

1
2
3
4
5
6
7
8
9
10
11

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

<p>In the Matter of:</p> <p>Ralph Baca, P.E. (Mechanical) Registration No. 30637</p> <p style="text-align: center;">Respondent</p>	<p style="text-align: center;">Case No. P18-036</p> <p style="text-align: center;">CONSENT AGREEMENT and ORDER OF DISCIPLINE</p>
---	--

12
13
14
15
16
17

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, Ralph Baca (“Respondent”), holder of Registration No. 30637, 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.

18

RECITALS

19
20
21

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.

22
23
24
25
26
27

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.

28

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

1 4. Respondent understands that this Consent Agreement or any part of the agreement
2 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 public
5 records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this Consent
6 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 number
8 P18-036 involving allegations that Respondent engaged in conduct that would subject him to
9 discipline under the Board's statutes and rules. The investigation into these allegations against
10 Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

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

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

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

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

1 this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that
2 the Board was prejudiced by its review and discussion of this document or any records relating
3 thereto.

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

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

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

11 **FINDINGS OF FACT**

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

14 2. Respondent is the holder of Arizona Professional Engineer, Registration No.
15 30637.

16 3. On September 16 and 18, 2017, Respondent signed and sealed a structural
17 foundation plan for permit for the Brown Residence project located at 10400 E. Plumeria Rd.,
18 Tucson, AZ.

19 4. On September 18, 2017, Respondent signed and sealed structural calculations for
20 foundation underpinning helical pier installation for permit for the Brown Residence project
21 located at 10400 E. Plumeria Rd., Tucson, AZ.

22 5. On October 11, 2017, Respondent signed and sealed a structural foundation plan
23 and structural calculations for foundation unpinning for second submittal for permit for the
24 Brown Residence project located at 10400 E. Plumeria Rd., Tucson, AZ.

25 6. On November 9, 2017, the Board received a complaint alleging that Respondent
26 copied professional construction documents and structural calculations prepared by Richard
27 Kaiser, P.E. (Structural) for the Lewis Residence Project and represented them as his own
28 professional work on the Brown Residential Project in Tucson Arizona, on or about September 16

1 and September 18, 2017. It further alleged that Respondent failed to specify the correct piles and
2 torque calculations for the Brown Project and used Kaiser's specifications for the Lewis Project.

3 7. On November 29, 2017, an Enforcement Advisory Committee convened to review
4 the complaint against the Respondent. During the meeting, the Committee found that Respondent
5 took on a contract to perform work that Respondent is not capable of performing, and
6 misrepresented himself to the public that he is capable of doing the work. Respondent and Firm
7 utilized the another registrant's work from the report and calculations and represented it as his
8 own. Respondent should have been cognisant of the fact that he was not capable of performing
9 the work and declined the project.

10 8. The Committee concluded that Respondent signed and sealed work for the Brown
11 Residential Project, which was a direct reproduction of another registrant's information and
12 documentation for the Lewis Residence Project, produced by Respondent's contract employee.
13 The copied work was included in the final work product and was used to acquire a work permit.
14 Respondent admitted during the interview that the format for the calculations was copied and
15 pasted into his document; and while the other registrant's report was not intended to be used for
16 the design of the helical piers, Respondent did not review the completed report but did sign and
17 seal the report that included the calculations.

18 9. The Committee found that Respondent accepted a professional engagement outside
19 his registered category and stepped outside of his qualifications, technical knowledge and
20 experience by engaging in a project involving helical piers. The Committee further found that
21 Respondent lacked knowledge of helical pier design or an understanding of how helical pier
22 design integrates into the building or how the building will respond to the loading and support
23 conditions. The Committee also found that there were errors in the plans, specifications, and
24 interpretation of what the project involved and that Respondent did not have the knowledge and
25 skill to properly execute the scope of work in the contract.

26 10. The Committee found that based on the documents submitted, the discussion with
27 Respondent and the inability of the Respondent to answer the Committee's questions concerning
28 the structural calculations for the project, Respondent lacks the appropriate technical knowledge

1 and skill to be practicing structural engineering.

