

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

3 **In the Matter of:**

4 **Duane DeLarco**
5 **Non-Registrant**

6 **First American Solar Technology**
7 **First American Design and**
8 **Construction**
9 **Non-Registrant Firms**

10 **Respondents**

Case No.: P17-098

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

11 In the interest of a prompt and judicious resolution of the above-captioned matter
12 before the Arizona State Board of Technical Registration (“Board”) and consistent with
13 the public interest, statutory requirements, and the responsibilities of the Board, and
14 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
15 Duane DeLarco, Non-Registrant, (“Respondent”), First American Solar Technology and
16 First American Design & Construction, Non-Registrant Firms, (“Respondent Firms”) and
17 the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and
18 Order (“Consent Agreement”) as a final disposition of this matter.

19 **RECITALS**

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

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

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

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

9 6. Respondent understands this Consent Agreement deals with Board case
10 number P17-098 involving allegations that Respondent engaged in conduct that would
11 subject him to discipline under the Board's statutes and rules. The investigation into
12 these allegations against Respondent shall be concluded upon the Board's adoption of
13 this Consent Agreement.

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

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

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

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

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

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

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

18 FINDINGS OF FACT

19 1. The Board is the duly constituted authority for the regulation and control of
20 the practice of Engineering in the state of Arizona.

21 2. Respondent is not registered with the Board as a Professional Engineer.

22 3. Respondent Firms First American Solar Design and First American Design
23 and Construction are not registered with the Board.

24 4. Between September 2015 and March 2017, Respondent signed and sealed
25 electrical plans for the following nine commercial solar panel projects located in Tucson,
26 AZ; September 9, 2015 El Con Health & Wellness, 3402 E. Broadway Blvd.; October 12,
27 2015 Family Vision Square, 7475 E Tanque Verde Rd.; December 15, 2015 Calvary
28 Chapel, 8711 E. Speedway Blvd. and 8725 E. Speedway Blvd.; December 22, 2015

1 American Evangelical Lutheran, 115 N. Tucson Blvd.; December 6, 2016 Outer Limits
2 School, 3137 N. Palo Verde; December 9, 2016 Outer Limits School, 3472 E Fort Lowell
3 Rd.; March 30, 2017 Outer Limits School, 3472 E Fort Lowell Rd.; March 30, 2017
4 Southern Arizona Productions, 911 S. Tyndale Ave.

5 5. On or about May 18, 2017, the Board received a complaint alleging that
6 Respondent assumed the registration number of a retired registrant, prepared and used a
7 fraudulent electrical engineering seal, and practiced engineering without registration.

8 6. On or about May 19, 2017, Staff viewed Respondent Firm website, First
9 American Solar Technology, and observed that Respondent Firm advertised over 166
10 years of experience in the fields of Architectural Design, Electrical Engineering and
11 Control and Distribution Engineering.

12 7. On or about May 22, 2017, Respondent stated in a phone interview that he
13 created the seal and used the seal on projects. Respondent also stated that the
14 registration number used in the seal was a number he made up. Respondent stated that he
15 conducted research on the internet as to what an engineer seal needed to look like and had
16 one made based on the information he found. Respondent stated that he used the seal to
17 facilitate project approval and permitting. Respondent admitted that he knew that what
18 he had been doing was wrong. Respondent stated that his firm, Frist American Solar
19 Technology, was not registered, and the firm, First American Design and Construction,
20 was his son's company, but that his son had no association with the projects. Respondent
21 stated that he just used the name on the project plans.

22 8. On or about May 22, 2017, Staff contacted Robert Mason, retired electrical
23 engineer whose registration number was used by Respondent. Mr. Mason stated he had
24 no knowledge of the solar panel projects. Mr. Mason also stated he had no knowledge of
25 Respondent.

26 9. On or about June 21, 2017, Staff received a written response to the
27 allegations from Respondent in which he stated that he did not advertise or represent
28 himself as an Electrical Engineer, he did not sign as another regarding electrical

1 engineering, he did not use another engineer's number or represent himself to be that
2 engineer, and he did not represent or advertise First American Solar Technology, First
3 American Design and Construction or himself as an electrical engineer. However,
4 Respondent admitted in his written statement that what he did was a grievous error.

5 10. On or about June 26, 2017, Dan Santa Cruz, Commercial Electrical Plan
6 Examiner for the City of Tucson, submitted a written statement to the Board in which he
7 wrote that during a review of one of Respondent's projects, he had asked Respondent if
8 the name and signature that appeared on the engineer's seal was his. Mr. Santa Cruz
9 stated that Respondent replied yes. Mr. Santa Cruz stated that he researched the
10 registration number on the Board's website and discovered that the number Respondent
11 used on the seal belonged to a retired electrical engineer.

