



BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION

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In the Matter of:)
Thomas L. Miller, P.E. (Electrical))
Registration No. 45416)
March Adams & Associates)
Consulting Engineers)
Registration No. 20193)
Respondents

Case No.: P17-067

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, Thomas L. Miller, P.E. (Electrical), registration no. 45416, ("Respondent"), March Adams & Associates, firm registration no. 20193, ("Respondent 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 P17-067 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 holder of Professional Engineer registration no. 45416, and is
20 the firm principal of Respondent Firm.

21 3. Respondent Firm was not registered with the Board as an engineering firm
22 until February 2, 2017.

23 4. On December 29, 2016, Board staff received a complaint alleging that
24 Respondent, through Respondent Firm, signed and sealed mechanical engineering plans
25 for construction of Family Dollar at 5628 N. 27th Ave Phoenix, AZ, during August of
26 2015.

27 5. On or about February 9, 2017, Board staff received Respondent's written
28 response to the allegations in which he acknowledged that sealed construction documents

1 were prepared through Respondent Firm at a time when the firm was not registered.
2 Respondent further identified five additional Family Dollar projects in Phoenix and
3 Tucson in which he and Respondent Firm provided professional engineering services
4 during ,or prior to, 2015, all without firm registration. Respondent took responsibility for
5 the oversight and Respondent Firm became registered on February 2, 2017.

6 CONCLUSIONS OF LAW

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

9 2. The conduct alleged in the Findings of Fact, constitutes grounds for
10 discipline pursuant to A.R.S. § 32-141 & 32-121., in that Respondent Firm engaged in
11 the practice of a Board regulated profession on six projects without firm registration.

12 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
13 pursuant to A.R.S. 32-128(C)(4), as it relates to A.A.C. R4-30-301(4), in that Respondent
14 failed to comply with Board statutes that pertain to Respondent's area of practice.

15 ORDER

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

18 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
19 Reprimand.

20 2. CIVIL PENALTY. Within Six (6) months from the effective date of this
21 Consent Agreement, Respondent shall pay a civil penalty of Twelve Hundred Dollars
22 (\$1,200.00) with monthly payments of \$200.00, to the Board by cashier's check or
23 money order made payable to the Arizona State Board of Technical Registration,
24 according to the provisions of A.R.S. § 32-106.02(A).

25 3. COST OF INVESTIGATION. Within Sixty (60) days from the effective date
26 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to
27 the Board in the amount of Two Hundred Twenty-five Dollars (\$225.00) by certified
28 check or money order made payable to the State of Arizona Board of Technical

1 Registration, according to the provisions of A.R.S. § 32-128(H).

2 4. OBEY ALL LAWS. Respondents shall obey all federal, state and local
3 laws, as well as, all rules governing the practice of Professional Engineer, in the State of
4 Arizona. The Board shall consider any violation of this paragraph to be a separate
5 violation of the rules and statues governing the Arizona Board of Technical Registration.

6 5. RENEWAL OF REGISTRATION. Respondents shall timely renew their
7 Arizona registrations as a Professional Engineer and professional engineering firm, and
8 timely pay all required registration fees.

9 6. EFFECTIVE DATE. The effective date of this Consent Agreement is the
10 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
11 effective date is the later of the two dates.

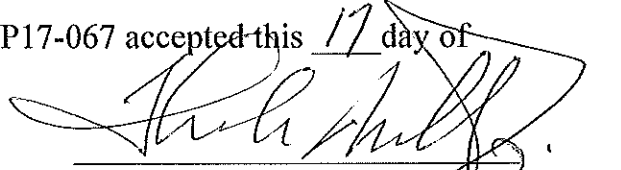
12 7. COSTS OF COMPLIANCE. Respondents shall pay all costs associated
13 with complying with this Consent Agreement.

14 8. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
15 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity
16 to be heard, may revoke, suspend or take other disciplinary actions against the
17 registration. The issue at such a hearing will be limited solely to whether this Order has
18 been violated.

19 ACCEPTED and ORDERED this 28th day of MARCH, 2017.

20
21 
22 Jason Madison, Chairman
23 Arizona State Board of
24 Technical Registration

25 Consent Agreement and Order, No. P17-067 accepted this 17 day of
26 FEBRUARY, 2017.

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28 Thomas Miller, and on behalf of March
Adams & Associates, Respondents

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ORIGINAL filed this 28 day of

MARCH, 2017, with:

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

COPY of the foregoing mailed via Certified Mail
No. 9214 8901 9434 4600 0127 11 and

First Class mail this 29 day of MARCH, 2017, to:

Thomas Miller
March Adams & Associates
310 Dodds Ave
Chattanooga, TN 37404

By: *J. Haemer*