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Arizona State Board of Technical Registration

BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION

In the Matter of:

Derek Roberts
P.E. (Civil)
Registration No. 41010

Respondent

Case No.: P16-052

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, Derek Roberts ("Respondent"), holder of Registration No. 41010, 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.

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 (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this
6 Consent Agreement and may be retained in the Board's files pertaining to this matter.

7 6. Respondent understands this Consent Agreement deals with Board case
8 number P16-052 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 (Civil)
19 Registration No. 41010.

20 3. On or about October 1, 2015, water plans for a subdivision were submitted to
21 the City of Sierra Vista, stamped by Thomas Trimble. When the City Engineer learned
22 Mr. Trimble's registration was revoked on May 5, 2011, she informed Mr. Trimble the
23 project had been placed on hold because of the registration issue. A short time later, Mr.
24 Trimble submitted the same plans stamped by Respondent.

25 4. At its February 23, 2016 meeting, the Board disciplined Mr. Trimble and
26 directed staff to open an investigation as to whether Respondent performed the work on
27 the plans he stamped for the Vista Montanas subdivision.

28 5. On March 7, 2016, Respondent was mailed a notice of violation and asked

1 for a written response.

2 6. On March 7, 2016, staff received a written response from Respondent. In it
3 he acknowledges reviewing the previously approved plans for major technical
4 deficiencies and affixed his seal on those approved plans. He also acknowledged
5 neglecting to remove Trimble's firm from the title block and placing his (Alliance
6 Engineering PC) there instead.

7 **CONCLUSIONS OF LAW**

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

9 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
10 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(16), in that a
11 Respondent signed and sealed professional document not prepared by the Respondent or
12 a bona fide employee of the Respondent by sealing engineering plans for the Vista
13 Montanas Subdivision that were prepared by Thomas Trimble, a non-registrant.

14 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
15 pursuant to A.R.S. § 32-128(C)(3) in that Respondent aided and abetted the practice of a
16 non-registrant by sealing engineering plans for the Vista Montanas Subdivision project in
17 Sierra Vista for non-registrant firm (Trimble Engineering Services) and Thomas Trimble,
18 a non-registrant.

19 **ORDER**

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

22 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
23 Reprimand.

24 2. STAYED SUSPENSION AND PROBATION. Respondent's registration
25 as Professional Engineer, shall be suspended for twenty (20) months; however, the
26 suspension is stayed for as long as Respondent remains in compliance with this Order.
27 During the stay of suspension, Respondent's registration as a Professional Engineer is
28 placed on probation for twenty (20) months. If Respondent is non-compliant with any

1 terms of this order during the twenty (20) month stayed suspension and probation period,
2 the stay of suspension shall be lifted and Respondent's registration as a Professional
3 Engineer shall be automatically suspended without a formal hearing, and remain
4 suspended until Respondent is compliant with all terms of this order.

5 3. ADMINISTRATIVE PENALTY. Within twenty (20) months from the
6 effective date of this Consent Agreement, Respondent shall pay an administrative penalty
7 of Two Thousand Dollars (\$2,000.00) by certified check or money order made payable to
8 the State of Arizona Board of Technical Registration with monthly payments of One
9 Hundred Dollars (\$100.00).

10 4. COST OF INVESTIGATION. Within Ninety (90) days from the effective
11 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
12 case to the Board in the amount of Two Hundred Fifty Five Dollars (\$255.00) by certified
13 check or money order made payable to the State of Arizona Board of Technical
14 Registration, according to the provisions of A.R.S. § 32-128(H).

15 5. 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 6. COSTS OF COMPLIANCE. Respondent shall pay all costs associated
19 with complying with this Consent Agreement.

20 ACCEPTED and ORDERED this 27th day of May, 2016.

21
22 E. Leroy Brady

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

26 Consent Agreement and Order, No. P16-052 accepted this 29 day of
27 April, 2016.

28 Derek Roberts
Derek Roberts, Respondent

1 ORIGINAL filed this 24 day of

2 MAY, 2016, with:

3 Arizona State Board of Technical Registration
4 1110 W. Washington, Suite 240
Phoenix, AZ 85007

5 COPY of the foregoing mailed via Certified Mail
6 No. 7015 3010 0000 3864 7634 and

7 First Class mail this 25 day of MAY, 2016, to:

8 Derek Roberts
9 1440 W. Canyon Shadows Ln.
Oro Valley, AZ 85737

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11 By: D Kramer

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