

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 P23-046 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2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no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. 41659.

19 3. On or about December 16, 2021, Monica Acuna Arizmendi, (“Non-
20 Registrant”) filed a Record of Survey with the County Recorder in Santa Cruz County,
21 Arizona. The Record of Survey listed Non-Registrant in the title block and contained an
22 affixed seal belonging to Respondent.

23 4. On or about August 11, 2022, Board staff received a copy of the Record of
24 Survey from the Santa Cruz County Recorder’s office in response to a records request
25 filed by Board staff during the investigation of case P22-049.

26 5. On or about August 12, 2022, Board staff spoke with Respondent.
27 Respondent acknowledged that Non-Registrant completed the “*field work*” and prepared
28 the Record of Survey. Respondent indicated that Non-Registrant provided the Record of

1 Survey to him for review prior to his seal being affixed to it. Respondent further
2 acknowledged that Non-Registrant was not his bona fide employee, and said he received
3 monetary payment from Non-Registrant for his involvement.

4 6. On or about December 16, 2022, Board staff received a written statement
5 from Respondent in response to a notice of investigation for this case, P23-046. In his
6 written statement, Respondent indicated that he supervised Non-Registrant during the
7 preparation of the Record of Survey by reviewing her initial draft of the Record of
8 Survey, and giving her “*redline*” comments to guide her in making revisions to the
9 Record of Survey. Respondent further indicated that when he reviewed the final version
10 of the Record of Survey, after it had been recorded, he found that some of his “*redline*”
11 comments were not adhered to.

12 7. On or about January 3, 2023, Board staff received a written statement from
13 Non-Registrant in response to a notice of investigation for case P23-045. Non-Registrant
14 acknowledged that she conducted the “*field work*” and prepared the Record of Survey.
15 Non-Registrant indicated that she provided her initial draft of the Record of Survey to
16 Respondent for review, and he responded with some “*redline*” comments for her to make
17 revisions. Non-Registrant indicated that after she revised the Record of Survey, per
18 Respondent’s “*redline*” comments, Respondent provided her with a digital copy of his
19 signature and professional seal, via email, to affix to the document for recording. Non-
20 Registrant acknowledged that she affixed Respondent’s signature and professional seal to
21 the Record of Survey prior to recording it, but said she did so with Respondent’s
22 authorization.

23 8. On or about January 4, 2023, Respondent confirmed that he provided Non-
24 Registrant with a digital copy of his signature and professional seal, authorizing her to
25 affix it to the Record of Survey, so it could be recorded.

26 CONCLUSIONS OF LAW

- 27 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 28 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline

1 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(16), in that
2 Respondent signed and sealed professional documents not prepared by himself or his
3 bona fide employee.

4 **ORDER**

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

7 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
8 Reprimand.

9 2. STAYED SUSPENSION AND PROBATION. Respondent's registration as
10 a Land Surveyor, No. 41659, shall be suspended for Six (6) months; however, the
11 suspension is stayed for as long as Respondent remains in compliance with this Order.
12 During the stay of suspension, Respondent's registration as a Land Surveyor is placed on
13 probation for Six (6) months. If Respondent is non-compliant with any terms of this
14 Order during the Six (6) months stayed suspension and probation period, the stay of the
15 suspension shall be lifted and Respondent's registration as a Land Surveyor shall be
16 automatically suspended without a formal hearing, and remain suspended until
17 Respondent is compliant with all terms of this Order.

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

22 4. COST OF INVESTIGATION. Within Sixty (60) days from the effective date
23 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to
24 the Board in the amount of One Hundred Thirty Dollars (\$130.00) by certified check or
25 money order made payable to the State of Arizona Board of Technical Registration,
26 according to the provisions of A.R.S. § 32-128(H).

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

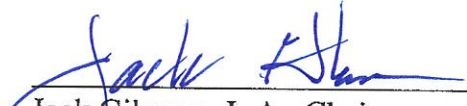
5 6. RENEWAL OF REGISTRATION. During the probationary period,
6 Respondent shall timely renew his Arizona registration as a Land Surveyor, and timely
7 pay all required registration fees.

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

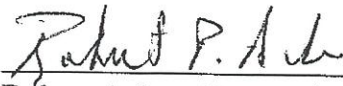
11 8. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
12 complying with this Consent Agreement.

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

18 ACCEPTED and ORDERED this 29 day of MARCH, 2023.

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

24 Consent Agreement and Order, No. P23-046 accepted this 13 day of
25 MARCH, 2023.

26
27 
28 Robert Acken, Respondent

1
2 **ORIGINAL** filed this 29th day of
3 March, 2023, with:

4 Arizona State Board of Technical Registration
5 1110 W. Washington, Suite 240
6 Phoenix, AZ 85007

7 **COPY** of the foregoing mailed via Certified Mail
8 No. 9214 8901 9434 4600 0917 23 and
9 First Class mail this 29th day of March, 2023, to:

10 Robert Acken
11 39883 S. Dodge Canyon Rd.
12 Tucson, AZ 85739

13 By: Daniel Carthel
14 *Daniel Carthel*