

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

IN THE MATTER OF:

**AARON H. GARCIA,
License No. 9979**

Case No. 1-PS-01-27-2020

Respondent.

DEFAULT ORDER

THIS MATTER came before a quorum of Professional Surveying Committee (“Committee”) of the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors (“Board”) in a hybrid meeting held at 5454 Venice Avenue NE, Suite D, Albuquerque, New Mexico and via the Zoom webinar platform on August 11, 2022 for a decision on Case No. 1-PS-01-27-2020. The Committee reviewed and considered the administrative file in this matter, with a quorum present and a majority voting in the affirmative, the Board makes the following findings of facts, conclusion of law, and enters the following order:

Findings of Fact

1. Respondent was, at all relevant times, licensed by the Board to practice as a Professional Surveyor, License No. 9979, pursuant to the Engineering and Surveying Practice Act, Sections 61-23-1 NMSA 1978 et seq. and subject to the jurisdiction of the Board.
2. A Notice of Contemplated Action (“NCA”) was issued by the Board on January 14, 2022, in accordance with the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 et seq. (1957, as amended through 2022).

3. The NCA provided Respondent with notice that the Committee had sufficient evidence of violations of the Act or its rules that if not rebutted or explained would justify enforcement action as detailed further in Findings of Fact numbered paragraph 4.
4. The NCA stated that the Board has sufficient evidence of a violation of Section 12.8.2 NMAC Boundary Surveying of the Minimum Standards for Surveying in New Mexico for the following:
 - a. Subsection (F): setting new monuments in conformance with 12.8.2.17 NMAC for the new property corner monumentation;
 - b. Subsection (J)(5): the subject plat does not provide an acceptable description of the property corners found or set by the survey;
 - c. Subsection (J)(6) (a) through (d): the subject plat does not demonstrate the basis of bearing used in the survey/subject plat;
 - d. Subsection (J)(8): the subject plat does not disclose that measured and the record dimensions are equivalent;
 - e. Subsection (J)(8): the subject plat reports the distance along the southerly boundary of Tract B to be approximately 4 feet different from the measurement reported on the Complainant's survey (Exhibit C-B);
 - f. Subsection (J)(8): the subject plat reports a tie to SPO Monument "Guadalupita," while Complainant's survey (Exhibit C-B) also refers to the same tie. According to the Complainant, the two ties to "Guadalupita" differ by approximately 189 feet;
 - g. Subsection (J)(12): the subject plat does not contain the radius, central angle, length and chord dimensions for all curves; and

- h. Subsection (J)(14): contradictions of Miscellaneous Note 13 and the subject survey relate to the relationship of the boundaries of the surveyed property with its adjoiners; if the surveyed property is composed of multiple parcels, the extent of any gaps or overlaps between those parcels shall be identified.
5. The Board mailed Respondent the NCA via certified mail, return receipt requested, to Respondent's address located at 222 Las Mananitas, Santa Fe, NM 87501, which the USPS Tracking information for 9171 9690 0935 0155 2469 92 indicates the NCA was delivered and left with an individual on January 18, 2022.
6. Respondent failed to request a hearing within twenty (20) days of receipt of the NCA as required under Section 61-1-4 of the ULA. It is important to note Respondent engaged in conversations with Executive Director Perry Valdez on January 19 and 25, 2022 related to Respondent's receipt of the NCA, Respondent's intention to not respond to the NCA and Respondent's request for his license to be changed to an inactive status.
7. Pursuant to the provisions of the ULA, specifically Section 61-1-4(E), if Respondent does not request a hearing, the Board may proceed to take the action contemplated in the notice and such action shall not be subject to judicial review.
8. Respondent failed to submit a request for hearing within the time and manner required by NMSA 1978, Section 61-1-4.

Conclusion of Law

1. It is therefore ordered and adjudged that Respondent did fail to respond to a properly served NCA in case number 1-PS-01-27-2020 and is therefore found to be in default.

ORDER

Based on the findings of fact and conclusion of law, the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors renders this Order.

The Board finds that Respondent Aaron H. Garcia failed to request a hearing on the NCA within twenty days of receipt, which was Monday, February 7, 2022 and consequently, the Board may take the action contemplated in the NCA.

IT IS THEREFORE ORDERED that Respondent Aaron H. Garcia pay a fine of \$5,000.00 within 90 days of receipt of this Order. As provided by Section 61-1-4(E) of the ULA, this action is final and not subject to judicial review.

IT IS SO ORDERED.

**FOR THE NEW MEXICO BOARD OF
PROFESSIONAL ENGINEERS AND
PROFESSIONAL SURVEYORS**

9/22/22
Date

ROBERT GROMATZKY, PS
Committee Chair
Professional Surveying Committee
Board of Licensure for Professional
Engineers and Professional Surveyors

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ***Default Order for case 1-PS-01-27-2020*** was mailed to the Respondent on September 30, 2022, via certified mail, return receipt requested, to Respondent's last address of record:

Aaron H. Garcia
222 Las Mananitas
Santa Fe, NM 87501

Angelica Urioste, Compliance Officer
New Mexico Board of Licensure for Professional
Engineers and Professional Surveyors
P.O. Box 1967
Santa Fe, New Mexico 87504

Certified Mail Number: 9171 9690 0935 0155 2464 59