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

<p>In the Matter of:</p> <p>David Escalante Non-Registrant</p> <p style="text-align: center;">Respondent</p>	<p style="text-align: center;">Case No. P18-041</p> <p style="text-align: center;">CONSENT AGREEMENT and ORDER OF DISCIPLINE</p>
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12 In the interest of a prompt and judicious resolution of the above-captioned matter before
13 the Arizona State Board of Technical Registration (“Board”) and consistent with the public
14 interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. §
15 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party, David Escalante,
16 Non-Registrant (“Respondent”), and the Board enter into the following Recitals, Findings of
17 Fact, Conclusions of Law and Order (“Consent Agreement”) as a final disposition of this matter.

18 **RECITALS**

19 1. Respondent has read and understands this Consent Agreement and has had the
20 opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to
21 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 present
24 evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondent
25 knowingly, voluntarily, and irrevocably waives his right to such an administrative hearing, as
26 well as rights of rehearing, review, reconsideration, appeal, judicial review or any other
27 administrative and/or judicial action concerning the matters set forth herein.

28 3. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

1 4. Respondent understands that this Consent Agreement or any part of the agreement
2 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 public
5 records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this Consent
6 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 number
8 P18-041 involving allegations that Respondent engaged in conduct that would subject him to
9 discipline under the Board's statutes and rules. The investigation into these allegations against
10 Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

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

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

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

23 10. This Consent Agreement is subject to the approval of the Board and is effective
24 only when accepted by the Board and signed on behalf of the Board. If the Board does not accept
25 this Consent Agreement, the Board retains its authority to hold a formal administrative hearing
26 pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent
27 Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor
28 introduced in any action by any party, except that the parties agree that should the Board reject

1 this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that
2 the Board was prejudiced by its review and discussion of this document or any records relating
3 thereto.

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

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

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

11 **FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of the
13 practice of Engineering in the State of Arizona.

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

15 3. On December 9, 2014, Respondent fraudulently used the signature and seal of
16 David Garcia-Acosta, P.E. Registration No. 52650, on Electrical Specifications plan, sheet E-2,
17 for Remodel project at 744 E. Dunlap Ave., Phoenix, AZ.

18 4. On December 22, 2014, Respondent fraudulently used the signature and seal of
19 David Garcia-Acosta, P.E. Registration No. 52650, on Electrical Plan, sheet E-1, for Remodel
20 project at 744 E. Dunlap Ave., Phoenix, AZ.

21 5. On or about November 24, 2017, the Board received a complaint alleging that
22 Respondent fraudulently applied the seal and signature of David Garcia-Acosta, P.E. (Electrical)
23 #52650, on the Electrical Service Entrance Remodel project at 744 E. Dunlap Ave. in Phoenix,
24 Arizona in or around December of 2014. It is also alleged that Respondent practiced the
25 profession of Electrical Engineering without registration with the Board on the Electrical Service
26 Entrance Remodel project at 744 E. Dunlap Ave. in Phoenix, Arizona in or around December of
27 2014.

28 6. On or about March 20, 2018, Board staff received a written summary of events

1 from Marcos Garcia-Acosta, Respondent attorney, in which he wrote that Respondent apologizes
2 for his conduct and admitted that Respondent had access to the seal of the registrant that was used
3 on the project in question. Mr. Garcia-Acosta further stated that Respondent will destroy copies
4 of any professional seals Respondent may have.

5 **CONCLUSIONS OF LAW**

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

8 2. The conduct alleged in the Findings of Fact, constitutes grounds for discipline
9 pursuant to A.R.S. § 32-32-145(4), in that Respondent fraudulently used and applied the
10 registration of David Garcia-Acosta, P.E. (Electrical) #52650 on the Electrical Service Entrance
11 Remodel project at 744 E. Dunlap Ave., Phoenix, AZ.

12 **ORDER**

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

15 1. **ASSURANCE OF DISCONTINUANCE.** Respondent shall not practice, offer to
16 practice, or by any implication hold itself out as qualified to practice Engineering as defined by
17 A.R.S. § 32-101.B(11) until such time as the Respondent is registered by the Board and is in full
18 compliance with the Board's Statutes and Rules.


19 2. **COST OF INVESTIGATION.** Within Thirty (30) days from the effective date of
20 this Consent Agreement, Respondents shall pay the cost of investigation of this case to the Board
21 in the amount of Two Hundred Forty-Five Dollars (\$245.00) by certified check or money order
22 made payable to the State of Arizona Board of Technical Registration, according to the
23 provisions of A.R.S. § 32-128(H).

24 3. **EFFECTIVE DATE.** The effective date of this Consent Agreement is the date the
25 Respondents and Board sign the Consent Agreement. If the dates are different, the effective date
26 is the later of the two dates.

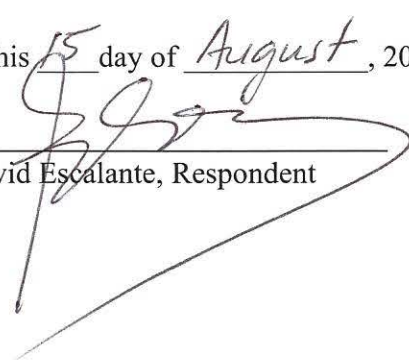
27 4. **COSTS OF COMPLIANCE.** Respondents shall pay all costs associated with
28 complying with this Consent Agreement.

1 5. NONCOMPLIANCE. If Respondents violate this Order in any way or fails to
2 fulfill the requirements of this Order, the Board may seek a Petition for Injunction in accordance
3 with the provisions set forth in A.R.S. § 32-106.01.
4

5 ACCEPTED and ORDERED this 28 day of August, 2018.

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8 _____
9 Alejandro Angel, P.E., Chairman
10 Arizona State Board of
11 Technical Registration

12 Consent Agreement and Order, No.P18-041 accepted this 15 day of August, 2018.

13 
14 _____
15 David Escalante, Respondent

16 **ORIGINAL** filed this 31 day of
17 August, 2018, with:

18
19 Arizona State Board of Technical Registration
20 1110 W. Washington, Suite 240
21 Phoenix, AZ 85007

22 **COPY** of the foregoing mailed via Certified Mail
23 No. 9214 8901 9434 4600 0422 06 and
24 First Class mail this 31 day of August, 2018, to:

25 David Escalante
26 c/o Marcos Garcíaacosta
27 1221 N. Longmore St.
28 Chandler, AZ 85224

1 David Escalante
2 Delta Architectural Design Services
3 815 N. 52nd St., Apt 2415
4 Phoenix, AZ 85008

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