

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

<p>In the Matter of:</p> <p>Mark Benjamin Non-Registrant</p> <p>PHI-D&E Inc. dba Crown Jade Design and Engineering Non-Registered Firm</p> <p style="text-align: right;">Respondent</p>	<p style="text-align: center;">Case No. P19-072</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, Mark Benjamin, Non-Registrant, (“Respondent”), PHI-D&E Inc. dba Crown Jade Design and Engineering, Non-Registered Firm, (“Respondent Firm”) 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

1 and/or judicial action concerning the matters set forth herein.

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

3 4. Respondent understands that this Consent Agreement or any part of the agreement
4 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 public
7 records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this Consent
8 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 number
10 P19-072 involving allegations that Respondent engaged in conduct that would subject him to
11 discipline under the Board's statutes and rules. The investigation into these allegations against
12 Respondent shall be concluded upon the 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, and does
15 not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction
16 regarding any other pending or future investigation, action or proceeding.

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

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

25 10. This Consent Agreement is subject to the approval of the Board and is effective
26 only when accepted by the Board and signed on behalf of the Board. If the Board does not accept
27 this Consent Agreement, the Board retains its authority to hold a formal administrative hearing
28 pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent

1 Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor
2 introduced in any action by any party, except that the parties agree that should the Board reject
3 this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that
4 the Board was prejudiced by its review and discussion of this document or any records relating
5 thereto.

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

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

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

13 FINDINGS OF FACT

14 1. The Board is the duly constituted authority for the regulation and control of the
15 profession of Engineering in the State of Arizona.

16 2. Respondent is not registered with the Board as a Professional Engineer. Respondent
17 registration was cancelled on February 28, 2017.

18 3. Respondent Firm is not registered with the Board. Respondent Firm registration
19 expired on August 31, 2011.

20 4. On November 21, 2018, Respondents entered into an agreement for limited
21 professional services to analyze, redline, review, plot and stamp plans prepared by
22 Raymond Clamons for the Sunken Greenhouse project located at 2232 N. Forgeus Ave. in
23 Tucson, AZ.

24 5. On February 11, 2019, Respondent signed and sealed professional plans for the
25 aforementioned greenhouse project baring Respondent's cancelled registration number and
26 expired Respondent Firm in the title block.

27 6. During an interview, Respondent stated that Ray Clamons of Xylon Designs
28 performed the work for the project plans. Respondent stated that he reviewed and stamped the

1 plans that Mr. Clamons provided.

2 **CONCLUSIONS OF LAW**

3 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq,
4 including A.R.S. § 32-106.02(A).

5 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
6 pursuant to A.R.S. § 32-141, in that Respondent and Respondent Firm practiced engineering on
7 the Greenhouse project at 2232 N. Forgeus Ave. in Tucson, AZ, without Board registration.

8 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
9 pursuant to A.R.S. § 32-145(1), int that Respondent practiced or offered to practice engineering, a
10 Board regulated profession without Board registration, on the Greenhouse project at 2232 N.
11 Forgeus Ave. in Tucson, AZ.

12 4. The conduct alleged in the Findings of Fact constitutes grounds for discipline
13 pursuant to A.R.S. § 32-145(2), in that Respondent advertised or displayed a device to indicate he
14 is qualified to practice engineering, a Board regulated profession.

15 5. The conduct alleged in the Findings of Fact constitutes grounds for discipline
16 pursuant to A.R.S. § 32-145(3), in that Respondent used the title of Professional Engineer without
17 Board registration.

18 6. The conduct alleged in the Findings of Fact constitutes grounds for discipline
19 pursuant to A.R.S. § 32-145(4), in that Respondent used a cancelled certificate of registration
20 when he signed and sealed plans for the Greenhouse project at 2232 N. Forgeus Ave. in Tucson,
21 AZ.

22 7. The conduct alleged in the Findings of Fact constitutes grounds for discipline
23 pursuant to A.R.S. § 32-125(D), in that Respondent, a non-registrant, illegally used a registrant's
24 seal when he signed and sealed plans for the Greenhouse project at 2232 N. Forgeus Ave. in
25 Tucson, AZ.

26 **ORDER**

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

1 1. CIVIL PENALTY. Within six (6) months from the effective date of this
2 Consent Agreement, Respondent shall pay a civil penalty of Two Thousand Dollars (\$2,000.00)
3 Payments are to be submitted to the Board by cashier's check or money order made payable to
4 the Arizona State Board of Technical Registration, according to the provisions of A.R.S. §
5 32-106.02(A).

6 2. COST OF INVESTIGATION. Within thirty (30) days from the effective date of
7 this Consent Agreement, Respondent shall pay the cost of investigation of this case to the Board
8 in the amount of One Hundred Forty-Seven Dollars (\$147.00) by certified check or money order
9 made payable to the State of Arizona Board of Technical Registration, according to the
10 provisions of A.R.S. § 32-128(H).

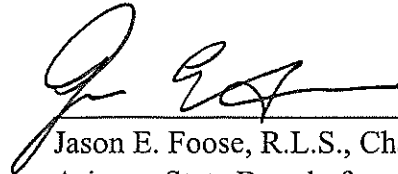
11 3. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, related
12 to the practice of Engineering in the State of Arizona. The Board shall consider any violation of
13 this paragraph to be a separate violation of the statutes governing the Arizona Board of Technical
14 Registration.

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

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

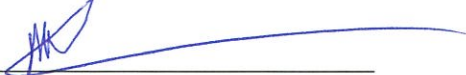
20 6. NONCOMPLIANCE. If Respondent violates this Order in any way or fails to
21 fulfill the requirements of this Order, the Board may seek a Petition for Injunction in accordance
22 with the provisions set forth in A.R.S. § 32-106.01.
23

24 ACCEPTED and ORDERED this 22ND day of October, 2019.

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

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2 Consent Agreement and Order, No. P19-072 accepted this 9 day of October, 2019.

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5 Mark Benjamin, and on behalf of PHI-D&E
6 Inc. dba Crown Jade Design & Engineering,
7 Respondents

8 **ORIGINAL** filed this 23 day of
9 OCTOBER, 2019, with:

10
11 Arizona State Board of Technical Registration
12 1110 W. Washington, Suite 240
13 Phoenix, AZ 85007

14 **COPY** of the foregoing mailed via Certified Mail
15 No. 9214 8901 9424 4600 0627 61 and
16 First Class mail this 23 day of OCTOBER, 2019, to:

17 Mark Benjamin
18 PHI-D&E Inc. dba Crown Jade Design and Engineering
19 PO Box 17,
20 Ft. Collins CO 80522

21 By: 
22 _____

