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



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| <p>In the Matter of:</p> <p>Richard Waage Land Surveyor Registration No. 39954</p> <p style="text-align: center;">Respondent</p> | <p style="text-align: center;">Case No. P19-021</p> <p style="text-align: center;">CONSENT AGREEMENT and ORDER OF DISCIPLINE</p> |
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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, Richard Waage (“Respondent”), holder of Registration No. 39954, 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 agreement
2 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 public
5 records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this Consent
6 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 number
8 P19-021 involving allegations that Respondent engaged in conduct that would subject him to
9 discipline under the Board's statutes and rules. The investigation into these allegations against
10 Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

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

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

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

23 10. This Consent Agreement is subject to the approval of the Board and is effective
24 only when accepted by the Board and signed on behalf of the Board. If the Board does not accept
25 this Consent Agreement, the Board retains its authority to hold a formal administrative hearing
26 pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent
27 Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor
28 introduced in any action by any party, except that the parties agree that should the Board reject

1 this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that
2 the Board was prejudiced by its review and discussion of this document or any records relating
3 thereto.

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

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

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

11 **FINDINGS OF FACT**

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

14 2. Respondent is the holder of Arizona Land Surveying Registration No. 39954.

15 3. In November of 2017, February of 2018 and February of 2019, Respondent
16 performed a land survey at a project on 12th street and Arroyo Drive in Phoenix, Arizona.

17 4. On or about January 8, 2018, Respondent recorded Results of Survey Map, Book
18 1361 Page 45 with the Maricopa County Recorder's Office which was prepared by Respondent
19 on November 11, 2017.

20 5. On or about February 7, 2018, Respondent recorded Amended Results of Survey
21 Map, Book 1367 Page 48 with the Maricopa County Recorder's Office which was prepared by
22 Respondent on February 6, 2018.

23 6. On or about October 14, 2018, the Board received a complaint alleging that
24 Respondent, while performing a land survey on parcels located at 12th Street and Arroyo Drive in
25 Phoenix, Arizona, failed to examine the recorded survey of an adjacent parcel, rejected the best
26 available evidence and existing monuments, failed to perform a dependent resurvey of a
27 documented original survey, noted that his survey was to extinguish and replace his previous
28 survey without providing clear indication of any monuments accepted, altered lot lines,

1 easements that were in harmony for approximately 15 years, ignored ingress and egress
2 easements, failed to include a documented scope of work, and did not gain permission to survey
3 the property of property owners. It was further alleged that Respondent's actions caused serious
4 difficulty with the property owners affected by his survey.

5 7. On or about February 19, 2019, Respondent recorded a third Results of Survey
6 Map, Book 1441 Page 3 with the Maricopa County Recorder's Office which was prepared by
7 Respondent on February 19, 2019.

8 8. On or about November 5, 2019, an Enforcement Advisory Committee ("EAC")
9 convened to review the complaint against Respondent. After reviewing the evidence and
10 interviewing Alleger and Respondent, the Committee determined the following:

11 a. Respondent failed to conduct a land survey in accordance with the Arizona
12 Boundary Survey Minimum Standards ("ABSMS") as follows:

13 i. Respondent documented numerous monuments he rejected without an
14 explanation as to why they were rejected as required in ABSMS #8A. The
15 Committee found that Respondent failed to explain the numerous rejected
16 monuments between the original survey, Results of Survey Map, Book 1361
17 Page 45, and the Amended Results of Survey Map, Book 1367 Page 48.

18 b. Respondent recorded a survey that failed to show all monuments found, set,
19 removed, reset, or replaced, the kind, size, and location of such monuments, and all
20 other data relating to such monuments. The Committee agreed that although the
21 Amended Results of Survey, Book 1367 Page 48 corrected some deficiencies found
22 in the original survey, the amended survey still failed to explain all data related to
23 the rejected monuments and still leaves the amended survey ambiguous.

24 CONCLUSIONS OF LAW

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

1 Standards.

2 3. The conduct alleged in the Findings of Fact constitutes a violation of A.R.S.
3 33-105(C)(1) and is grounds for discipline pursuant to A.R.S. 32-128(C)(4) as it relates to A.A.C.
4 R4-30-301(4), in that Respondent recorded a survey that failed to show all monuments found, set,
5 removed, reset, or replaced, the kind, size, and location of such monuments and all other data
6 relating to such monuments.

7 **ORDER**

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

10 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of Reprimand.
11 2. STAYED SUSPENSION AND PROBATION. Respondent's registration as a
12 Registered Land Surveyor, No.39954, shall be suspended for twelve (12) months; however, the
13 suspension is stayed for as long as Respondent remains in compliance with this Order. During the
14 stay of suspension, Respondent's registration as a Registered Land Surveyor is placed on
15 probation for twelve (12) months. If Respondent is non-compliant with any terms of this Order
16 during the twelve (12) months stayed suspension and probation period, the stay of the suspension
17 shall be lifted and Respondent's registration as a Professional Land Surveyor shall be
18 automatically suspended without a formal hearing, and remain suspended until Respondent is
19 compliant with all terms of this Order. If Respondent completes all terms of this Order prior to
20 the end of the twelve (12) month stayed suspension and probation period, Respondent would be
21 eligible for early termination of probation.

22 3. ADMINISTRATIVE PENALTY. Within twelve (12) months from the effective
23 date of this Consent Agreement, Respondent shall pay an administrative penalty of Five Hundred
24 Dollars (\$500.00) by certified check or money order made payable to the State of Arizona Board
25 of Technical Registration. Respondent shall make quarterly payments of One Hundred Twenty
26 Five Dollars (\$125.00).

27 4. COST OF INVESTIGATION. Within twelve (12) months from the effective date
28 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to the

1 Board in the amount of One Thousand One Hundred and Ninety Seven Dollars (\$1,197.00) by
2 certified check or money order made payable to the State of Arizona Board of Technical
3 Registration, according to the provisions of A.R.S. § 32-128(H). Respondent shall make quarterly
4 payments of Two Hundred Ninety Nine Dollars and Twenty Five Cents (\$299.25)

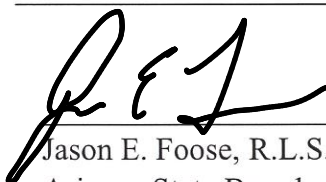
5 5. RENEWAL OF REGISTRATION. Respondent shall timely renew his Arizona
6 registration as a Land Surveyor and timely pay all required registration fees.

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

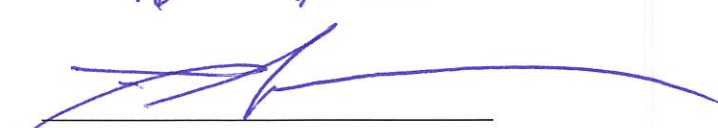
10 7. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
11 complying with this Consent Agreement.

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

16
17 ACCEPTED and ORDERED this 18th day of December, 2019.

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20 _____
21 Jason E. Foose, R.L.S., Chairman
22 Arizona State Board of
23 Technical Registration

24 Consent Agreement and Order, No. P19-021 accepted this 16 day of December, 2019.

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27 Richard Waage, Respondent
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ORIGINAL filed this 19th day of
December, 2019, with:

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

COPY of the foregoing mailed via Certified Mail
No. 9214890194344600064703 and
First Class mail this 19th day of December, 2019, to:

Richard Waage
3657 N. Katmai
Mesa, AZ 85215

By: 