

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

<p><b>In the Matter of:</b></p> <p><b>Rene Martinez</b> <b>Professional Engineer</b> <b>Registration No.47518</b></p> <p><b>Talavera Engineering &amp; Construction</b> <b>Firm Registration No.20939</b> <b>Respondent</b></p>	<p style="text-align: center;"><b>Case No. P19-066</b></p> <p style="text-align: center;"><b>CONSENT AGREEMENT and ORDER OF DISCIPLINE</b></p>
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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, Rene Martinez ("Respondent"), holder of Registration No. 47518, 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 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 P19-066 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 Professional Engineering in the State of Arizona.

14 2. Respondent is the holder of Arizona Professional Engineer, Registration No.  
15 47518.

16 3. On May 22, 2019, the Board received a complaint alleging Respondent prepared  
17 and signed special inspection reports related to the construction of an outdoor fireplace that failed  
18 to conform with approved drawings of the I.B.C. and did not reflect the actual conditions of the  
19 built structure. The Respondent conducted no analysis of the structure and made no calculations.  
20 He reportedly was present during certain phases of the project when in fact he was not. The  
21 Committee commented that the Respondent violated the trust of the Board and that he didn't just  
22 make a mistake, he was negligent.

23 4. On September 27, 2019, an Enforcement Advisory Committee was convened at the  
24 Board office to review the complaints against the Respondent. After interviewing the Witness and  
25 ~~considering the evidence presented in this case, the Committee substantiated the allegations~~  
26 brought forward by the Allegor, and an additional violation brought forward by the EAC  
27 Committee as follows:

28 a. Respondent signed and sealed professional documents not prepared by himself or his

1 bona fide employee.

2 **CONCLUSIONS OF LAW**

3 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.

4 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline  
5 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301.6 in that Respondent and  
6 Respondent Firm may have failed to comply with state, municipal and county laws, codes,  
7 ordinances and regulations pertaining to his area of practice.

8 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline  
9 pursuant to A.R.S. § 32-128(C)(2) in that Respondent may have failed to apply the appropriate  
10 technical knowledge and skills in the practice of a Board regulated profession.

11 4. The conduct alleged in the Findings of Fact constitutes grounds for discipline  
12 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301.4 in that Respondent and  
13 Respondent Firm may have engaged in gross negligence, incompetence or other misconduct  
14 while providing professional services to the public.

15 5. The conduct alleged in the Findings of Fact constitutes grounds for discipline  
16 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301.16 in that Respondent signed  
17 and sealed professional documents not prepared by himself or his bona fide employee.

18  
19 **ORDER**

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

- 22 1. **LETTER OF REPRIMAND.** Respondent is hereby issued a Letter of Reprimand.  
23 2. **STAYED SUSPENSION AND PROBATION.** Respondent's registration as a  
24 Professional Engineer No. 47518 shall be suspended for twelve (12) months; however, the  
25 suspension is stayed for as long as Respondent remains in compliance with this Order for all  
26 conduct taking place after the effective date of this order. During the stay of suspension,  
27 Respondent's registration as a Professional Engineer is placed on probation for twelve (12)  
28 months. If Respondent is non-compliant with any terms of this Order during the twelve (12)

1 month stayed suspension and probation period, the stay of the suspension shall be lifted and  
2 Respondent's registration as a Professional Engineer shall be automatically suspended without a  
3 formal hearing, and remain suspended until Respondent is compliant with all terms of this Order.  
4 If Respondent completes all terms of this Order prior to the end of the twelve (12) month stayed  
5 suspension and probation period, Respondent may be eligible for early termination of probation.

6 3. INDEFINITE RESTRICTION OF PRACTICE. Respondent's registration as a  
7 Professional Engineer (Civil) #47518, shall be restricted, prohibiting Respondent from engaging  
8 in the practice of structural engineering; however, the restriction is stayed, giving Respondent the  
9 opportunity to take the National Council of Examiners for Engineering and Surveying (NCEES)  
10 16 hour Structural Engineering Examination during October of 2020. If Respondent fails to pass  
11 the October, 2020 offering of National Council of Examiners for Engineering and Surveying  
12 (NCEES) 16 hour Structural Engineering Examination, the stay of practice restriction shall be  
13 lifted and Respondent shall be indefinitely prohibited from engaging in the practice of structural  
14 engineering until such time that Respondent can provide proof to the Board that he has  
15 successfully passed the NCEES 16 hour structural exam. If Respondent provides proof to the  
16 Board that he has passed the NCEES 16 hour structural exam, the restriction of practice will be  
17 terminated. Respondent shall provide to the Board the results of the NCEES 16 hour structural  
18 exam taken by Respondent within seven(7) days of Respondent receiving those results.

