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

<p>In the Matter of:</p> <p>Paul Nzomo Civil Engineer Registration No. 33446</p> <p style="text-align: center;">Respondent</p>	<p style="text-align: center;">Case No. P20-036</p> <p style="text-align: center;">CONSENT AGREEMENT and ORDER OF DISCIPLINE</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, Paul Nzomo (“Respondent”), holder of Registration No. 33446, 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.
4. Respondent understands that this Consent Agreement or any part of the agreement

1 may be considered in any future disciplinary action by the Board against him.

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

6 6. Respondent understands this Consent Agreement deals with Board case number
7 P20-036 involving allegations that Respondent engaged in conduct that would subject him to
8 discipline under the Board's statutes and rules. The investigation into these allegations against
9 Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

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

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

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

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

1 the Board was prejudiced by its review and discussion of this document or any records relating
2 thereto.

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

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

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

10 **FINDINGS OF FACT**

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

13 2. Respondent is the holder of Arizona Professional Engineer Registration No. 33446.

14 3. In or around June of 2019, Respondent and client entered into a verbal agreement
15 for Respondent to design a septic system for a property located at 12625 Casa Grande Ave in Mt.
16 Lemon, Arizona.

17 4. On or about November 11, 2019, Respondent's plans were approved by Pima
18 County Department of Environmental Quality.

19 5. In or around November of 2019, the client hired another Engineer to complete the
20 septic system project as Respondent did not provide the client with adequate plans for the project.

21 6. On or about February 10, 2020, the Board received a complaint alleging that
22 Respondent failed to apply the appropriate technical knowledge and skill in his septic system
23 design for a property located at 1265 Casa Grande Ave in Mt. Lemon, Arizona, in August of
24 2019. It was alleged in the complaint, Respondent's septic system design was completely
25 unnecessary and overly complicated.

26 7. Assessments performed by the Board's Enforcement Advisory Committee
27 identified the following deficiencies:

28 a. Respondent did not demonstrate an understanding of the ADEQ Rules for

1 Site investigation R18-9-A310. Respondent's selection of a vault and haul design supports the
2 allegation that the design was unnecessary. The subsequent engineer's permitted design validates
3 the allegation.

4 b. Respondent's permit submittal information and response to these
5 allegations does not establish the basis of the design because they lack fixture unit computation.
6 Respondent's fixture count of 7 results in a design load of 150 gallons per day, however, the
7 subsequent engineer's fixture count of 8 generating a design flow of 300 gallons per day is the
8 minimum for a low-flow toilet (3 fixture units [fu]), lavatory (1 fu), shower (2 fu), and kitchen
9 sink (2 fu) per R18-9-A314(4)(a). Respondent's use of the lower design flow resulted in an
10 undersized vault system of 2000 gallons instead of 3000 per R 18-9-E314(D)(I). This
11 under-design demonstrates a technical deficiency.

12 c. There is no information as to why Respondent specified dual-walled tanks
13 with an integral leak detection system. The allegation that the system design was overly
14 complicated was supported.

15 d. The products of design appear to be misjudged for the tank. Appearances
16 are that tank designs for fossil fuels may have been in the choice of tanks as opposed to a
17 standard chamber design using common components readily available and should have been
18 investigated from the beginning.

19 e. It likewise appears that a misjudgment of the soil capacity to take the
20 dissolved and processed effluent affected the instruction to dig test holes.

21 8. On July 29, 2020, the Board's Enforcement Advisory Committee ("EAC")
22 convened to review the complaint against Respondent. After reviewing the evidence and
23 interviewing Respondent and the client, the Committee determined that Respondent failed to
24 apply the appropriate technical knowledge and skill in his septic system design. The Committee
25 found that Respondent did not use due care in his evaluation process, misunderstood weathering
26 conditions, and fudged the fixture unit count to get to the size tank that he wanted. The
27 Committee opined that Respondent did not understand the design and rule criteria for the septic
28 system and probably took the easy way out, without considering costs for the client. The

1 Committee expressed its concern as to why Respondent did not conduct any percolation tests and
2 only made visual observations while preparing his septic system design. The Committee agreed
3 Respondent showed no basis for the design and demonstrated a lack of engineering skill.

4 **CONCLUSIONS OF LAW**

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

6 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
7 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(6), in that Respondent failed
8 to apply the same technical knowledge and skill that would be applied by other qualified
9 registrants who practice the same profession in the same area and at the same time.

