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

IN THE MATTER OF:

**Edward "Ted" G. Winston
License No. 6999**

CASE NO.: 6-PS-09-08-2020

Respondent.

**PRE-NOTICE OF CONTEMPLATED
ACTION SETTLEMENT AGREEMENT**

WHEREAS, the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors' Professional Surveying Board ("Board") reviewed records and investigation files demonstrating violations of the Engineering and Surveying Practice Act, NMSA 1978, Sections 61-23-1 through 61-23-36 and Board Rules adopted pursuant to that Act, and on November 4, 2021, the Board's Professional Surveying Committee voted to issue a Notice of Contemplated Action ("NCA") in this matter to the Respondent, Edward G. Winston, professional surveyor, license number 6999; and

WHEREAS, Respondent and the Board are willing to resolve this matter amicably without the issuance of an NCA as required under the Uniform Licensing Act ("ULA"), NMSA Sections 61-1-1 et seq., and the Engineering and Surveying Practice Act, NMSA 1978, Sections 61-23-1 et seq., without a hearing; and

WHEREAS, Respondent and the Board believe that this Pre-NCA Settlement Agreement is appropriate and in the best interests of both the Board and Respondent;

IT IS AGREED AS FOLLOWS:

1. Jurisdiction

The Board has jurisdiction over Respondent and the subject matter. 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. Violations

Section 12.8.2.9 J. (5) NMAC Boundary Surveying.

Section 12.8.2.9 J. (6) (a) through (d) NMAC Boundary Surveying.

Section 12.8.2.12 A. through D. NMAC Easement Surveying.

3. Action

- A. Respondent will remit a total fine of \$500 payable to NMBLPEPS to be paid no later than sixty (60) days from the date this Agreement is accepted by the Board.**
- B. Respondent will provide evidence to the Board of a corrected plat within sixty (60) days from the date this Agreement is accepted by the Board and once approved, file the amended plat.**

4. Waiver

- A. Respondent enters into this Pre-NCA Settlement Agreement voluntarily and waives Respondent's right to a full hearing before the Board's Board and all relevant time limitations pursuant to the provisions of the ULA, including but not limited to NMSA 1978, Sections 61-1-4(F) and 61-1-8.**
 - B. By signing this Pre-NCA Settlement Agreement, Respondent understands and agrees that Respondent waives excusal of any Board member on the grounds of bias or improper motive as a result of Respondent's review of this Pre-NCA Settlement Agreement.**
 - C. Respondent's waiver of any rights herein is made knowingly, intentionally, and voluntarily.**
 - D. Respondent has the right to seek the advice of an attorney regarding this Pre-NCA Settlement Agreement.**
 - E. This Pre-NCA Settlement Agreement constitutes disciplinary action by the Board.**
- 5. Failure to comply with the terms and conditions of this Pre-NCA Settlement Agreement shall be separate and independent grounds for disciplinary action by the Board. In the event the Respondent fails to comply with the provisions hereof, the Board shall have the right to take such action against Respondent as it deems appropriate under the circumstances, including revoking Respondent's license.**
- 6. This Pre-NCA Settlement Agreement is a settlement of Case Number 6-PS-09-08-2020 and only the specific facts therein. No costs have been incurred in this matter. The Board**

reserves the right to initiate proceedings for any other violation of the Engineering and Surveying Practice Act or Board Rules adopted pursuant to that Act.

7. Reportable Discipline

- A. This Agreement, if accepted, constitutes formal disciplinary action by the Board and must be reported to the National Council Examiners for Engineering and Surveying (NCEES) Enforcement database. It is noted that other jurisdictions where Respondent possesses a surveyor's license might require Respondent to report this disciplinary action. This statement is a reminder that Respondent may have a duty to report this disciplinary action in another jurisdiction. Respondent acknowledges the following discipline will be reported:
- B. Respondent's Boundary Survey/Family Land Division plat, filed as instrument number 20170917 in Mora County, does not indicate monumentation of the property boundaries that coincide with the Rio San Jose. Disclosure of whether those boundaries are monumented is required. Further, if the Respondent chose not to monument the boundaries, an acceptable justification must be included on the survey.
- C. The subject plat fails to satisfy basis of bearings requirements.
- D. The subject plat fails to satisfy easement surveying requirements.

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 Board 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 Board, at which time the Board 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 Board finds that a violation has occurred, the Board 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 Board Rules adopted to that Act, which may result in separate disciplinary charges and action by the Board.

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.

11. The Board agrees that nothing in this Pre-NCA Settlement Agreement represents a restriction on the Respondent's license.

12. This Pre-NCA Settlement Agreement is a public record subject to inspection under the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 et seq.

9/25/2022

DATE

RESPONDENT

CERTIFICATE OF SERVICE

I, Jessie James, **HEREBY CERTIFY** that a true and correct copy of the foregoing ***Pre-NCA Settlement Agreement for Case 6-PS-09-08-2020*** was mailed to the Respondent on September 20, 2023, via certified mail, return receipt requested, to Respondent's last address of record:

Edward G. Winston
PO Box 1361
Las Vegas, NM 87701

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

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *Notice of Contemplated Action for 6-PS-09-08-2020* was mailed as a **SECOND ATTEMPT** to the parties on October 25, 2023 to:

Edward "Ted" G. Winston
12 Montgomery Ave
Somerville, MA 02145

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

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