angel, P.E., Chairman
23 Arizona State Board of
24 Technical Registration

25 Consent Agreement and Order, No. P18-022 accepted this 5 day of
26 January, 2018.

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28 _____
29 Robert Canady, Respondent

30 ORIGINAL filed this 1 day of
31 MARCH, 2018, with:

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

COPY of the foregoing mailed via Certified Mail
No. 9214 8901 9434 4600 0318 97 and
First Class mail this 1ST day of MARCH, 2017, to:

Robert Canady
1218 W. Anderson Dr.
Phoenix, AZ 85023

By:  _____