In the Matter of:

Chao Yan
Non-Registrant

Respondent

BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION

Case No.: P16-013

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, Chao Yan, Non-Registrant, ("Respondent") 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.

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

5. The Consent Agreement, any record prepared in this matter, all investigative materials prepared or received by the Board and all related exhibits and materials, are public records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this Consent Agreement and may be retained in the Board’s files pertaining to this matter.

6. Respondent understands this Consent Agreement deals with Board case number P16-013 involving allegations that Respondent engaged in conduct that would subject him to discipline under the Board’s statutes and rules. The investigation into these allegations against Respondent shall be concluded upon the Board’s adoption of this Consent Agreement.

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

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

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

10. This Consent Agreement is subject to the approval of the Board and is effective only when accepted by the Board and signed on behalf of the Board. If the Board does not accept this Consent Agreement, the Board retains its authority to hold a
formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any action by any party, except that the parties agree that should the Board reject this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this document or any records relating thereto.

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

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

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

FINDINGS OF FACT

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

2. Respondent is not registered with the Board as a Professional Engineer.

3. On August 24, 2015, Board staff received a complaint regarding Respondent holding himself out as a mechanical engineer without being registered with the Arizona Board of Technical Registration.

4. In a letter to Board Staff dated September 14, 2015, Respondent stated he is working under the exception clause for services provided on residential projects.

5. On Respondent’s Linkedin account, he describes himself as a mechanical and HVAC engineer.

6. Board records show no indication that Respondent has ever applied for registration as a Registered Engineer or an Engineer in Training.
CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
2. Pursuant to A.R.S. § 32-121, a person desiring to practice any board regulated profession must obtain a registration.
3. Pursuant to A.R.S. § 32-145, it is unlawful for any person to practice, offer to practice or by any implication hold himself out as qualified to practice any board regulated profession or occupation if the person is not registered.
4. The conduct alleged in the Findings of Fact constitutes grounds for discipline against Respondent pursuant to A.R.S. § 32-106.2 (authorizing the Board to impose discipline against non-registrants for unregistered practice).

ORDER

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

1. ASSURANCE OF DISCONTINUANCE. Respondent shall not practice, offer to practice, or by any implication hold itself out as qualified to practice Engineering as defined by A.R.S. § 32-101.B(17)(18) until such time as the Respondent is registered by the Board and is in full compliance with the Board’s Statutes and Rules.

2. CIVIL PENALTY. The Respondent shall pay a civil penalty of Two Hundred Fifty Dollars ($250.00) within four (4) months to the Board by cashier’s check or money order made payable to the Arizona State Board of Technical Registration, according to the provisions of A.R.S. § 32-128(A)(3). Monthly payments of Sixty Two Dollars and Fifty cents ($62.50) shall be paid by the first of each month.

3. COST OF INVESTIGATION. Respondent shall pay cost of investigation in the amount of One Hundred Seventy Five Dollars ($175.00) within four (4) months to the Board by Cashier’s check or money order made payable to the State of Arizona Board of Technical Registration, according to the provisions of A.R.S. § 32-128(H). Monthly payments of Forty Three Dollars and Seventy Five cents ($43.75) shall be paid by the first of each month.
4. EFFECTIVE DATE. The effective date of this Consent Agreement is the date the Respondent and Board sign the Consent Agreement. If the dates are different, the effective date is the later of the two dates.

5. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with complying with this Consent Agreement.

ACCEPTED and ORDERED this 20 day of October, 2015.

Edward T. Mapley, Chairman
Arizona State Board of Technical Registration

Consent Agreement and Order, No. P16-013 accepted this 25th day of September, 2015.

Chao Yan, Respondent

ORIGINAL filed this 27 day of October, 2015, with:

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

COPY of the foregoing mailed via Certified Mail No. 7615 656 0000 11895047 and First Class mail this 2 day of November, 2015, to:

Chao Yan
11801 N. Tatum Blvd #229
Phoenix, AZ 85028

By: [Signature]