

1 **BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION**
2 **AT THE OFFICE OF ADMINISTRATIVE HEARINGS**

3 In the Matter of:

Case No. P19-061

4 **MANUEL AGUIRRE,**
5 Architect
6 Registration No. 28487,

**CONSENT AGREEMENT
AND
ORDER OF DISCIPLINE**

7 Respondent;

8 and

9 **GBMA ARCHITECTURE, LLC,**
10 Firm Registration No. 22102,

11 Respondent Firm.

12 **GENERAL PROVISIONS**

13 In the interest of a prompt and judicious resolution of the above-captioned matter before
14 the Arizona State Board of Technical Registration (“Board”) and consistent with the public
15 interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. §
16 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party, Manuel Aguirre
17 (“Respondent”), holder of Registration No. 28487, GBMA Architecture, LLC (“Respondent
18 Firm”), holder of Firm Registration No. 22102, and the Board enter into the following Recitals,
19 Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as a final disposition of
20 this matter.

21
22 **RECITALS**

23 1. Respondents have read and understand this Consent Agreement and have had the
24 opportunity to discuss this Consent Agreement with an attorney, or have waived the opportunity
25 to discuss this Consent Agreement with an attorney.
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1 2. Respondents understand that they have a right to a public administrative hearing
2 concerning this case at which they could present evidence and cross-examine witnesses. By
3 entering into this Consent Agreement, Respondents knowingly, voluntarily, and irrevocably
4 waive the right to such an administrative hearing, as well as rights of rehearing, review,
5 reconsideration, appeal, judicial review or any other administrative and/or judicial action
6 concerning the matters set forth herein.

7 3. Respondents affirmatively agree that this Consent Agreement shall be irrevocable.

8 4. Respondents understand that this Consent Agreement or any part of the agreement may
9 be considered in any future disciplinary action by the Board.

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

14 6. Respondents understand this Consent Agreement deals with Board case number P19-061,
15 involving allegations that Respondents engaged in conduct that would subject them to discipline
16 under the Board's statutes and rules. The investigation into these allegations shall be concluded
17 upon the Board's adoption of this Consent Agreement.

18 7. Respondents understand that this Consent Agreement does not constitute a dismissal or
19 resolution of any other matters currently pending before the Board, if any, and does not
20 constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction
21 regarding any other pending or future investigation, action or proceeding.

22 8. Respondents understand that acceptance of this Consent Agreement does not preclude
23 any other agency, subdivision, or officer of this State from instituting any other civil or criminal
24 proceedings with respect to the conduct that is the subject of this Consent Agreement.

25 9. Respondents acknowledge and agree that the acceptance of this Consent Agreement is
26 solely to settle this Board matter and does not preclude the Board from instituting other

1 proceedings as may be appropriate now or in the future. Furthermore, and notwithstanding any
2 language in this Consent Agreement, this Consent Agreement does not preclude in any way any
3 other state agency or officer or political subdivision of this state from instituting proceedings,
4 investigating claims, or taking legal action as may be appropriate now or in the future relating to
5 this matter or other matters concerning Respondents, including but not limited to violations of
6 Arizona's Consumer Fraud Act. Respondents acknowledge that, other than with respect to the
7 Board, this Consent Agreement makes no representations, implied or otherwise, about the views
8 or intended actions of any other state agency or officer or political subdivision of the state
9 relating to this matter or other matters concerning Respondents.

10 10. Respondents acknowledge and agree that, upon signing this Consent Agreement and
11 returning this document to the Board's Executive Director, they may not revoke acceptance of
12 the Consent Agreement or make any modifications to the document regardless of whether the
13 Consent Agreement has been signed on behalf of the Board. Any modification to this original
14 document is ineffective and void unless mutually agreed by the parties in writing.

