

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

IN THE MATTER OF:

**HENRY MAGALLANEZ,
PS License No. 18078,**

Case No. 7-PS-05-20-2019

Respondent.

SETTLEMENT AND DISPOSITION AGREEMENT

WHEREAS, the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors ("Board") received a complaint in the above-referenced matter on May 10, 2019, alleging certain acts and omissions by Respondent in violation of the Engineering and Surveying Practice Act, NMSA 1978, §§ 61-23-1 through 61-23-36, (the "Act"); and

WHEREAS, the Board's Professional Surveying Committee ("Committee") assigned a licensed professional surveyor to conduct an investigation of the matters alleged in the complaint; and

WHEREAS, based upon the investigation of the matters alleged in the complaint, the New Mexico Department of Justice (formerly known as the New Mexico Attorney General's Office) prepared a Notice of Contemplated Action ("NCA") that was issued by the Board through its Executive Director on May 18, 2021, in which it was alleged that Respondent did in fact commit violations punishable under the Act; and

WHEREAS, Respondent admits that the Board has sufficient evidence to establish violations punishable under the Act and is therefore willing to resolve this matter by agreement in order to avoid the uncertainty, time and expenses of a formal hearing; and

WHEREAS, having negotiated this Settlement and Disposition Agreement ("Agreement") with Respondent, the Board's administrative prosecutor is of the opinion that this Agreement is appropriate and in the best interests of the Board and the State of New Mexico; and

WHEREAS, Section 61-23-27.11(A)(7) of the Act authorizes the Board to suspend, refuse to renew or revoke the license, impose a fine not to exceed seven thousand five hundred dollars (\$7,500), place on probation for a specific period of time with specific conditions or reprimand a professional surveyor who is found to have violated the rules of professional responsibility for professional surveyors adopted and promulgated by the Board; and

WHEREAS, this Agreement was presented by Board staff to the Committee for its review and consideration at a public meeting on March 10, 2025, during which the Committee was fully informed of the facts and circumstances of this Agreement.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Jurisdiction

The Board has jurisdiction over Respondent and the subject matter based upon the fact that Respondent is licensed as a professional surveyor by the Board and subject to the requirements, terms and conditions of the Act.

2. Violations

Respondent approved and sealed an easement survey that failed to conform with the applicable surveying standards set forth at 12.8.2.12(A) NMAC and 12.8.2.16 NMAC, in violation of the rule of professional responsibility for professional surveyors promulgated by the Board at 16.39.8.9(A)(3) NMAC.

3. Fine Imposed

In consideration of the violations set forth herein and the costs incurred by the Board in relation to the investigation and prosecution of this matter, Respondent shall remit a total fine of **Three Thousand and 00/100 Dollars (\$3,000.00)** payable to NMBLPEPS no later than 30 days from the date this Agreement is approved by the Committee.

4. Waiver and Admission by Respondent

- A. Respondent knowingly, intentionally and voluntarily enters into this Agreement and admits to the violations set forth herein.
- B. Respondent agrees that there shall be no hearing in this matter, and Respondent expressly waives his right to a hearing before the Board or its designated hearing officer and all relevant time limitations pursuant to the provisions of the Uniform Licensing Act, including but not limited to NMSA 1978, §§ 61-1-4(F) and 61-1-8.
- C. Respondent waives his right to discovery, the right to call witnesses and present evidence, the right to cross-examine the Board's witnesses.
- D. By signing this Agreement, Respondent understands and agrees he is waiving any right to excuse any Board or Committee member on the grounds of bias or improper motive as a result of any action taken by the Board based on its review and consideration of this Agreement.
- E. Respondent waives any right to appeal or otherwise challenge the validity, force or effect of this Agreement, whether before the Board or a court of law.
- F. Respondent's waiver of any rights herein is made knowingly, intentionally and voluntarily with the legal advice of his attorney.

5. Reportable Discipline

Respondent understands and agrees the violations set forth herein constitute reportable discipline, which shall be reported by the Board to the National Council Examiners for Engineering and Surveying ("NCEES") Enforcement database and published on the Board's website.

6. Failure to Comply

Failure to pay the fine set forth in this Agreement or to otherwise comply with the terms and conditions of this Agreement is a misdemeanor and shall be grounds for further action against the licensee by the Board and for judicial sanctions or relief. NMSA 1978, § 61-23-24(D) (2022).

7. No Further Action

The Board will take no further action against Respondent with respect to the matters set forth in this Agreement or rely on the violations set forth herein as a basis to suspend, refuse to renew or revoke Respondent's license, provided that Respondent is in full compliance with the terms of this Settlement Agreement.


8. Contact Information

Respondent shall notify the Board's office within five (5) business days if there is a change in employment or home address prior to Respondent's satisfaction of all conditions of this Agreement.

9. Public Record

This Agreement is a public record subject to inspection under the Inspection of Public Records Act, NMSA 1978, Section 14-2-1 *et seq.*

I have read and understand this Agreement in its entirety, and by signing below I unconditionally agree to its terms and waive my rights as described herein.


Henry Magallanez
Respondent

17 Apr 2023
Date

Reviewed and approved by:


Kenneth Ferguson
Attorney For Respondent

March 18, 2023
Date

Recommended and approved by:



Adam S. Baker
Administrative Prosecutor

3/19/25
Date

Having reviewed this proposed Settlement and Disposition Agreement during a public meeting, and having been fully advised of the premises of said Agreement, the Professional Surveying Committee, hereby decides that this Agreement is hereby:

☒ ACCEPTED AND APPROVED

☐ REJECTED


By: Benjamin Aragon, PS
Professional Surveying Committee Chair
For: New Mexico Board of Licensure
for Professional Engineers and
Professional Surveyors

3/20/2025

DATE