

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

3 **In the Matter of:**

Case No.: P22-039

4 **Robert Phillips**
5 **Registered Land Surveyor**
6 **Registration No. 45495**

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

7
8
9
10
11
12
13
14
15
Respondent

AZ-BTR RECEIVED
JAN 18 2022 PM 3:19

16
17 In the interest of a prompt and judicious resolution of the above-captioned matter
18 before the Arizona State Board of Technical Registration ("Board") and consistent with
19 the public interest, statutory requirements, and the responsibilities of the Board, and
20 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
21 Robert Phillips ("Respondent"), holder of Registration No. 45495, and the Board enter
22 into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent
23 Agreement") as a final disposition of this matter.

24 **RECITALS**

25 1. Respondent has read and understands this Consent Agreement and has had
26 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
27 opportunity to discuss this Consent Agreement with an attorney.

28 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 P22-039 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 Registered Land Surveyor Registration No.
19 45495.

20 3. On February 15, 2021, Respondent conducted a site visit of Alleger's
21 property in Apache County, Arizona after agreeing to conduct a boundary survey.

22 4. On February 15, 2021, Respondent accepted a \$600 payment, half of what
23 the total agreed upon amount would be for the completed survey.

24 5. On February 25, 2021, May 31, 2021 and September 2, 2021, Alleger sent
25 text messages to Respondent, essentially asking for survey related information.

26 Respondent only responded with answers regarding either being involved in an unrelated
27 project or on a fishing trip in Alaska with his grandson.

28 6. On September 17, 2021, more than nine months after Respondent accepted

1 the \$600 payment, Alleger filed a Board complaint after Respondent took no action to
2 complete the boundary survey for which he was compensated.

3 7. Based largely upon the evidence provided by Alleger demonstrating
4 Respondent's lack of response to Alleger and failure to deliver a completed survey, it is
5 evident that Respondent abandoned the project.

6 **CONCLUSIONS OF LAW**

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

8 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
9 pursuant to A.R.S. § 32-128(C)(2), in that Respondent engaged in gross negligence by
10 accepting \$600 from Alleger and taking no action to complete the boundary survey for
11 which he was compensated.

12 **ORDER**

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

15 1. **LETTER OF REPRIMAND.** Respondent is hereby issued a Letter of
16 Reprimand.

17 2. **STAYED SUSPENSION AND PROBATION.** Respondent's registration as
18 Land Surveyor, No. 45495 shall be suspended for (six months); however, the suspension
19 is stayed for as long as Respondent remains in compliance with this Order. During the
20 stay of suspension, Respondent's registration as a Land Surveyor is placed on probation
21 for six months. If Respondent is non-compliant with any terms of this Order during the
22 six months stayed suspension and probation period, the stay of the suspension shall be
23 lifted and Respondent's registration as a Land Surveyor shall be automatically suspended
24 without a formal hearing, and remain suspended until Respondent is compliant with all
25 terms of this Order.

26 3. **ADMINISTRATIVE PENALTY.** Within ninety (90) days from the effective
27 date of this Consent Agreement, Respondent shall pay an administrative penalty of One
28 Thousand Dollars (\$1,000) by certified check or money order made payable to the State

1 of Arizona Board of Technical Registration.

2 4. COST OF INVESTIGATION. Within thirty (30) days from the effective date
3 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to
4 the Board in the amount of Two Hundred Sixty-Seven Dollars (\$267) by certified check
5 or money order made payable to the State of Arizona Board of Technical Registration,
6 according to the provisions of A.R.S. § 32-128(H).

7 5. PROFESSIONAL ETHICS CLASS. Within Ninety (90) days of the effective
8 date of this Consent Agreement, Respondent shall provide proof to the Board that he has
9 successfully completed a class in professional ethics.

10 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws,
11 as well as, all rules governing the practice of Land Surveying in the State of Arizona.

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


16 7. RENEWAL OF REGISTRATION. Respondent and Respondent Firm shall
17 timely renew their Arizona registration as a Registered Land Surveyor and a Land Survey
18 Firm, and timely pay all required registration fees.

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

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

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

1 ACCEPTED and ORDERED this 25 day of JANUARY, 2022.

2
3 
4 Jack Gilmore, L.A., Chairman
5 Arizona State Board of
6 Technical Registration

7 Consent Agreement and Order, No. P22-039 accepted this 12 day of
8 JANUARY, 2022.

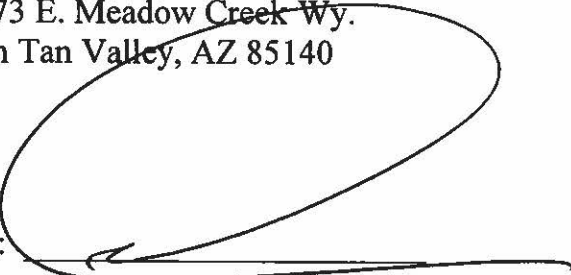
9 
10 Robert Phillips, Respondent

11 ORIGINAL filed this 27th day of
12 January, 2022, with:

13
14 Arizona State Board of Technical Registration
15 1110 W. Washington, Suite 240
16 Phoenix, AZ 85007

17 COPY of the foregoing mailed via Certified Mail
18 No. 9214 8901 9434 4600 08649 and
19 First Class mail this 27th day of January, 2022, to:

20 Robert Phillips
21 4173 E. Meadow Creek Wy.
22 San Tan Valley, AZ 85140

23 By: 
24 C. M. Daehn, BTR Investigator
25
26
27
28