15 11. This Consent Agreement is subject to the approval of the Board and is effective only
16 when accepted by the Board and signed on behalf of the Board. If the Board does not accept this
17 Consent Agreement, the Board retains its authority to hold a formal administrative hearing
18 pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent
19 Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor
20 introduced in any action by any party, except that the parties agree that should the Board reject
21 this Consent Agreement and this case proceeds to hearing, Respondents shall assert no claim that
22 the Board was prejudiced by its review and discussion of this document or any records relating
23 thereto.

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

1 13. Respondents understand that any violation of this Consent Agreement may result in
2 disciplinary action, including suspension or revocation of the registration under A.R.S. § 32-150.

3 14. Respondents agree that the Board will adopt the following Findings of Fact, Conclusions
4 of Law and Order.

5

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FINDINGS OF FACT

7 15. The Board is the duly constituted authority for the regulation and control of the practice
8 of several professions and the firms under which registrants practice, including that of
9 architecture. A.R.S. §32-101, *et seq.*

10 16. Respondent Manuel Aguirre("Respondent") holds Architect Registration No. 28487,
11 issued by the Board, and held such in good standing at all times relevant to the allegations of this
12 Complaint.

13 17. Respondent GBMA Architecture, LLC ("Respondent Firm") holds Firm Registration No.
14 22102 issued by the Board. Respondent Firm was not registered with the Board during the times
15 relevant to the allegations of this Complaint.

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FACTUAL ALLEGATIONS

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18 18. On or about May 22, 2019, the Board began an investigation into Respondent and
19 Respondent Firm for the potential advertising of three non-registrants as "Lead Architects" on
20 Respondent Firm's website.

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22 19. It was subsequently confirmed from materials provided by Respondent during the course
23 of the investigation that the active webpage with misidentified non-registrants was mistakenly
24 posted "live" through error by a web designer retained to design a new firm webpage.

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26 20. Additionally, Respondent's response to the Board included: "[w]e (GBMA Architecture
LLC) have been in continuous operation for 25 years and are in good standing with the Arizona
Corporation Commission."

1 21. Board staff determined that Respondent Firm had never been registered with the Board.
2 Respondent alleged he registered Respondent Firm with the Board upon opening in late 1994
3 using the paperwork provided by the Board to the Respondent which also listed him as the
4 Registrant for the firm. Additionally, Respondent alleges the Board did record the Respondent
5 as the Registrant for the firm at that time. Neither Respondent nor Board staff were able to
6 document issuance or renewal of any registration to Respondent Firm.

7 22. Respondent subsequently registered Respondent Firm with the Board on August 23,
8 2019, listing himself as Principal Registrant.

9
10 **CONCLUSIONS OF LAW**

11 23. The Board possesses jurisdiction over the subject matter hereof and over Respondents
12 pursuant to A.R.S. § 32-101, *et seq.*

13 24. A.R.S. § 32-121 provides, in part, that “[e]xcept as otherwise provided in this section, a
14 person or firm desiring to practice any board-regulated profession or occupation shall first secure
15 a certificate or registration...”

16 25. A.R.S. § 32-101(B)(26) defines “Person” in part as any “ ...individual, firm, partnership
17 ...or other organization.”

18 26. A.R.S. § 32-106.02(A) provides, in part, that “[t]he board may initiate a hearing pursuant
19 to title 41, chapter 6, article 10 on receipt of a complaint that a person who is not exempt from
20 this chapter and is not registered or certified under this chapter is practicing, offering to practice
21 or by implication purporting to be qualified to practice any board regulated profession or
22 occupation.” A.R.S. § 32-106.02(B) provides, in part, the Board “shall issue an order that
23 imposes a civil penalty of no more than two thousand dollars per violation.”

24 27. A.R.S. § 32-141(A) provides in part that that “[a] firm shall not engage in the practice of
25 any board regulated profession or occupation unless the firm is registered with the board...”

