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

In the Matter of:

Case No.: P22-008

**Mark Tomecak
Registered Architect
Registration No. 42458**

**CONSENT AGREEMENT
and
ORDER OF DISCIPLINE**

**AZ-BTR RECEIVED
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**Tomecak Design PC
Firm Registration No. 23487**

Respondents

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, Mark Tomecak (“Respondent”), holder of Registration No. 42458, and principle of Tomecak Design PC (“Respondent Firm”), Registration No. 23487, 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.

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

3 4. Respondent understands that this Consent Agreement or any part of the
4 agreement may be considered in any future disciplinary action by the Board against him.

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

9 6. Respondent understands this Consent Agreement deals with Board case
10 number P22-008 involving allegations that Respondent engaged in conduct that would
11 subject him to discipline under the Board's statutes and rules. The investigation into
12 these allegations against Respondent shall be concluded upon the Board's adoption of
13 this Consent Agreement.

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

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

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

28

1 10. This Consent Agreement is subject to the approval of the Board and is
2 effective only when accepted by the Board and signed on behalf of the Board. If the
3 Board does not accept this Consent Agreement, the Board retains its authority to hold a
4 formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the
5 Board does not approve this Consent Agreement, it is withdrawn and shall be of no
6 evidentiary value and shall not be relied upon nor introduced in any action by any party,
7 except that the parties agree that should the Board reject this Consent Agreement and this
8 case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced
9 by its review and discussion of this document or any records relating thereto.

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

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

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

18 **FINDINGS OF FACT**

19 1. The Board is the duly constituted authority for the regulation and control of
20 the practice of Architecture in the State of Arizona.

21 2. Respondent is the holder of Arizona Registered Architect, Registration No.
22 42458.

23 3. Respondent Firm had not been registered with the Board prior to August 20,
24 2021.

25 4. Respondent indicated to staff that he has offered Architecture services
26 through Respondent Firm for 16 years, since the year 2005, without firm registration.

27 5. Respondent indicated to staff that he was unaware that he needed firm
28 registration in addition to his individual registration, but has since registered Respondent

1 Firm with the Board.

2 6. Board records confirm that Respondent Firm was first registered with the
3 Board on August 20, 2021.

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. § 32-121, A.R.S. § 32-141 and A.R.S. § 32-128(C)(4) as it relates to
8 A.A.C. R4-30-301(4), in that Respondent and Respondent Firm practiced or offered to
9 practice a Board regulated profession without firm registration.

10 **ORDER**

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

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

15 2. ADMINISTRATIVE PENALTY. Within Ninety (90) days from the
16 effective date of this Consent Agreement, Respondent shall pay an administrative penalty
17 of One Thousand Fifty Dollars (\$1050.00) by certified check or money order made
18 payable to the State of Arizona Board of Technical Registration.

19 3. COST OF INVESTIGATION. Within Sixty (60) days from the effective
20 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
21 case to the Board in the amount of Eighty Three Dollars (\$83.00) by certified check or
22 money order made payable to the State of Arizona Board of Technical Registration,
23 according to the provisions of A.R.S. § 32-128(H).

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

1 A.R.S. § 32-150.


2 5. RENEWAL OF REGISTRATION. Respondent and Respondent Firm shall
3 timely renew their Arizona registration as an Architect and an Architectural Firm, and
4 timely pay all required registration fees.

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


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

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

15
16 ACCEPTED and ORDERED this 22 day of SEP., 2021.

17
18 
19 Jack Gilmore, L.A., Chairman
20 Arizona State Board of
21 Technical Registration

22 Consent Agreement and Order, No. P22-008 accepted this 3 day of
23 DECEMBER 2021.

24 
25 Mark Tomcak, on behalf of himself
26 And on behalf of Tomcak Design PC,
27 Respondents
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ORIGINAL filed this 23rd day of February, 2021, 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 9434 4600 0867 50 and
First Class mail this 23rd day of February, 2021, to:

Mark Tomecak
4368 N. Civic Center Plaza
Scottsdale, AZ 85251

By: Daniel Carthel