19 4. PEER REVIEW. Respondent shall submit his next five (5) structural engineering  
20 projects for peer review. Within thirty (30) days of the effective date of this Consent Agreement,  
21 Respondent shall furnish to the Board, the name of an Arizona registered Structural Engineer  
22 ("Peer Reviewer") who agrees to review and report on Respondent's work. The Proposed Peer  
23 Reviewer shall have at least five years of actual engagement as a Structural Engineer, shall be  
24 registered and in good standing with the Board and shall not have received any disciplinary  
25 action from the Board within the last three years. Respondent shall submit to the Board a current  
26 resume detailing the qualifications of the proposed Peer Reviewer, and an Affidavit and  
27 Agreement to Conduct Peer Reviewer signed by the proposed Peer Reviewer. Upon approval by  
28 the Board of the Peer Reviewer, Respondent shall ensure that the Peer Reviewer provides a

1 written report to the Board after each peer reviewed project describing any deficiencies in  
2 Respondent's practice, and certifying that the peer reviewed project provided to the client by the  
3 Respondent is in compliance with Board rules and statutes. Respondent shall not give final  
4 approval on any projects to a client, contractor, any regulatory or review body or any other person  
5 until the project has been reviewed and approved by the Peer Reviewer. Respondent shall retain  
6 the Peer Reviewer at his own expense.

7 5. **ADVERTISING.** Respondent and Respondent Firm shall not advertise or display  
8 any card or sign that may indicate to the public that Respondent is a Structural Engineer until  
9 such time that Respondent is registered with the Board as a Structural Engineer.

10 6. **PROFESSIONAL ETHICS CLASS.** Within ninety days from the effective date of  
11 this Consent Agreement, Respondent shall provide verification to the Board that Respondent has  
12 successfully completed a minimum three (3) hour class in professional ethics that has been  
13 approved by Board staff.

14 7. **ADMINISTRATIVE PENALTY.** Within Twelve (12) months from the effective  
15 date of this Consent Agreement, Respondent shall pay an administrative penalty of Five  
16 Thousand Dollars (\$5000.00) by certified check or money order made payable to the State of  
17 Arizona Board of Technical Registration. Respondent shall make eleven monthly payments of  
18 \$415.00 and a twelve and final payment of \$435.00

19 8. **COST OF INVESTIGATION.** Within Twelve (12) months from the effective date  
20 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to the  
21 Board in the amount of Seven Hundred Fifty Dollars (\$750.00) 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). Respondent shall make twelve monthly payments of \$62.50.

24 9. **OBEY ALL LAWS.** During the probationary period, Respondent shall obey all  
25 federal, state and local laws, as well as, all rules governing the practice of Engineering in the  
26 State of Arizona. The Board shall consider any violation of this paragraph to be a separate  
27 violation of the rules and statutes governing the Arizona Board of Technical Registration. The  
28 Board may also consider Respondent's non-compliance with this Order as a separate violation of

10 RENEWAL OF REGISTRATION. Respondent and Respondent Firm shall timely renew their Arizona registration as an Engineer and an Engineering Firm, and timely pay all required registration fees.

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

12. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with complying with this Consent Agreement.

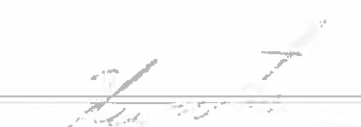
13. NONCOMPLIANCE. If Respondent violates this Order in any way or fails to fulfill the requirements of this Order, the Board, after giving notice and the opportunity to be heard, may revoke, suspend or take other disciplinary actions against the registration. The issue at such a hearing will be limited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

ACCEPTED and ORDERED this 28<sup>th</sup> day of APRIL, 2020.



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

Consent Agreement and Order, No. P19-066 accepted this 18 day of MARCH, 2020



Rene Martinez, Respondent

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**ORIGINAL** filed this 28 day of  
APRIL, 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 8901 9481 460 0681 97 and  
First Class mail this 28 day of APRIL, 2020, to:

Rene Martinez  
Talavera Engineering & Construction  
2455 E Speedway Blvd # 102  
Tucson, AZ 85719

By: 