BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION

In the Matter of:

Ali Toghanipour
Profession Engineer (Civil)
Registration No. 35405

Respondent

Case No.: P16-016

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, Ali Toghanipour ("Respondent"), holder of Registration No. 35405, 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 P16-016, 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 the holder of Arizona Professional Engineering (Civil), Registration No. 35405.

3. On or about August 3, 2015, the Board received Respondent's application for renewal as a Registered Professional Engineer (Civil). On his application, Respondent answered "Yes to the following questions: "Have you been investigated and/or disciplined by any regulatory agency and do you have any pending investigation by any regulatory agency at this time or since your last renewal".

4. Respondent provided the Board with a copy of a 2014 Order from the Nevada Board of Professional Engineers and Land Surveyors in which the Nevada Board found that Respondent demonstrated a lack of competency with regard to geotechnical engineering.
CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
2. The conduct alleged in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-128(C)(4) and Board Rules R4-30-301(4), in that Respondent failed to comply with state, municipal, and county laws, codes, ordinances and regulations pertaining to the registrant's area of practice.

ORDER

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

1. STAYED SUSPENSION AND PROBATION. Respondent's registration as Professional Engineer (Civil) Registration No. 35405, shall be suspended for Twelve (12) months; however, the suspension is stayed for as long as Respondent remains in compliance with this Order. During the stay of suspension, Respondent's registration as a Professional Engineer is placed on probation. If Respondent is non-compliant with any terms of this Order, the stay of the suspension shall be lifted and Respondent's registration as a Professional Engineer shall be automatically suspended without a formal hearing, and remain suspended until Respondent is compliant with all terms of this Order. The Board may also consider Respondent's non-compliance with this Order as a separate violation of A.R.S. § 32-150.

2. INDEFINATE RESTRICTION OF PRACTICE. Respondent's registration as Professional Engineer (Civil) #35405, shall be restricted, prohibiting Respondent from performing the practice of geotechnical engineering until the Respondent provides proof to the Board that he has successfully passed the National Council of Examiners for Engineering and Surveying (NCEES) Geotechnical Engineering Examination or unless Respondent practices geotechnical engineering under the direct supervision of an Arizona registered Professional Engineer, who has expertise in geotechnical engineering and is pre-approved by the Board, on his next three (3) projects related to geotechnical engineering, and who will verify to the Board that Respondent's practice in compliance
with Board rules and statutes.

3. REGISTRATION RENEWAL. In the event that Respondent's registration as a Civil Engineer is scheduled to expire while this Order is in effect, Respondent shall apply for renewal of registration, pay all applicable fees and maintain a current and active registration as a Professional Engineer with the Board.

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 24th day of November, 2015.

E. Leroy Brady, Chairman
Arizona State Board of Technical Registration

Consent Agreement and Order, No. P16-016 accepted this 16th day of November, 2015.

Ali Toghanicour, Respondent

ORIGINAL filed this 24th day of November, 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. 2015160000954502 and
First Class mail this 24th day of November, 2015, to:
1 Ali Toghanipour
2 ART Consulting Engineers
3 5160 Silverheart Ave
4 Las Vegas, NV 89142
5
6 By: [Signature]