



BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION

In the Matter of: David Ellsworth Professional Engineer (Structural) Registration No. 24470 David M. Ellsworth, P.E. Non-Registrant Firm Respondents

Case No.: P22-040

CONSENT AGREEMENT and ORDER OF DISCIPLINE

In the interest of a prompt and judicious resolution of the above-captioned matter before the Arizona State Board of Technical Registration ("Board") and consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party, David Ellsworth ("Respondent"), holder of Registration No. 24470, and principal of David M. Ellsworth P.E. ("Respondent Firm"), Non-Registrant Firm, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final disposition of this matter.

RECITALS

- 1. Respondent has read and understands this Consent Agreement and has had the opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to discuss this Consent Agreement with an attorney. 2. Respondent understands that he has a right to a public administrative hearing concerning this case. He further acknowledges that at such formal hearing he could present evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondent knowingly, voluntarily, and irrevocably waives his right to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action concerning the matters set forth herein.

1 3. Respondent affirmatively agrees that this Consent Agreement shall be
2 irrevocable.

3 4. Respondent understands that this Consent Agreement or any part of the
4 agreement may be considered in any future disciplinary action by the Board against him.

5 5. The Consent Agreement, any record prepared in this matter, all investigative
6 materials prepared or received by the Board and all related exhibits and materials, are
7 public records upon acceptance by the Board of this Consent Agreement and may be
8 retained in the Board's files pertaining to this matter.

9 6. Respondent understands this Consent Agreement deals with Board case
10 number P22-040 involving allegations that Respondent engaged in conduct that would
11 subject him to discipline under the Board's statutes and rules. The investigation into
12 these allegations against Respondent shall be concluded upon the Board's adoption of
13 this Consent Agreement.

14 7. Respondent understands that this Consent Agreement does not constitute a
15 dismissal or resolution of any other matters currently pending before the Board, if any,
16 and does not constitute any waiver, express or implied, of the Board's statutory authority
17 or jurisdiction regarding any other pending or future investigation, action or proceeding.

18 8. Respondent also understands that acceptance of this Consent Agreement does
19 not preclude any other agency, subdivision, or officer of this State from instituting any
20 other civil or criminal proceedings with respect to the conduct that is the subject of this
21 Consent Agreement.

22 9. Respondent acknowledges and agrees that, upon signing this Consent
23 Agreement and returning this document to the Board's Executive Director, he may not
24 revoke his acceptance of the Consent Agreement or make any modifications to the
25 document regardless of whether the Consent Agreement has been signed on behalf of the
26 Board. Any modification to this original document is ineffective and void unless
27 mutually agreed by the parties in writing.
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1 engineering documents for the project in Mesa, Arizona, and listed Respondent Firm in
2 the document title block.

3 7. On or about November 30, 2021, the Board received a complaint, which
4 included an allegation that Respondent and Respondent Firm engaged in the practice of
5 engineering without firm registration with the Board. Board records show no indication
6 that Respondent Firm has ever been registered with the Board.

7 8. On or about October 6, 2022, Respondent acknowledged not having firm
8 registration with the Board but indicated that he did not believe he needed firm
9 registration for the following reasons:

- 10 a) Respondent said he does not actively solicit engineering work, and only
11 takes on occasional projects through referrals.
- 12 b) Respondent said he no longer maintains a formal "Firm", and issues
13 professional documents under his name instead of a "Firm" name.
- 14 c) Respondent indicated that he did not know that an individual providing
15 professional engineering services needed to be a registered firm as required
16 by the Board.

17 9. As of October 13, 2022, Respondent has not registered Respondent Firm with
18 the Board as required.

19 **CONCLUSIONS OF LAW**

- 20 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 21 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
22 pursuant to A.R.S. § 32-121, A.R.S. § 32-141, and A.R.S. § 32-128(C)(4) as it relates to
23 A.A.C. R4-30-301(4), in that Respondent and Respondent Firm practiced or offered to
24 practice a Board regulated profession without firm registration.

25 **ORDER**

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

- 28 1. **LETTER OF REPRIMAND.** Respondent is hereby issued a Letter of

1 Reprimand.

2 2. ADMINISTRATIVE PENALTY. Within Sixty (60) days from the
3 effective date of this Consent Agreement, Respondent shall pay an administrative penalty
4 of Two Hundred and Fifty Dollars (\$250.00) by certified check or money order made
5 payable to the State of Arizona Board of Technical Registration.

6 3. COST OF INVESTIGATION. Within Thirty (30) days from the effective
7 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
8 case to the Board in the amount of Fifty-One Dollars (\$51.00) by certified check or
9 money order made payable to the State of Arizona Board of Technical Registration,
10 according to the provisions of A.R.S. § 32-128(H).

11 4. OBEY ALL LAWS. Respondent shall obey all federal, state and local
12 laws, as well as, all rules governing the practice of Professional Engineering in the State
13 of Arizona. The Board shall consider any violation of this paragraph to be a separate
14 violation of the rules and statues governing the Arizona Board of Technical Registration.
15 The Board may also consider Respondent's non-compliance with this Order as a separate
16 violation of A.R.S. § 32-150.

17 5. RENEWAL OF REGISTRATION. Respondent and Respondent Firm shall
18 timely renew their Arizona registration as a Profession Engineer and an Engineering
19 Firm, and timely pay all required registration fees.

20 6. EFFECTIVE DATE. The effective date of this Consent Agreement is the
21 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
22 effective date is the later of the two dates.

23 7. COSTS OF COMPLIANCE. Respondent shall pay all costs associated
24 with complying with this Consent Agreement.

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4 ORIGINAL filed this 1st day of
5 November, 2022, with:

6 Arizona State Board of Technical Registration
7 1110 W. Washington, Suite 240
8 Phoenix, AZ 85007

9 COPY of the foregoing mailed via Certified Mail
10 No. 9214 8901 9434 4600 0898 36 and
11 First Class mail this 1st day of November, 2022, to:

12 David Ellsworth
13 4329 E. Boulder Ridge
14 Phoenix, AZ 85044

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16 By: Daniel Carthal
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