

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

3 **In the Matter of:**)

Case No.: P18-054 & P18-058

4 **James Elson**
 5 **Architect**
 6 **Registration No. 11005**

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

7 **James Elson Architect**
Registration No. 19729)

8 Respondents

9
 10 In the interest of a prompt and judicious resolution of the above-captioned matter
 11 before the Arizona State Board of Technical Registration (“Board”) and consistent with
 12 the public interest, statutory requirements, and the responsibilities of the Board, and
 13 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
 14 James Elson (“Respondent”), holder of Registration No. 11005, James Elson Architect
 15 (“Respondent Firm”), and the Board enter into the following Recitals, Findings of Fact,
 16 Conclusions of Law and Order (“Consent Agreement”) as a final disposition of this
 17 matter.

18 **RECITALS**

19 1. Respondent has read and understands this Consent Agreement and has had
 20 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
 21 opportunity to 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
 24 present evidence and cross-examine witnesses. By entering into this Consent Agreement,
 25 Respondent knowingly, voluntarily, and irrevocably waives his right to such an
 26 administrative hearing, as well as rights of rehearing, review, reconsideration, appeal,
 27 judicial review or any other administrative and/or judicial action concerning the matters
 28 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 numbers P18-054 and P18-058 involving allegations that Respondent engaged in conduct
10 that would subject him to discipline under the Board's statutes and rules. The
11 investigation into these allegations against Respondent shall be concluded upon the
12 Board's adoption of 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 Architecture in the State of Arizona.

19 2. Respondent is the holder of Arizona Architect Registration No. 11005.

20 3. On March 7, 2016, the Board opened a complaint, P16-055, alleging that
21 Respondent failed to pay a collaborating professional, OSE Design Group, LLC for the
22 Healthy Solutions project.

23 4. On April 19, 2016, the Board opened a complaint, P16-060, alleging that
24 Respondent failed to pay a collaborating professional, Starling, Madison, & Lofquist for
25 the AJR Industrial project.

26 5. Respondent Firm was not registered with the Board at the time of project
27 engagement with OSE Design Group, LLC and Starling, Madison & Lofquist, Inc.

28 6. Subsequently, Respondent Firm was registered with the Board on April 18,

1 2016.

2 7. On July 25, 2016, the Board accepted Respondent's signed Consent
3 Agreement and Order of Discipline for cases P16-055 and P16-060 that included:

- 4 a. Stayed Suspension and Probation for 12 months.
- 5 b. Payment to Collaborating Professional of \$10,700.00 within 90 days.
- 6 c. Attend an Ethics class within 90 days.
- 7 d. Pay an administrative penalty in the amount of \$3,000.00 within 6
- 8 months.
- 9 e. Pay cost of investigation in the amount of \$605.00 within 30 days.

10 8. Respondent failed to make full payment to the Collaborating Professional
11 within 90 days, failed to attend an ethics class within 90 days, and failed to pay cost of
12 investigation to the Board within 30 days.

13 9. On January 6, 2017, the Board opened a complaint, P17-068, alleging that
14 Respondent failed to comply with a Board Order issued on July 25, 2016 for P16-055 and
15 P16-060.

16 10. On January 13, 2017, the stay was lifted and Respondent's Registration
17 (11005) was suspended.

18 11. On April 18, 2017, Respondent Firm registration expired with the Board.

19 12. On June 27, 2017, the Board accepted Respondent's signed Consent
20 Agreement and Order of Discipline for P17-068 that included:

- 21 a. Letter of Reprimand.
- 22 b. Pay cost of investigation in the amount of \$500.00 within 5 months.

23 13. Respondent failed to pay the Cost of Investigation in the amount of \$500.00
24 within 5 months.

25 14. On February 26, 2018, the Board opened a complaint, P18-054, alleging that
26 Respondent failed to comply with a Board Order issued on June 27, 2017 for P17-068.

27 15. On March 23, 2018, the Board opened a complaint, P18-058, alleging that
28 Respondent failed to pay a collaborating professional, David Bixler & Associates on the

1 Sky Harbor Leasing and the 90th and Bahia Mezzanine projects in the amount of
2 \$5,900.00.

3 16. On March 26, 2018, David Bixler & Associates provided Respondent with a
4 statement which indicated that Respondent paid \$2,000.00, but still owed \$3,900.00 for
5 the Sky Harbor Leasing and the 90th and Bahia Mezzanine projects.

6 17. On March 28, 2018, the Board received 2 images of bad checks issued to
7 David Bixler & Associates by Respondent dated February 29, 2018 in the amounts of
8 \$2,900.00 and \$3,000.00.

9 18. On March 30, 2018, Respondent paid the Cost of Investigation in the amount
10 of \$500.00 fulfilling the requirement in the Order for case P17-068.

11 19. On April 27, 2018, Hollie Couture, Office Manager at Cooper Companies
12 confirmed that Respondent was paid \$15,250 for the Sky Harbor Leasing project.

13 20. On April 28, 2018, John Johnson, Michael Bernoff's attorney confirmed that
14 Respondent was paid \$13,437.00 for the 90th and Bahia Mezzanine project.

