

**BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION**

In the Matter of:

Case No.: P16-058

**Michael Frank
Non-Registrant**

**Frank Civil Consulting
Non-Registered Firm**

Respondents

**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, Michael Frank (“Respondent”), Non-registrant, and Frank Civil Consulting (“Respondent”), Non-registered firm, 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

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 P16-058 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 practice of Engineering in the State of Arizona.

19 2. Respondent is not registered to practice a Board regulated profession in the
20 State of Arizona and is the owner of Respondent Firm, a non-registered firm in the State
21 of Arizona.

22 3. On April 1, 2016, Board staff received a complaint alleging that Respondent
23 provided Engineering services while not registered with the Board on the April Sound
24 Homeowners Association project in Phoenix, Arizona, and the Montecito at Mirabel
25 project in Cave Creek, Arizona. The complaint also alleged that Respondent Firm
26 advertised the practice of engineering on its business website without firm registration
27 with the Board.

28 4. On June 22, 2016, An Enforcement Advisory Committee met to discuss the

1 allegations against Respondent. The Committee unanimously agreed the Respondent was
2 providing and offering to provide engineering services while not being registered with the
3 Arizona Board of Technical Registration. The Committee also unanimously agreed that
4 Frank Civil Consulting, Respondent Firm, engaged in the practice, offered to practice
5 and/or advertised practice of a Board regulated profession without firm registration with
6 the Board of Technical Registration.

7 CONCLUSIONS OF LAW

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

10 2. The conduct alleged in the findings of fact constitutes grounds for discipline
11 pursuant to A.R.S. § 32-145(1), in that Respondent practiced, offered to practice, or by
12 implication held himself out as qualified to practice a Board regulated profession without
13 registration with the Board.

14 3. The conduct alleged in the findings of fact constitutes grounds for discipline
15 pursuant to A.R.S. § 32-141 and A.R.S. § 32-121, in that Respondent Firm practiced,
16 offered to practice, and advertised the practice of Engineering on a business website
17 without first being registered by the Board.

18 ORDER

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

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

1 practice as such in the State of Arizona until such time as the Respondent firm has been
2 granted registration by the Board or is in full compliance with the Board's Statutes and
3 Rules.

4 2. CIVIL PENALTY. Within Twelve (12) months from the effective date of
5 this Consent Agreement, Respondents shall pay a civil penalty of One Thousand Two
6 Hundred Dollars (\$1,200.00). Payment shall be made by certified check or money order,
7 either in a lump sum, or in Twelve (12) monthly payments of \$100.00. Payment shall be
8 made to the State of Arizona Board of Technical Registration, according to the provisions
9 of A.R.S. § 32-128(H).

10 3. COST OF INVESTGATION. Within Twelve (12) months from the
11 effective date of this Consent Agreement, Respondents shall pay the cost of investigation
12 of this case to the Board in the amount of Eight Hundred Sixty-Four Dollars (\$864.00).
13 Payment shall be made by certified check or money order, either in a lump sum, or in
14 Twelve (12) monthly payments of \$72.00. Payment shall be made to the State of Arizona
15 Board of Technical Registration, according to the provisions of A.R.S. § 32-128(H).

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

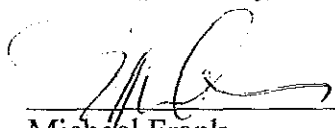
19 5. COSTS OF COMPLIANCE. Respondents shall pay all costs associated
20 with complying with this Consent Agreement.

21
22 ACCEPTED and ORDERED this 27th day of SEPTEMBER, 2016.

23
24 *E. Leroy Brady*

25 E. Leroy Brady, Chairman
26 Arizona State Board of
27 Technical Registration
28

1
2 Consent Agreement and Order, No. P16-058 accepted this ^{2ND} day of
3 ~~SEPTEMBER~~ 2016.

4 
5 Michael Frank,
6 Personally and on behalf of
7 Frank Civil Consulting, Respondents

8
9 ORIGINAL filed this 27 day of
10 SEPTEMBER, 2016, with:

11 Arizona State Board of Technical Registration
12 1110 W. Washington, Suite 240
13 Phoenix, AZ 85007

14 COPY of the foregoing mailed via Certified Mail
15 No. 7016 0750 0000 2510 8567 and
16 First Class mail this 28 day of SEPTEMBER, 2016, to:

17 Michael Frank
18 6446-12 E. Trailridge Cir
19 Mesa, AZ 85277

20 By: D. Luoma