10 **ORDER**

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

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

14 2. STAYED SUSPENSION AND PROBATION. Respondent's registration as a
15 Profession No. 33446 shall be suspended for twelve (12) months; however, the suspension is
16 stayed for as long as Respondent remains in compliance with this Order. During the stay of
17 suspension, Respondent's registration as a Professional Engineer is placed on probation for
18 twelve (12) months. If Respondent is non-compliant with any terms of this Order during the
19 twelve (12) month stayed suspension and probation period, the stay of the suspension shall be
20 lifted and Respondent's registration as a Professional Engineer shall be automatically suspended
21 without a formal hearing, and remain suspended until Respondent is compliant with all terms of
22 this Order. If Respondent completes all terms of this Order prior to the end of the twelve (12)
23 month stayed suspension and probation period, Respondent may be eligible for early termination
24 of probation.

25 3. RESTITUTION. Within thirty (30) days from the effective date of this Consent
26 Agreement, Respondent shall pay restitution to the client, Pedro Zuniga, in the amount of Two
27 Thousand Five Hundred Dollars (\$2,500.00) for the cost of the Septic System Design project
28 related to case P20-036. Respondent shall provide proof of payment made to the client, such as a

1 copy of the check, to the Board of Technical Registration showing payment was made to the
2 client.

3 4. PEER REVIEW. Within the twelve (12) month Stayed Suspension and Probation
4 period. Respondent shall submit his next five (5) septic system engineering and design projects
5 for peer review. Respondent shall furnish to the Board, the name of an Arizona registered
6 Professional Engineer ("Peer Reviewer") who agrees to review and report on Respondent's work.
7 The Proposed Peer Reviewer shall have at least five years of actual engagement as a Professional
8 Engineer, with expertise in septic system design, and shall be registered and in good standing
9 with the Board and shall not have received any disciplinary action from the Board within the last
10 three years. Respondent shall submit to the Board a current resume detailing the qualifications of
11 the proposed Peer Reviewer, and an Affidavit and Agreement to Conduct Peer Reviewer signed
12 by the proposed Peer Reviewer. Upon approval by the Board of the Peer Reviewer, Respondent
13 shall ensure that the Peer Reviewer provides a written report to the Board after each peer
14 reviewed project describing any deficiencies in Respondent's practice, and certifying that the peer
15 reviewed project provided to the client by the Respondent is in compliance with Board rules,
16 statutes, and the professional engineering standard of care. The Board will provide the Peer
17 Reviewer with a list of criteria that the Peer Reviewer will utilize to determine that Respondent is
18 knowledgeable in septic system engineering and design. Respondent shall not give final approval
19 on any projects to a client, contractor, any regulatory or review body or any other person until the
20 project has been reviewed and approved by the Peer Reviewer. Respondent shall retain the Peer
21 Reviewer at his own expense.

22 5. REMEDIAL EDUCATION. Within Ninety (90) days of the effective date of this
23 Consent Agreement, Respondent shall provide proof to the Board that he has successfully
24 completed a minimum of Six (6) hours of Board approved education related to septic system
25 engineering and design.

26 6. ADMINISTRATIVE PENALTY. Within Twelve (12) months from the effective
27 date of this Consent Agreement, Respondent shall pay an administrative penalty of One
28 Thousand Dollars (\$1000.00) by certified check or money order made payable to the State of

1 Arizona Board of Technical Registration. Respondent shall make quarterly payments of Two
2 Hundred Fifty Dollars (\$250.00).

3 7. COST OF INVESTIGATION. Within thirty (30) days from the effective date of
4 this Consent Agreement, Respondent shall pay the cost of investigation of this case to the Board
5 in the amount of Three Hundred Eighty-Nine Dollars (\$389.00) by certified check or money
6 order made payable to the State of Arizona Board of Technical Registration, according to the
7 provisions of A.R.S. § 32-128(H).

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

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

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

20 11 COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
21 complying with this Consent Agreement.

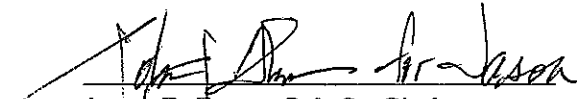
22 12. NONCOMPLIANCE. If Respondent violates this Order in any way or fails to
23 fulfill the requirements of this Order, the Board, after giving notice and the opportunity to be
24 heard, may revoke, suspend or take other disciplinary actions against the registration. The issue
25 at such a hearing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

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1 ACCEPTED and ORDERED this 22 day of SEPTEMBER, 2020.

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

7 Consent Agreement and Order, No. P20-036 accepted this 8 day of SEP, 2020.

8
9 
10 Paul Nzomo, Respondent

11
12 ORIGINAL filed this _____ day of
13 _____, 2020, with:

14
15 Arizona State Board of Technical Registration
16 1110 W. Washington, Suite 240
17 Phoenix, AZ 85007

18 COPY of the foregoing mailed via Certified Mail
19 No. _____ and
20 First Class mail this _____ day of _____, 2020, to:

21 Paul Nzomo
22 1870 W. Prince Rd
23 Tucson, AZ 85705

24 By: _____
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