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

<p><b>In the Matter of:</b></p> <p><b>Al Nichols</b> <b>Civil Engineer</b> <b>Registration No. 20344</b></p> <p><b>Al Nichols Engineering</b> <b>Firm Registration No. 19429</b> <b>(Expired)</b></p> <p><b>Respondents</b></p>	<p style="text-align: center;"><b>Case No. P20-053</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, Al Nichols ("Respondent"), holder of Registration No. 20344 and Al Nichols Engineering ("Respondent Firm"), Firm Registration No. 19429 (*expired*), 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 irrevocable.

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

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

8           6.       Respondent understands this Consent Agreement deals with Board case number  
9 P20-053 involving allegations that Respondent engaged in conduct that would subject him to  
10 discipline under the Board's statutes and rules. The investigation into these allegations against  
11 Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

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

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

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

24          10.       This Consent Agreement is subject to the approval of the Board and is effective  
25 only when accepted by the Board and signed on behalf of the Board. If the Board does not accept  
26 this Consent Agreement, the Board retains its authority to hold a formal administrative hearing  
27 pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent  
28 Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor

1 introduced in any action by any party, except that the parties agree that should the Board reject  
2 this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that  
3 the Board was prejudiced by its review and discussion of this document or any records relating  
4 thereto.

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

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

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

12 **FINDINGS OF FACT**

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

15 2. Respondent is the holder of Arizona Professional Engineer Registration No. 20344.

16 3. Respondent Firm is the holder of Firm Registration No. 19429, which expired on  
17 October 13, 2016.

18 4. Board records indicate that Respondent is the firm principle and responsible party  
19 for Respondent Firm.

20 5. On or about June 27, 2020 the Board received a complaint alleging that  
21 Respondent's design for a heating and cooling system at the Chu Residence, 4205 N. Alvernon  
22 Way in Tucson, AZ, did not include a supply register at the top of the staircase causing the second  
23 story to be very hot during the summer months. It was also alleged that Respondent failed to seal  
24 a report he prepared on or about January 15, 2020, in which he provided professional judgement  
25 and conclusions related to his design of the heating and cooling system at the Chu Residence. It  
26 was further alleged that Respondent and Respondent Firm engaged in the practice of engineering  
27 without firm registration with the Board.

28 6. On or about July 16, 2020 the Board received Respondent Firm's annual

1 registration. Respondent Firm was issued a new Firm Registration No. 22709.

2           7.       On December 18, 2020 the Board's Enforcement Advisory Committee ("EAC")  
3 convened to review the complaint against Respondent. After reviewing the evidence and  
4 interviewing Respondent, Committee members determined that Respondent did not fail to apply  
5 the appropriate technical knowledge and skill on this project, noting that Respondent only  
6 provided a professional opinion on a project that was actually designed by a non-registrant.  
7 Committee members also discussed the professional document that Respondent produced, which  
8 was not sealed by Respondent. Committee members acknowledged that Respondent may not  
9 have sealed this document because he was unaware it would be submitted to Pima County,  
10 however, ultimately concluded that Respondent was a registrant of the Board at the time this  
11 document was created and therefore, should have applied his professional seal.

### 12                               CONCLUSIONS OF LAW

- 13           1.       The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 14           2.       The conduct alleged in the Findings of Fact constitutes grounds for discipline  
15 pursuant to A.R.S. 32-128(C)(4) as it relates to A.A.C. R4-30-304(D), in that Respondent failed  
16 to sign and seal professional documents.
- 17           3.       The conduct alleged in the Findings of Fact constitutes grounds for discipline  
18 pursuant to A.R.S. 32-121 and A.R.S. 32-141 in that Respondent and Respondent Firm practiced  
19 a Board regulated profession without firm registration with the Board.

### 20                               ORDER

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

- 23           1.       LETTER OF REPRIMAND. Respondent is hereby issued a Letter of Reprimand.
- 24           2.       ADMINISTRATIVE PENALTY. Within sixty (60) days from the effective  
25 date of this Consent Agreement, Respondent shall pay an administrative penalty of Five Hundred  
26 Dollars (\$500.00) by certified check or money order made payable to the State of Arizona Board  
27 of Technical Registration.
- 28           3.       COST OF INVESTIGATION. Within thirty (30) days from the effective date of

1 this Consent Agreement, Respondent shall pay the cost of investigation of this case to the Board  
2 in the amount of One Hundred Eighty Dollars (\$180.00) by certified check or money order made  
3 payable to the State of Arizona Board of Technical Registration, according to the provisions of  
4 A.R.S. § 32-128(H).

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

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

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

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

18 8. NONCOMPLIANCE. If Respondent violates this Order in any way or fails to  
19 fulfill the requirements of this Order, the Board, after giving notice and the opportunity to be  
20 heard, may revoke, suspend or take other disciplinary actions against the registration. The issue  
21 at such a hearing will be limited solely to whether this Order has been violated.  
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1 ACCEPTED and ORDERED this 27<sup>th</sup> day of April, 2021.

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3  
4 C Wyckoff  
5 Carmen Wyckoff, Chairperson  
6 Arizona State Board of Technical  
7 Registration

8  
9 Consent Agreement and Order, No. P20-053 accepted this 4 day of Feb 2021, 2021.

10 Alan Nichols  
11 Alan Nichols, on behalf of himself and Al  
12 Nichols Engineering, Respondents

13 ORIGINAL filed this 27<sup>th</sup> day of  
14 April, 2021, with:

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

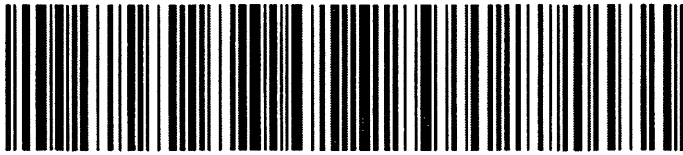
19 COPY of the foregoing mailed via Certified Mail  
20 No. 9039437071 and 9039437070  
21 First Class mail this 4 day of Feb 2021, 2021, to:

22 9214890194344000081243 (E)  
23 Al Nichols  
24 Al Nichols Engineering  
25 5257 S. Civano Blvd  
26 Tucson, Arizona 85747

27 By: Alan Nichols  
28 E. Cull

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USPS CERTIFIED MAIL



9214 8901 9434 4600 0812 43

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AL NICHOLS  
5257 S CIVANO BLVD  
TUCSON AZ 85747-5744

**APR 27 2021**

Username: Andrew Puccino (andrew.puccino@azbtr.gov)

Postage: \$6.9500