

BEFORE THE ARIZONA STATE  
BOARD OF TECHNICAL REGISTRATION

In the Matter of:  
Jerry Heath  
Land Surveyor  
Registration No. 45835  
Respondent

Case No.: P23-049

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, Jerry Heath ("Respondent"), holder of Registration No. 45835, 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 upon acceptance by the Board of this Consent Agreement and may be  
6 retained in the Board's files pertaining to this matter.

7           6. Respondent understands this Consent Agreement deals with Board case  
8 number P23-049 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 Land Surveyor Registration No. 45835.

19 3. On or about January 4, 2022, Respondent prepared an ALTA/NSPS Land  
20 Title Survey in Maricopa County, Arizona.

21 4. On November 21, 2022, the Board received a complaint alleging that  
22 Respondent conducted an ALTA/NSPS Land Title Survey in Maricopa County, Arizona  
23 that does not meet the Arizona Boundary Survey Minimum Standards. It is alleged that  
24 Respondent found several monuments with no tag, but did not add his tag to the  
25 monuments, some of the curves are non-tangent but there is sufficient curve information  
26 to allow a closure of lots, found monuments that are not of record but did not file a record  
27 of survey, most of the boundary is not monumented, surveyed centerline street  
28 monuments but did not tie them to the boundary in a surveyable manner, Maricopa

1 County is not in the state of California as stated in several places on the survey drawing,  
2 there is no "Base and" in the Gila and Salt River Meridian.

3 5. On July 20, 2023, an Enforcement Advisory Committee Meeting ("EAC")  
4 convened to review the complaint against Respondent. The Committee determined that  
5 Respondent failed to conduct a land survey in accordance with the Arizona Boundary  
6 Survey Minimum Standards ("ABSMS"), in that the following deficiencies were found in  
7 his survey:

- 8 a. The Committee found that Respondent failed to add his own tag to  
9 the monuments that were not tagged.
- 10 b. The Committee found that Respondent failed to record the survey  
11 within ninety days as required. In addition, the Committee noted that  
12 the survey was not recorded until after the complaint was filed.
- 13 c. The Committee found that Respondent missed corners that had to be  
14 reset.

15 6. During the EAC Meeting, Respondent acknowledged the allegations  
16 and indicated that he was responsible for completing the survey correctly and for  
17 the seal.

#### 18 CONCLUSIONS OF LAW

- 19 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 20 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline  
21 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(13), in that  
22 Respondent failed to conduct a land boundary in accordance with the Arizona Boundary  
23 Survey Minimum Standards.
- 24 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline  
25 pursuant to A.R.S. 33-105(A) and A.R.S. 32-128(C)(4) as it relates to A.A.C. R4-30-  
26 301(4), in that Respondent failed to file a record of a land survey not later than ninety  
27 days after its completion with the county recorder where the land is located if such survey  
28 establishes points or lines relating to land boundaries or property lines.

1 **ORDER**

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

4 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of  
5 Reprimand.

6 2. STAYED SUSPENSION/PROBATION. Respondent's registration as a  
7 Registered Land Surveyor, Registration No. 45835, shall be suspended for six (6)  
8 months; however, the suspension is stayed for as long as Respondent remains in  
9 compliance with this Order. During the stay of suspension, Respondent's registration as a  
10 Registered Land Surveyor is placed on probation for six (6) months. If Respondent is  
11 non-compliant with any terms of this Order during the six (6) months stayed  
12 suspension/probation period, the stay of the suspension shall be lifted and Respondent's  
13 registration as a Registered Land Surveyor shall be automatically suspended without a  
14 formal hearing, and remain suspended until Respondent is compliant with all terms of  
15 this Order. If Respondent completes all terms of this Order prior to the six (6) months  
16 stayed suspension/probation period. Respondent may seek an early termination of this  
17 Order by requesting a formal review by the Board.

18 3. ADMINISTRATIVE PENALTY. Within Six (6) months from the  
19 effective date of this Consent Agreement, Respondent shall pay an administrative penalty  
20 of One Thousand Dollars (\$1000.00) by certified check or money order made payable to  
21 the State of Arizona Board of Technical Registration.

22 4. COST OF INVESTIGATION. Within sixty (60) days from the effective  
23 date of this Consent Agreement, Respondent shall pay the cost of investigation of this  
24 case to the Board in the amount of Five Hundred Nineteen Dollars (\$519.00) by certified  
25 check or money order made payable to the State of Arizona Board of Technical  
26 Registration, according to the provisions of A.R.S. § 32-128(H).

27 5. OBEY ALL LAWS. Respondent shall obey all federal, state and local  
28 laws, as well as, all rules governing the practice of Land Surveyor in the State of Arizona.

1 The Board shall consider any violation of this paragraph to be a separate violation of the  
2 rules and statues governing the Arizona Board of Technical Registration. The Board may  
3 also consider Respondent's non-compliance with this Order as a separate violation of  
4 A.R.S. § 32-150.


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

7 7. 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 8. COSTS OF COMPLIANCE. Respondent shall pay all costs associated  
11 with complying with this Consent Agreement.

12 9. 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 ACCEPTED and ORDERED this 22 day of August, 2023.

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19   
20 Jack Gilmore, L.A., Chairman  
21 Arizona State Board of  
22 Technical Registration

23 Consent Agreement and Order, No. P23-049 accepted this 10 day of  
24 August, 2023.

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26 Jerry Heath, Respondent  
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**ORIGINAL** filed this 22<sup>nd</sup> day of

AUGUST, 2023, with:

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

**COPY** of the foregoing mailed via Certified Mail  
No. 9214890194344600 0938 19 and

First Class mail this 29<sup>th</sup> day of AUGUST, 2023, to:

Jerry Heath  
10450 North 74<sup>th</sup> Street  
Scottsdale, Arizona 85258

By: 