

1
2 BEFORE THE ARIZONA STATE
3 BOARD OF TECHNICAL REGISTRATION

4 In the Matter of:

 Case No.: P16-033

5 Manuel Flores
6 Non-Registrant

 CONSENT AGREEMENT
 and
 ORDER OF DISCIPLINE

7 Arizona Consultants & Associates
8 Non-registered Firm

9 Respondent

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 Manuel Flores, Non-Registrant, ("Respondent") and Arizona Consultants & Associates
15 (Non-registered firm) and the Board enter into the following Recitals, Findings of Fact,
16 Conclusions of Law and Order ("Consent Agreement") as a final disposition of this
17 matter.

18 RECITALS

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

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

 3. Respondent affirmatively agrees that this Consent Agreement shall be

1 irrevocable.

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

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

8 6. Respondent understands this Consent Agreement deals with Board case
9 number P16-033 involving allegations that Respondent engaged in conduct that would
10 subject him to discipline under the Board's statutes and rules. The investigation into
11 these allegations against Respondent shall be concluded upon the Board's adoption of
12 this Consent Agreement.

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

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

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

27 10. This Consent Agreement is subject to the approval of the Board and is
28 effective only when accepted by the Board and signed on behalf of the Board. If the

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

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

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

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

16 **FINDINGS OF FACT**

17 1. The Board is the duly constituted authority for the regulation and control of
18 the occupation of Architecture and Engineering in the state of Arizona.

19 2. The Board is the duly constituted authority for the regulation and control of
20 the practice of Architecture Business in the state of Arizona.

21 3. Respondent is not registered with the Board as an architect or engineer.

22 4. Respondent Firm (Arizona Consultants & Associates) is not registered with
23 the Board.

24 5. On February 2, 2015, Board staff received plans showing engineering work
25 performed and stamped by Gerardo Calza P.E. (Civil) #37847 but with the Respondent's
26 firm listed in the title block. When asked about his involvement in the plans Respondent
27 stated he acted like a general contractor (even though he is not registered with the
28 Registrar of Contractors) and hired Mr. Calza to perform the work.

1 In a letter submitted by Respondent's attorney, it was stated "certain drawings
2 were specified to be made, which work was done by my client, subject to review and
3 approval of the engineer".

4 CONCLUSIONS OF LAW

5 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq,
6 including A.R.S. § 32-106.02(A).

7 2. The conduct alleged in the Findings of Fact, constitutes grounds for
8 discipline pursuant to A.R.S. § 32-121, in that Respondent practiced a Board regulated
9 profession without registration by the Board.

10 3. Pursuant to A.R.S. § 32-145, it is unlawful for any person to practice, offer
11 to practice or by any implication hold himself out as qualified to practice any board
12 regulated profession or occupation if the person is not registered or certified.

13 4. Pursuant to A.R.S. 32 § 141(A), a firm shall not engage in the practice of
14 any board regulated profession or occupation unless the firm is registered with the board
15 and the professional services are conducted under the full authority and responsible
16 charge of a principal of the firm, who is also a registrant.

17 ORDER

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

20 1. ASSURANCE OF DISCONTINUANCE. Respondent shall not practice, offer
21 to practice, or by any implication hold itself out as qualified to practice Engineering and
22 Architecture as defined by A.R.S. § 32-101.B(8)(17) until such time as the Respondent is
23 registered by the Board and is in full compliance with the Board's Statutes and Rules.
24 Respondent's firm, shall not engage in the practice, offer to practice or by any
25 implication hold itself out as qualified to practice architecture or engineering as defined
26 by A.R.S. § 32-101(B)(8)(17), and shall not display any card, sign or other device that
27 may indicate to the public that it is a registered professional architectural or engineering
28 firm or is qualified to practice as such in the State of Arizona until such time as the

1 Respondent's firm has been granted registration by the Board or is in full compliance
2 with the Board's Statues and Rules.

3 2. CIVIL PENALTY. Within ten (10) months from the effective date of this
4 Consent Agreement, Respondent shall pay a civil penalty of One Thousand Dollars
5 (\$1,000.00). Payments of One Hundred Dollars (\$100.00) are to be submitted to the
6 Board by cashier's check or money order made payable to the Arizona State Board of
7 Technical Registration, according to the provisions of A.R.S. § 32-106.02(A).

8 3. COST OF INVESTIGATION. Within five (5) months, from the effective date
9 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to
10 the Board in the amount of Four Hundred Forty Dollars (\$440.00). Payments of Eighty
11 Eight Dollars (\$88.00) are to be submitted by certified check or money order made
12 payable to the State of Arizona Board of Technical Registration, according to the
13 provisions of A.R.S. § 32-128(H).

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

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

19 ACCEPTED and ORDERED this 14th day of JUNE, 2016.

20
21 E. Leroy Brady
22 E. Leroy Brady, Chairman
23 Arizona State Board of
24 Technical Registration

25 Consent Agreement and Order, No. P16-033 accepted this 29 day of
26 APRIL, 2016.

27 [Signature]
28 Manuel Flores, Respondent

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ORIGINAL filed this 14 day of

JUNE, 2016, with:

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

COPY of the foregoing mailed via Certified Mail
No. 7015 3010 0000 3864 7719 and

First Class mail this 14 day of JUNE, 2016, to:

Manuel Flores
934 N. Bejarno St. #3
Nogales, AZ 85621

By: D. Kraemer