

1 **BEFORE THE ARIZONA STATE**
2 **BOARD OF TECHNICAL REGISTRATION**

3 **In the Matter of:**

Case No.: P22-055

4 **Nathan Layton**
5 **Professional Engineer**
6 **(Environmental)**
7 **Registration No. 45690**

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

8 **Respondent**

9
10 In the interest of a prompt and judicious resolution of the above-captioned matter
11 before the Arizona State Board of Technical Registration (“Board”) and consistent with
12 the public interest, statutory requirements, and the responsibilities of the Board, and
13 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
14 Nathan Layton (“Respondent”), holder of Registration No. 45690, and the Board enter
15 into the following Recitals, Findings of Fact, Conclusions of Law and Order (“Consent
16 Agreement”) as a final disposition of this matter.

17 **RECITALS**

18 1. Respondent has read and understands this Consent Agreement and has had
19 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
20 opportunity to discuss this Consent Agreement with an attorney.

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

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

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

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

7 6. Respondent understands this Consent Agreement deals with Board case
8 number P22-055 involving allegations that Respondent engaged in conduct that would
9 subject him to discipline under the Board's statutes and rules. The investigation into
10 these allegations against Respondent shall be concluded upon the Board's adoption of
11 this Consent Agreement.

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

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

20 9. Respondent acknowledges and agrees that, upon signing this Consent
21 Agreement and returning this document to the Board's Executive Director, he may not
22 revoke his acceptance of the Consent Agreement or make any modifications to the
23 document regardless of whether the Consent Agreement has been signed on behalf of the
24 Board. Any modification to this original document is ineffective and void unless
25 mutually agreed by the parties in writing.

26 10. This Consent Agreement is subject to the approval of the Board and is
27 effective only when accepted by the Board and signed on behalf of the Board. If the
28 Board does not accept this Consent Agreement, the Board retains its authority to hold a

1 formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the
2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no
3 evidentiary value and shall not be relied upon nor introduced in any action by any party,
4 except that the parties agree that should the Board reject this Consent Agreement and this
5 case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced
6 by its review and discussion of this document or any records relating thereto.

7 11. If a court of competent jurisdiction rules that any part of this Consent
8 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
9 shall remain in full force and effect.

10 12. Respondent understands that any violation of this Consent Agreement may
11 result in disciplinary action, including suspension or revocation of the registration under
12 A.R.S. § 32-150.

13 13. Respondent agrees that the Board will adopt the following Findings of Fact,
14 Conclusions of Law and Order.

15 **FINDINGS OF FACT**

16 1. The Board is the duly constituted authority for the regulation and control of
17 the practice of Professional Engineering in the State of Arizona.

18 2. Respondent is the holder of Arizona Professional Engineer (Environmental)
19 Registration No. 45690.

20 3. On or about March 3, 2021, Respondent entered into a contract with a client
21 to provide grading and drainage plans for a project in Scottsdale, Arizona.

22 4. On or about April 15, 2021, Respondent affixed his professional seal to a set
23 of grading and drainage plans, prepared by his bona fide employee, for a project in
24 Scottsdale, Arizona, and provided them to his client.

25 5. On or about March 17, 2022, the Board received a complaint alleging that
26 Respondent, after contracting with, and being paid \$2,777.65 by the client, in or around
27 March of, 2021, failed to deliver a usable set of grading and drainage plans to the client
28 and abandoned the project.

1 6. On or about September 29, 2022, an Enforcement Advisory Committee
2 Meeting (“EAC”) convened to review the complaint against Respondent.

3 A. During his interview, Respondent attested to the following:

- 4 I. Respondent acknowledged that grading and drainage plan
5 preparation is a Civil Engineering service. Respondent further
6 acknowledged that his sole registration with the Board is for
7 Environmental Engineering. Respondent indicated that his formal
8 education was specific to Environmental Engineering but asserted
9 that he has sufficient work experience with Civil Engineering to be
10 proficient in residential grading and drainage plan preparation.
- 11 II. Respondent said he conducted the initial field work himself, and
12 acknowledged that he knew the home was in a floodplain.
13 Respondent said he did not, however, know that the county would
14 require an elevation certificate for permitting a project in that
15 location.
- 16 III. Respondent acknowledged that he reviewed the initial grading and
17 drainage plans for the project, prepared by his bona fide employee,
18 and affixed his professional seal to them.
- 19 IV. Respondent indicated that he had not reviewed or affixed his seal to
20 any of the grading and drainage plan revisions; one of which
21 contained Respondent’s professional seal.
- 22 V. Respondent said the work his employee performed for the grading
23 and drainage plan revisions included numerous flaws and services,
24 which were outside the established scope of work. Respondent
25 acknowledged, however, that he was responsible for not adequately
26 supervising his employee.
- 27 VI. Respondent acknowledged that his employee had a known prior
28 work history in which he repeatedly failed to submit work for review

1 and exceeded established scopes of work.

