

**BEFORE THE PROFESSIONAL ENGINEERING COMMITTEE OF
THE NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL
ENGINEERS AND PROFESSIONAL SURVEYORS**

IN THE MATTER OF:

**Lorenzo Dominquez
License No. 10461**

CASE NO.: 3-PS-02-25-2019

Respondent.

**PRE-NCA SETTLEMENT AGREEMENT
FOR VIOLATION OF THE MINIMUM STANDARDS**

WHEREAS, Lorenzo Dominquez (hereinafter, "Respondent") is a surveyor licensed in New Mexico under the Engineering and Surveying Practice Act, NMSA 1978, Sections 61-23-1 *et seq.*, and is subject to the jurisdiction of the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors ("Board"), and the Professional Surveying Committee ("Committee"):

WHEREAS, the Committee staff has received evidence that Respondent violated the Act due to his failure to adhere to the Minimum Standards for Surveying; and

WHEREAS, the Committee has delegated express authority to its Executive Director to offer proposed settlement agreements under certain circumstances when evidence exists of a violation of the Engineering and Surveying Practice Act or its promulgated rules; and

WHEREAS, the Executive Director may offer a Pre-NCA Settlement Agreement that requires that a survey plat be corrected to conform to the Minimum Standards for Surveying; and

WHEREAS, this Pre-NCA Settlement Agreement ("Agreement") is entirely voluntary; if the Agreement is rejected by Respondent or not accepted by the Committee, the matter will be forwarded to the Committee for additional consideration, which may include the initiation of formal disciplinary action and possible issuance of a Notice of Contemplated Action ("NCA") against Respondent; and

WHEREAS, Respondent desires to resolve this matter in an informal, amicable fashion without the need for the time and expense of a formal hearing; and

WHEREAS, the Committee's Executive Director believes this proposed Agreement is appropriate pursuant to the Committee's delegated duties, and in the best interest of the Committee, and the public.

THEREFORE, IT IS AGREED AS FOLLOWS:

1. **Jurisdiction**: Respondent is licensed by the Board or otherwise subject to the Engineering and Surveying Practice Act, and falls under the jurisdiction of the Board and its Professional Surveying Committee.
2. **Voluntary Agreement**: Respondent enters into this Agreement voluntarily and without duress. It is understood that the Committee has not, at this current time, taken any formal disciplinary action against Respondent, and that the Committee or its agents cannot and have not coerced or induced Respondent to enter into this Agreement.
3. **Committee Approval**: This Agreement is subject to Committee approval.
4. **Waivers**: If this Agreement is accepted by the Committee and the terms are satisfied, Respondent understands that the underlying allegations will not be referred for any additional disciplinary action, and agrees to waive any and all rights to a full evidentiary hearing on the merits; including the right to discovery and to confront and cross examine witnesses, and the right to an appellate process.
5. **Allegations**: Respondent acknowledges the evidence and alleged conduct received by the Committee in this matter may have justified findings of violations under the Engineering and Surveying Practice Act, or the rules promulgated under that Act, if this matter had been heard in a merits hearing.
6. **Conditions**: Respondent further agrees to the following conditions:
 - a. Respondent will address all Technical issues listed below as items i & ii in the Complaint Managers Report by bringing them into compliance with the Minimum Standards of Surveying including legal access to track 2:
 - i. adequately demonstrating the basis of bearings; and
 - ii. demonstrating the measured and record boundary dimensions.
 - b. Respondent will provide proper certification of amended plat to meet the Mora County Subdivision standards.
 - c. Respondent will provide proper certification to meet the New Mexico Minimum Standards of Surveying.
 - d. Responded will submits a copy of the amended plat, with in thirty (30) days, to the Board for the Professional Surveyor (PS)

Investigator to review the amended plat, prior to filing with Mora County, to ensure all deficiencies have been met.

- e. Once approved by the PS Investigator, Respondent has thirty (30) days from the date of approval to file the amended plat with Mora County.
- f. Once filed with Mora County Respondent is required to provide a copy of the amended filed plat to the Board.

7. **Reportable Discipline:** This Agreement, if accepted, constitutes formal disciplinary action by the Committee and must be reported to the National Council Examiners for Engineering and Surveying (NCEES) Enforcement database. Respondent acknowledges the following discipline being reported:
- a. The Board office received a complaint against Respondent for possible violations of the New Mexico Minimum Standards on February 25, 2019.
 - b. The Complaint Manager's Report was presented to the Board by the Board Investigator at the August 8, 2019 Professional Surveying Committee meeting.
 - c. The Board found that the survey completed by the Respondent was in violation of the New Mexico Minimum Standards due to the following:
 - i. the subject survey does not adequately demonstrate the basis of bearings;
 - ii. the subject survey does not demonstrate the measured and record boundary dimensions; and
 - iii. the Surveyors Certificate on the survey is contradictory.
8. **Non-Compliance:** Respondent agrees that any violation of this Agreement may result in further disciplinary action. A violation will result in the immediate filing of an Order to Show Cause by the Board's Executive Director as to why the Committee should not find Respondent in violation of the Agreement and impose lawful sanctions or penalties and/or take any other disciplinary action. Upon filing an Order to Show Cause, the matter shall be set for the next regular meeting of the Committee, at which time the Committee shall hear from the Executive Director regarding the alleged non-compliance and any evidence offered by Respondent. Any presentation regarding the Order to Show Cause shall be limited to evidence surrounding Respondent's alleged failure to comply with the Agreement or defense thereof. If the Committee finds that a violation has occurred, the Committee may impose any discipline against Respondent considered in the Order to Show Cause.

9. **Compliance:** If Respondent fully complies with the terms and conditions of this Agreement the matter will be concluded. Respondent agrees to otherwise comply with the Engineering and Surveying Practice Act, and acknowledges that any separate violation of the Act or its rules may result in separate disciplinary charges and action by the Committee.
10. **Contact Information:** Respondent shall notify the Board's office within ten (10) calendar days if there is a change in employment or home address while this Agreement is in effect.

9/4/19
DATE

June E. N. [Signature]
RESPONDENT

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ORDER

Having reviewed the proposed settlement agreement, the Committee Chair, by and through authority provided by the Committee during a public meeting, hereby Accepts X Rejects this agreement.

11/4/2019

DATE

CLIFFORD SPIROCK, CHAIR
NEW MEXICO PROFESSIONAL
SURVEYING COMMITTEE