12 11. On or about July 28, 2017, Staff spoke to Respondent attorney, Justin
13 Castillo. Mr. Castillo stated that there is no denial to Respondent's wrong doing.

14 **CONCLUSIONS OF LAW**

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

17 2. The conduct alleged in the Findings of Fact, constitutes grounds for
18 discipline pursuant to A.R.S. § 32-145(1), in that Respondent practiced or offered to
19 practice a Board regulated profession without Board registration on nine professional
20 projects.

21 3. The conduct alleged in the Findings of Fact, constitutes grounds for
22 discipline pursuant to A.R.S. § 32-145(2), in that Respondent advertised or displayed a
23 device to indicate he is qualified to practice a Board regulated profession without Board
24 registration.

25 4. The conduct alleged in the Findings of Fact, constitutes grounds for
26 discipline pursuant to A.R.S. § 32-145(3), in the Respondent used the title of Professional
27 Engineer without Board registration.

28 5. The conduct alleged in the Findings of Fact, constitutes grounds for

1 discipline pursuant to A.R.S. § 32-145(4), in that Respondent fraudulently used the
2 registration of another by stamping and sealing professional documents on nine
3 professional projects.

4 6. The conduct alleged in the Findings of Fact, constitutes grounds for
5 discipline pursuant to A.R.S. § 32-125(D), in that Respondent illegally used a registrant's
6 seal registration number on documents prepared by a non-registrant on nine professional
7 projects.

8 7. The conduct alleged in the Findings of Fact, constitutes grounds for
9 discipline pursuant to A.R.S. § 32-141, in that Respondent Firm practiced a Board
10 regulated profession without Board registration on nine professional projects.

11 ORDER

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

14 1. ASSURANCE OF DISCONTINUANCE. Respondent shall not practice,
15 offer to practice, or by any implication hold itself out as qualified to practice Engineering
16 as defined by A.R.S. § 32-101(B)(17) until such time as the Respondent is registered by
17 the Board and is in full compliance with the Board's Statutes and Rules. Respondent
18 Firms, shall not engage in the practice, offer to practice or by any implication hold itself
19 out as qualified to practice engineering as defined by A.R.S. § 32-10(B)(17), and shall
20 not display any card, sign or other device that may indicate to the public that it is a
21 registered professional engineering firm or is qualified to practice as such in the State of
22 Arizona until such time as the Respondent firm has been granted registration by the
23 Board or is in full compliance with the Board's Statues and Rules.

24 2. CIVIL PENALTY. Within Twenty-Four (24) months from the effective date
25 of this Consent Agreement, Respondent shall pay a civil penalty of Eighteen Thousand
26 Dollars (\$18,000.00). Payments of Seven Hundred Fifty Dollars (\$750) are to be
27 submitted at the beginning of each month to the Board by cashier's check or money order
28 made payable to the Arizona State Board of Technical Registration, according to the

1 provisions of A.R.S. § 32-106.02(A).


2 3. COST OF INVESTIGATION. Within Thirty (30) days from the effective
3 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
4 case to the Board in the amount of Seven Hundred Ninety Dollars (\$790.00) by certified
5 check or money order made payable to the State of Arizona Board of Technical
6 Registration, according to the provisions of A.R.S. § 32-128(H).

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

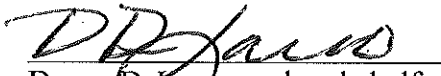
10 5. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
11 complying with this Consent Agreement.

12 6. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
13 to fulfill the requirements of this Order, the Board may seek a Petition for Injunction in
14 accordance with the provisions set forth in A.R.S. § 32-106.01.

15 ACCEPTED and ORDERED this 29 day of August, 2017.

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18 
19 Jason Madison, Chairman
Arizona State Board of
Technical Registration

20 Consent Agreement and Order, No. P17-098 accepted this 10th day of
21 August, 2017.

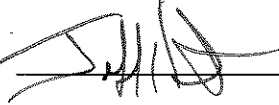
22 
23 Duane DeLarco, and on behalf of First
24 American Solar Technology and First
25 American Design and Construction,
26 Respondents

27 ORIGINAL filed this 30th day of
28 August, 2017, with:

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

1 COPY of the foregoing mailed via Certified Mail
2 No. 9214 8901 9434 4600 0230 76 and
3 First Class mail this 30th day of August, 2017, to:

4 Duane DeLarco
5 PO Box 278
6 9420 E Golf Links Rd
7 Tucson, AZ 85730

8 By:  _____

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