

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

3 **In the Matter of:**)

4)
5 **Andrew McQuality,**)
6 **Non-Registrant,,**)

Cases No. P20-003

7 **and**)

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND FINAL BOARD ORDER

8 **McQuality Designs & Services LLC,**)
9 **Non-Registrant Firm,**)

10 **Respondents,**)
11)
12 _____

13 On October 27, 2020 this matter came before the Arizona Board of Technical
14 Registration ("Board") for consideration of the State's Motion to Deem Allegations Admitted
15 regarding the Complaint and Notice of Hearing and the imposition of disciplinary action
16 pursuant to A.R.S §32-128(F). Respondents were not present and were not represented by legal
17 counsel. The State was represented by Assistant Attorney General Deanie Reh. The Board
18 received independent legal advice from Assistant Attorney General Mona Baskin. The Board,
19 after due consideration of the issues before it, granted the State's Motion to Deem the
20 Allegations Admitted and adopted the Findings of Fact, Conclusions of Law, and issued the
21 following Order:

22 **FINDINGS OF FACT**

23 1. The Board is the duly constituted authority for the regulation and control of the
24 practice of land surveyors, etc., and the firms under which surveyors practice pursuant to A.R.S.
25 § 32-101, et seq.

26 2. Respondents are not, and never have been, registered with the Board to practice
27 land surveying.
28

1 3. The Board is the duly constituted authority for the regulation and control of the
2 profession of land surveying.

3 4. Respondent is not registered with the Board as a land surveyor.

4 5. Respondent Firm is not registered with the Board as a land surveying firm.

5 6. On July 12, 2019, the Board received a complaint alleging that Respondents
6 advertised aerial photographs depicting property boundary lines: "For all of your aerial
7 photography needs we only charge \$89.00 for 7-11 aerial photos and \$119.99 if you want the
8 property lines to be identified in the photos."

9 7. On August 13, 2019, Board staff received Respondent's response to the Board's
10 notice of investigation. In his response, the Respondent provided a written statement in which he
11 stated that he provides Real Estate agents with aerial photos showing where the approximate
12 property lines are, which he obtains from the county's GIS System. He added that he has never
13 once used the term survey in any of his ads.

14 8. On August 14, 2019, Board staff prepared and sent this case for assessment to
15 Mark Hanshaw R.L.S. #26058 with a request that the assessment be completed by September 5,
16 2019.

17 9. On August 22, 2019, Board staff received a case assessment from Mr. Hanshaw,
18 who wrote Respondent is not providing or offering to provide a Board regulated activity and
19 unsubstantiated the allegation.

20 10. On September 24, 2019, the Board reviewed the complaint and sent the
21 investigation back to Staff for further assessment and a review by an Enforcement Advisory
22 Committee ("EAC").

23 11. On October 1, 2019, Board staff prepared and sent this case for assessment to
24 Michael Fondren, R.L. #35113.

25 12. On October 3, 2019, Board staff received a case assessment from Mr. Fondren
26 who, after review of the information provided, did not believe the allegation was substantiated.
27 He did not believe Respondent was offering "Land Surveying".
28

1 **ORDER**

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

4 1. **CIVIL PENALTY.** Within ninety (90) days of the effective date of this Order,
5 Respondents shall pay to the Board a civil penalty in the amount of two-thousand dollars
6 (\$2,000.00) by certified check or money order made payable to the State of Arizona Board of
7 Technical Registration or by credit card. A.R.S. § 32-106.02(B).

8 2. **COST OF INVESTIGATION.** Within ninety (90) days of the effective date of
9 this Order, Respondent shall pay to the Board the cost of investigation in the amount of six-
10 hundred and twenty dollars (\$620.00) by certified check or money order made payable to the
11 State of Arizona Board of Technical Registration or by credit card. A.R.S. § 32-128(H).

12 3. **ATTORNEYS FEES.** Within ninety (90) days of the effective date of this Order,
13 Respondents shall pay to the Board attorneys fees in the amount of two-hundred thirty-six dollars
14 (\$236.00) by certified check or money order made payable to the State of Arizona Board of
15 Technical Registration or by credit card. A.R.S. § 32-128(H).

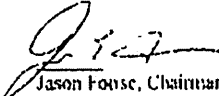
16 **Right to Petition for Rehearing or Review**

17 Respondents are hereby notified that they have the right to file a motion for rehearing or
18 review. Pursuant to A.R.S. § 41-1092.09(B) and A.A.C. R4-30-126(A) the motion for rehearing
19 or review must be filed with the Board's Executive Director within 30 days after service of this
20 Order. Service of this Order is defined as five calendar days after mailing.

21 The motion for rehearing or review must set forth legally sufficient reasons for granting a
22 rehearing or review. A.A.C. R4-30-126(C). If a petition for rehearing or review is not filed, the
23 Board's Order becomes effective 35 days after it is mailed to Respondents. Respondents are
24 further advised that the filing of a motion for rehearing or review is required to preserve any
25 rights of appeal to Superior Court.

1 DATED this 2 day of November 2020.

Arizona Board of Technical Registration

2
3
4 
5 Jason Fouse, Chairman

6 ORIGINAL filed this 2 day of November 2020, to:

7 Board of Technical Registration
8 1110 West Washington, Suite 240
9 Phoenix, Arizona 85007

10 COPY mailed via Certified Mail No. 9214 890194344600074863
11 and First Class mail this 2 day of November, 2020, to:

12 Andrew McQuality
13 McQuality Designs & Services LLC
14 1760 Linda Lane
15 Chino Valley, AZ 86323
16 akmcquality@aol.com
17 Respondent

18 COPY of the foregoing emailed this 2 day of November, 2020 to:

19 Deanie Reh
20 Assistant Attorney General
21 deanie.reh@azag.gov

22 Mona Baskin
23 Assistant Attorney General
24 Mona.baskin@azag.gov

25 By: Kurt Winter
26
27
28