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

In the Matter of:
Paul Nzomo
Professional Engineer
Registration No. 33446

Case No.: P21-053

**CONSENT AGREEMENT
and
ORDER OF DISCIPLINE**

Respondent

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.

1 4. Respondent understands that this Consent Agreement or any part of the
2 agreement 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
5 public records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this
6 Consent 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
8 number P21-053 involving allegations that Respondent engaged in conduct that would
9 subject him to discipline under the Board's statutes and rules. The investigation into
10 these allegations against Respondent shall be concluded upon the Board's adoption of
11 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,
14 and does not constitute any waiver, express or implied, of the Board's statutory authority
15 or jurisdiction regarding any other pending or future investigation, action or proceeding.

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

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

26 10. This Consent Agreement is subject to the approval of the Board and is
27 effective only when accepted by the Board and signed on behalf of the Board. If the
28 Board does not accept this Consent Agreement, the Board retains its authority to hold a

1 formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the
2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no
3 evidentiary value and shall not be relied upon nor introduced in any action by any party,
4 except that the parties agree that should the Board reject this Consent Agreement and this
5 case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced
6 by its review and discussion of this document or any records relating thereto.

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

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

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

15 **FINDINGS OF FACT**

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

18 2. Respondent is the holder of Arizona Professional Engineer (Civil)
19 Registration No. 33446.

20 3. On January 14, 2021, the Board received a complaint alleging Respondent,
21 on or about May 15, 2019, signed and sealed an inspection report for compaction related
22 to a project located at 5307 N. Sundown Dr. in Pima County, Arizona, in which he failed
23 to properly reference the residential structure, failed to reference the project site plan
24 showing the testing location and elevations, and referenced two testing locations that
25 were off the pad.

26 4. On November 17, 2021, an Enforcement Advisory Committee was convened
27 at the Board office to review the complaint. After interviewing the Respondent and
28 considering the evidence presented in this case, the Committee opined that Respondent

1 failed to apply the appropriate technical knowledge and skill in the practice of a Board
2 regulated profession and found that:

- 3 a. Respondent's inspection report failed to indicate the type of density test
4 performed;
- 5 b. Respondent's dry density and moisture percentages findings are wrong;
- 6 c. Respondent's inspection report should have indicated if standard or
7 modified proctor was required; and
- 8 d. Respondent's report to Pima County stated special inspections and material
9 testing were in general compliance with plans and specifications, however,
10 Respondent's limited data provided no assurance of compliance with
11 specifications.

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. R4-30-301(6), in that
16 Respondent failed to apply the appropriate technical knowledge and skill in the practice
17 of a Board regulated practice.

18 **ORDER**

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

- 21 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
22 Reprimand.
- 23 2. STAYED SUSPENSION AND PROBATION. Respondent's registration as
24 Professional Engineer, No. 33446, shall be suspended for six (6) months; however, the
25 suspension is stayed for as long as Respondent remains in compliance with this Order.
26 During the stay of suspension, Respondent's registration as a Professional Engineer is
27 placed on probation for six (6) months. If Respondent is non-compliant with any terms
28 of this Order during the six (6) month stayed suspension and probation period, the stay of

1 the suspension shall be lifted and Respondent's registration as a Professional Engineer
2 shall be automatically suspended without a formal hearing, and remain suspended until
3 Respondent is compliant with all terms of this Order.

4 3. ADMINISTRATIVE PENALTY. Within six (6) months from the effective
5 date of this Consent Agreement, Respondent shall pay an administrative penalty of One
6 Thousand Dollars (\$1,000.00) by certified check or money order made payable to the
7 State of Arizona Board of Technical Registration.

8 4. COST OF INVESTIGATION. Within six (6) months from the effective date
9 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to
10 the Board in the amount of Eight Hundred Eighty Dollars (\$880.00) by certified check or
11 money order made payable to the State of Arizona Board of Technical Registration,
12 according to the provisions of A.R.S. § 32-128(H).

13 5. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws,
14 as well as, all rules governing the practice of Engineering in the State of Arizona. The
15 Board shall consider any violation of this paragraph to be a separate violation of the rules
16 and statues governing the Arizona Board of Technical Registration. The Board may also
17 consider Respondent's non-compliance with this Order as a separate violation of A.R.S. §
18 32-150.

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


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

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


27 9. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
28 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity

1 to be heard, may revoke, suspend or take other disciplinary actions against the
2 registration. The issue at such a hearing will be limited solely to whether this Order has
3 been violated.

4 ACCEPTED and ORDERED this 25 day of JANUARY, 2022.

5
6 
7 Jack Gilmore, L.A., Chairman
8 Arizona State Board of
9 Technical Registration

10 Consent Agreement and Order, No. P21-053 accepted this 15 day of
11 DEC., 2021.

12 
13 Paul Nzomo, Respondent

14 ORIGINAL filed this 26 day of
15 January, 2021, with:

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. 9214 89019 434 4600 086408 and
21 First Class mail this 26 day of January, 2021, to:

22 Paul Nzomo
23 1870 W. Prince Rd. #33
24 Tucson, AZ 85705

25 Attorney-Dan Dudley
26 1801 W. Ina Rd.
27 Tucson, AZ 85704
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By: *Don Dudley*