26

1 28. A.R.S. § 32-128(C)(4) provides that the Board may take disciplinary action as provided
2 in A.R.S. § 32-128(A), “in combination or alternatively” including revocation or suspension as
3 well as any other disciplinary action, including imposition of an administrative penalty of no
4 more than two thousand dollars for each violation, with regards to a holder of a certificate or
5 registration for “[v]iolation of this chapter or board rules.”

6 29. The conduct and circumstances in the Factual Allegations above constitute a violation of
7 A.R.S. § 32-106.02(A) by Respondent Firm through A.R.S. § 32-121.

8 30. The conduct and circumstances in the Factual Allegations above constitute a violation of
9 A.R.S. § 32-128(C)(4) by Respondent through A.R.S. § 32-141(A).

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11 **ORDER**

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

14
15 1. **ADMINISTRATIVE PENALTY.** Within six (6) Months from the effective date of this
16 Consent Agreement, Respondents shall pay an administrative penalty of One Thousand, Two
17 Hundred Dollars (\$1,200.00) by certified check or money order made payable to the State of
18 Arizona Board of Technical Registration. Respondents shall be jointly and severally responsible
19 for the entire amount of this administrative penalty.

20 2. **COST OF INVESTIGATION.** Within Thirty (30) days from the effective date of this
21 Consent Agreement, Respondents shall pay the cost of investigation of this case to the Board in
22 the amount of Ninety Dollars (\$90.00) by certified check or money order made payable to the
23 State of Arizona Board of Technical Registration, according to the provisions of A.R.S. § 32-
24 128(H). Respondents shall be jointly and severally liable for the entire amount of these costs.

25 3. **STAYED SUSPENSION.** Respondent’s registration as an Architect, No. 28487, shall be
26 suspended for six (6) months; however, the suspension is stayed for as long as Respondent

1 remains in compliance with this Order. During the stay of suspension, Respondent's registration
2 as an Architect is placed on probation for six (6) months. If Respondent is non-compliant with
3 any terms of this Order during the (6) months stayed suspension and probation period, the stay of
4 the suspension shall be lifted and Respondent's registration as an Architect shall be
5 automatically suspended without a formal hearing, and remain suspended until Respondent is
6 compliant with all terms of this Order.

7 4. OBEY ALL LAWS. Respondents shall obey all federal, state and local laws, as well as,
8 all rules governing the practice of Home Inspections in the State of Arizona. The Board shall
9 consider any violation of this paragraph to be a separate violation of the rules and statutes
10 governing the Arizona Board of Technical Registration. The Board may also consider
11 Respondents' non-compliance with this Order as a separate violation of A.R.S. § 32-150.

12 5. RENEWAL OF REGISTRATION. During the period this Order is in effect, Respondent
13 and Respondent Firm shall timely renew their registrations with the Board and timely pay all
14 required registration fees.

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

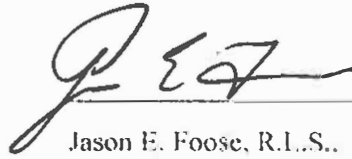
18 7. COSTS OF COMPLIANCE. Respondents shall pay all costs associated with complying
19 with this Consent Agreement.

20 8. NONCOMPLIANCE. If Respondents violate this Order in any way or fail to fulfill the
21 requirements of this Order, the Board, after giving notice and the opportunity to be heard, may
22 revoke, suspend or take other disciplinary actions against either license or registration. The issue
23 at such a hearing will be limited solely to whether this Order has been violated.

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ACCEPTED and ORDERED this 28th day of July, 2020.



Jason E. Foose, R.I.S.,
Chairman
Arizona State Board of Technical Registration

Consent Agreement and Order, No. H119-023, accepted this 1st day of JULY, 2020.



Manuel Aguirre,
Personally and on behalf of
GBMA Architecture, LLC

ORIGINAL filed this
28 day of July, 2020, 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 8701 9234 4620 0000 0715 40
and First Class mail this 28 day of July, 2020, to:

MANUEL AGUIRRE
GBMA Architecture, LLC
3323 E. Weldon Avenue
Phoenix, AZ 85018

By: 