

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 P22-083 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2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no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 (Structural)
19 Registration No. 20986.

20 3. At the time of the project in White Mountain Lake, Arizona, Respondent was
21 the Principal of Bingham Engineering Consultants, the Engineering firm that provided
22 the completed structural fire damage report for the firm's clients.

23 3. On or about June 24, 2020, a structural fire damage report was completed for
24 a cabin in White Mountain Lake, Arizona bearing the seal and signature of Respondent.

25 4. On or about June 16, 2022, a complaint was received alleging that the
26 structural fire damage report lacked an accurate assessment and conclusion as to the
27 structural damage that existed within the cabin. It was also alleged that Respondent failed
28 to adequately supervise a non-registrant employee during the project and allowed the

1 employee to make professional judgements and render professional opinions that he was
2 not qualified to offer.

3 5. The structural fire damage report was completed by a non-registrant
4 employee ("Employee") of Respondent and Bingham Engineering Consultants without
5 Respondent's review and/or direct approval.

6 6. Employee was directed to complete the structural fire damage report, which
7 was staffed by Employee's direct supervisor and finalized with Respondent's seal and
8 signature per the firm's process.

9 7. On or about March 24, 2023, Respondent acknowledged that he was not
10 aware of the project and also acknowledged there may be additional projects, which were
11 completed by employees of the firm and followed the same firm process, including using
12 Respondent's electronic seal and signature.

13 8. On or about May 16, 2023, an Enforcement Advisory Committee ("EAC")
14 meeting was convened to review the allegations. During the EAC meeting, Respondent
15 acknowledged the following:

16 a. Respondent allowed his employees routine access and use of his
17 electronic seal and signature without his direct review of the project material.

18 b. Respondent accepted responsibility for the structural fire damage
19 report bearing his seal and signature.

20 c. Respondent accepted responsibility for the level of technical
21 knowledge within the report as the report contained his seal.

22 9. During the EAC Meeting, the Committee found the following:

23 a. Respondent did not provide adequate security over his seal and
24 signature as he had an electronic copy available for use by other employees and non-
25 registrants to use without his explicit direction and prior review of the documents.

26 b. Respondent did not exercise or apply the appropriate technical
27 knowledge and skill in the structural fire damage report containing his seal and signature,
28 as evident in the assessment, which lacked calculations showing the existing members

1 were undersized and the report lacked any substantiation for the recommendations.

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 may have failed to apply the appropriate technical knowledge and skill in the
7 practice 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. R4-30-304(G), in that
10 Respondent may have failed to provide adequate security regarding the use of seal and
11 signature.

12 **ORDER**

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

15 1. **LETTER OF REPRIMAND.** Respondent is hereby issued a Letter of
16 Reprimand.

17 2. **STAYED SUSPENSION AND PROBATION.** Respondent's registration as
18 a Professional Engineer (Structural), No. 20986, shall be suspended for 90 days;
19 however, the suspension is stayed for as long as Respondent remains in compliance with
20 this Order. During the stay of suspension, Respondent's registration as a Professional
21 Engineer is placed on probation for 90 days. If Respondent is non-compliant with any
22 terms of this Order during the 90 day stayed suspension and probation period, the stay of
23 the suspension shall be lifted and Respondent's registration as a Professional Engineer
24 shall be automatically suspended without a formal hearing, and remain suspended until
25 Respondent is compliant with all terms of this Order.

26 3. **ADMINISTRATIVE PENALTY.** Within ninety (90) days from the
27 effective date of this Consent Agreement, Respondent shall pay an administrative penalty
28 of One Thousand and Five Hundred Dollars (\$1,500.00) by certified check or money

1 order made payable to the State of Arizona Board of Technical Registration.

2 4. COST OF INVESTIGATION. Within thirty (30) days from the effective
3 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
4 case to the Board in the amount of Eight Hundred and Fifty Seven Dollars (\$857.00) by
5 certified check or money order made payable to the State of Arizona Board of Technical
6 Registration, according to the provisions of A.R.S. § 32-128(H).

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

13 6. RENEWAL OF REGISTRATION. Respondent shall timely renew his
14 Arizona registration as an Engineer and timely pay all required registration fees.

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

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

20 9. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
21 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity
22 to be heard, may revoke, suspend or take other disciplinary actions against the
23 registration. The issue at such a hearing will be limited solely to whether this Order has
24 been violated.


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1 ACCEPTED and ORDERED this 27 day of June, 2023.

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5 Jack Gilmore, L.A., Chairman
6 Arizona State Board of
7 Technical Registration

8 Consent Agreement and Order, No. P22-083 accepted this 2ND day of
9 JUNE, 2023.

10 
11 Franklin Bingham, Respondent

12 ORIGINAL filed this 27th day of
13 June, 2023, with:

14 Arizona State Board of Technical Registration
15 1110 W. Washington, Suite 240
16 Phoenix, AZ 85007

17 COPY of the foregoing mailed via Certified Mail
18 No. 9214 8901 9434 4600 0928 36 and

19 First Class mail this 27th day of June, 2023, to:

20 Franklin Bingham
21 13416 N. 32nd Street, Suite 100
22 Phoenix, AZ 85032

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24 By: 
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