15 21. On May 21, 2018, Respondent paid David Bixler & Associates \$2,000.00 on
16 the Sky Harbor Leasing and the 90th and Bahia Mezzanine projects. Respondent owes
17 David Bixler & Associates a balance of \$1,900.00.

18 22. At its May 22, 2018 meeting, the Board reviewed P18-054 and P18-058. The
19 Board directed staff to consolidate both cases and offer Respondent a Consent Agreement
20 to include:

- 21 a. Letter of Reprimand,
- 22 b. Stayed Revocation and Probation,
- 23 c. Payment to Collaborating Professional,
- 24 d. Administrative Penalty,
- 25 e. Cost of Investigation.

26 CONCLUSIONS OF LAW

- 27 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 28 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline

1 pursuant to A.R.S. § 32-150 in that Respondent failed to comply with a Board order
2 related to P16-055, P16-060, and P17-068.

3 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
4 pursuant to A.R.S. § 32-128(C)(5), in that Respondent failed to pay a collaborating
5 professional within 7 days for engineering services on the Sky Harbor Leasing and the
6 90th and Bahia Mezzanine project for David Bixler & Associates.

7 4. The conduct alleged in the Findings of Fact constitutes grounds for discipline
8 pursuant to A.R.S. § 32-141, in that Respondent Firm engaged in the practice of a Board
9 regulated profession without firm registration by engaging in architectural practice on the
10 Sky Harbor Leasing project and the 90th and Bahia Mezzanine project for David Bixler &
11 Associates.

12 ORDER

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

15 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
16 Reprimand.

17 2. STAYED REVOCATION AND PROBATION. Respondent's registration
18 as Professional Architect, No. 11005, shall be revoked for 36 months; however, the
19 revocation is stayed for as long as Respondent remains in compliance with this Order.
20 During the stay of revocation, Respondent's registration as a Professional Architect is
21 placed on probation for 36 months. If Respondent is non-compliant with any terms of
22 this Order during the 36 months stayed revocation and probation period, the stay of the
23 revocation shall be lifted and Respondent's registration as a Professional Architect shall
24 be automatically revoked without a formal hearing.

25 3. PAYMENTS TO A COLLABORATING PROFESSIONAL. Within thirty
26 (30) days from effective date of this Consent Agreement, Respondent shall pay David
27 Bixler & Associates for their engineering services in the amount of One Thousand Nine
28 Hundred Dollars (\$1,900) by certified check. Within five (5) days of the payment to

1 David Bixler & Associates, Respondent shall provide the Board with written proof that
2 full payment has been made.

3 4. ADMINISTRATIVE PENALTY. Within twelve (12) months from the
4 effective date of this Consent Agreement, Respondent shall pay an administrative penalty
5 of Six Thousand Dollars (\$6,000.00) by certified check or money order made payable to
6 the State of Arizona Board of Technical Registration. Monthly payments of \$500.00 shall
7 be made on the first of each month.

8 5. COST OF INVESTIGATION. Within thirty (30) days from the effective date
9 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to
10 the Board in the amount of Four Hundred and Twenty-Nine Dollars (\$429.00) by
11 certified check or money order made payable to the State of Arizona Board of Technical
12 Registration, according to the provisions of A.R.S. § 32-128(H).

13 6. OBEY ALL LAWS. During the probationary period, Respondent shall obey
14 all federal, state and local laws, as well as, all rules governing the practice of Architecture
15 in the State of Arizona. The Board shall consider any violation of this paragraph to be a
16 separate violation of the rules and statues governing the Arizona Board of Technical
17 Registration. The Board may also consider Respondent's non-compliance with this
18 Order as a separate violation of A.R.S. § 32-150.

19 7. RENEWAL OF REGISTRATION. During the probationary period,
20 Respondent and Respondent Firm shall timely renew their Arizona registration as an
21 Architect and an Architectural Firm, and timely pay all required registration fees.

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

25 9. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
26 complying with this Consent Agreement.

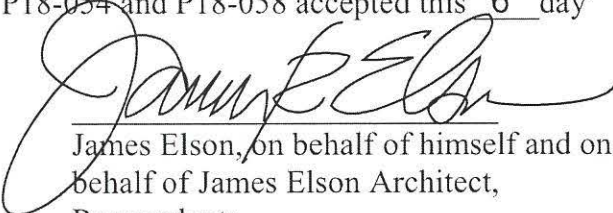
27 10. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
28 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity

1 to be heard, shall lift the stay of revocation and revoke Respondent's registration as an
2 Architect.

3 ACCEPTED and ORDERED this 26 day of June, 2018.

4
5 
6 Alejandro Angel, P.E., Chairman
7 Arizona State Board of
8 Technical Registration

9 Consent Agreement and Order, No. P18-054 and P18-058 accepted this 6 day
10 of June, 2018.

11 
12 James Elson, on behalf of himself and on
13 behalf of James Elson Architect,
14 Respondents

15 **ORIGINAL** filed this 29 day of

16 June, 2018, with:

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

20 **COPY** of the foregoing mailed via Certified Mail
21 No. 9214 8901 9434 4600 0385 51 and

22 First Class mail this 29 day of JUNE, 2018, to:

23 James Elson
24 16420 N. 92nd St. Suite. 205
25 Scottsdale, AZ 85060

26
27
28
By: 