2 B. At the conclusion of the EAC meeting, the EAC Committee determined the
3 following:

4 I. The Committee found that Respondent failed to apply the
5 appropriate technical knowledge and skill for the project. The
6 Committee opined that, although the initial grading and drainage
7 plans were of sound basic design, they contained multiple technical
8 errors, which represented a lack of applied appropriate technical
9 skill. The Committee further opined that Respondent not being
10 aware of the county's requirement of an Elevation Certificate for the
11 project location represented a lack of applied appropriate technical
12 knowledge.

13 II. The Committee found that Respondent accepted an engagement
14 outside of his registered engineering branch without the necessary
15 qualifications. The Committee opined that, although Respondent
16 indicated that he has work experience in Civil Engineering, his lack
17 of formal Civil Engineering education, and the technical errors
18 found in the initial grading and drainage plans, indicate that
19 Respondent does not have the necessary qualifications for Civil
20 Engineering.

21 III. The Committee found that Respondent failed to provide responsible
22 charge over his firm, and is responsible for any violations of Board
23 statures and/or rules committed by his non-registrant employee. The
24 Committee opined that Respondent's failure to adequately supervise
25 his employee lead to the overall failure of the project. The
26 Committee noted that Respondent admittedly knew of his
27 employee's negative work history, yet declined to periodically check
28 his employee's work or track his employee's progress beyond the

1 preparation of the initial plans as would be reasonably expected.

2 **CONCLUSIONS OF LAW**

3 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.

4 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
5 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(6), in that
6 Respondent failed to apply the appropriate technical knowledge and skill in the practice
7 of a Board regulated profession.

8 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
9 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(18), in that
10 Respondent accepted a professional engagement or assignment outside of his registration
11 engineering branch without the education, technical knowledge, or experience to perform
12 such engagement or assignment.

13 4. The conduct alleged in the Findings of Fact constitutes grounds for discipline
14 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(20), in that
15 Respondent failed to provide responsible charge over his firm, and is responsible for any
16 violations of Board statutes and/or rules committed by his non-registrant employee.

17 **ORDER**

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

20 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
21 Reprimand.

22 2. STAYED SUSPENSION AND PROBATION. Respondent's registration as
23 a Professional Engineer (Environmental), No. 45690, shall be suspended for Six (6)
24 months; however, the suspension is stayed for as long as Respondent remains in
25 compliance with this Order. During the stay of suspension, Respondent's registration as
26 a Professional Engineer (Environmental) is placed on probation for Six (6) months. If
27 Respondent is non-compliant with any terms of this Order during the Six (6) months
28 stayed suspension and probation period, the stay of the suspension shall be lifted and

1 Respondent's registration as a Professional Engineer (Environmental) shall be
2 automatically suspended without a formal hearing, and remain suspended until
3 Respondent is compliant with all terms of this Order.

4 3. ADMINISTRATIVE PENALTY. Within Six (6) months from the effective
5 date of this Consent Agreement, Respondent shall pay an administrative penalty of Two
6 Thousand Three Hundred and Fifty Dollars (\$2,350.00) by certified check or money
7 order made payable to the State of Arizona Board of Technical Registration.

8 4. COST OF INVESTIGATION. Within Three (3) months from the effective
9 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
10 case to the Board in the amount of Seven Hundred and Twenty Six Dollars (\$726.00) by
11 certified check or money order made payable to the State of Arizona Board of Technical
12 Registration, according to the provisions of A.R.S. § 32-128(H).

13 5. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws,
14 as well as, all rules governing the practice of Engineering in the State of Arizona. The
15 Board shall consider any violation of this paragraph to be a separate violation of the rules
16 and statues governing the Arizona Board of Technical Registration. The Board may also
17 consider Respondent's non-compliance with this Order as a separate violation of A.R.S. §
18 32-150.

19 6. RENEWAL OF REGISTRATION. During the probationary period,
20 Respondent shall timely renew his Arizona registration as an Engineer, and timely pay all
21 required registration fees.

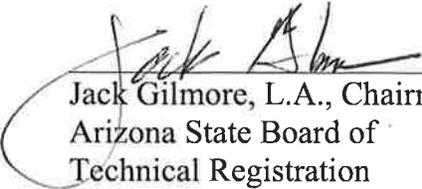
22 7. EFFECTIVE DATE. The effective date of this Consent Agreement is the
23 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
24 effective date is the later of the two dates.

25 8. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
26 complying with this Consent Agreement.

27 9. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
28 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity

1 to be heard, may revoke, suspend or take other disciplinary actions against the
2 registration. The issue at such a hearing will be limited solely to whether this Order has
3 been violated.

4
5 ACCEPTED and ORDERED this 26 day of FEBRUARY, 2023.

6
7 
8 Jack Gilmore, L.A., Chairman
9 Arizona State Board of
10 Technical Registration

11 Consent Agreement and Order, No. P22-055 accepted this 21st day of
12 February, 2023.

13 
14 Nathan Layton, Respondent

15 I have executed this document. NEL



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ORIGINAL filed this 27 day of
February, 2023, with:

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

COPY of the foregoing mailed via Certified Mail
No. 9214 8901 9434 4600 0913 10 and
First Class mail this 27 day of February, 2023, to:

Nathan Layton
1490 S. Price Rd.
Suite 215
Chandler, AZ 85286

By: Daniel Carthel
Daniel Carthel