2 **CONCLUSIONS OF LAW**

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

4 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
5 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(2), in that Respondent
6 engaged in misrepresentation, fraud, and/or deceit by taking on a contract to perform work that
7 Respondent is not capable of performing. Respondent is misrepresenting himself to the public
8 that he is capable of performing the work of a structural engineer.

9 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
10 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(6), in that Respondent failed
11 to apply the appropriate technical knowledge and skill in the practice of structural engineering.

12 4. The conduct alleged in the Findings of Fact constitutes grounds for discipline
13 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(16), in that Respondent
14 signed and sealed professional documents not prepared by himself or his bona fide employee.
15 Respondent signed and sealed work for the Brown Residential Project, which was a direct
16 reproduction of another registrant's information and documentation for the Lewis Residence
17 Project, produced by Respondent's contract employee.

18 5. The conduct alleged in the Findings of Fact constitutes grounds for discipline
19 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30 301(17), in that Respondent
20 accepted a professional engagement outside of his professional registered category while lacking
21 the qualifications, technical knowledge or experience to perform the work associated with
22 foundation underpinning and the design of helical piers.

23 **ORDER**

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

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

27 2. STAYED SUSPENSION AND PROBATION. Respondent's registration as a
28 Professional Engineer, No. 30637, shall be suspended for twelve (12) months; however, the

1 suspension is stayed for as long as Respondent remains in compliance with this Order. During
2 the stay of suspension, Respondent's registration as a Professional Engineer is placed on
3 probation for twelve (12) months. If Respondent is non-compliant with any terms of this Order
4 during the twelve (12) month stayed suspension and probation period, the stay of the suspension
5 shall be lifted and Respondent's registration as a Professional Engineer shall be automatically
6 suspended without a formal hearing, and remain suspended until Respondent is compliant with all
7 terms of this Order.

8 3. RESTRICTION OF PRACTICE. Respondent's registration as Professional
9 Engineer (Mechanical) #30637, shall be restricted, prohibiting Respondent from performing
10 calculations and design associated with structural engineering, until the Respondent provides
11 proof to the Board that he has successfully passed the National Council of Examiners for
12 Engineering and Surveying (NCEES) Structural Engineering Examination.

13 4. PROFESSIONAL ETHICS COURSE. Within ninety (90) days from effective date
14 of this Consent Agreement, Respondent shall provide verification to the Board that Respondent
15 has successfully completed four (4) hours of professional ethics courses.

16 5. ADMINISTRATIVE PENALTY. Within twelve (12) months from the effective
17 date of this Consent Agreement, Respondent shall pay an administrative penalty of Five
18 Thousand Dollars (\$5000.00). Monthly payments of Four Hundred Twenty-Five Dollars
19 (\$425.00) for the first eleven (11) months and a final payment of Three Hundred Twenty-Five
20 Dollars (\$325.00) in month twelve (12) shall be made by certified check or money order made
21 payable to the State of Arizona Board of Technical Registration.

22 6. COST OF INVESTIGATION. Within ninety (90) days from the effective date of
23 this Consent Agreement, Respondent shall pay the cost of investigation of this case to the Board
24 in the amount of Six Hundred Seventy-Three Dollars (\$673.00) by certified check or money
25 order made payable to the State of Arizona Board of Technical Registration, according to the
26 provisions of A.R.S. § 32-128(H).

27 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, as
28 well as, all rules governing the practice of Engineering in the State of Arizona. The Board shall

1 consider any violation of this paragraph to be a separate violation of the rules and statutes
2 governing the Arizona Board of Technical Registration. The Board may also consider
3 Respondent's non-compliance with this Order as a separate violation of A.R.S. § 32-150.


4 8. RENEWAL OF REGISTRATION. Respondent shall timely renew his Arizona
5 registration as an Engineer, and timely pay all required registration fees.

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

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

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

15
16 ACCEPTED and ORDERED this 14 day of February, 2019.

17
18
19 
20 _____
Alejandro Angel, P.E., Chairman
Arizona State Board of
21 Technical Registration

22 Consent Agreement and Order, No. P18-036 accepted this 13th day of FEBRUARY, 2019.

23 
24 _____
Ralph Baca, Respondent

25
26 ORIGINAL filed this 15th day of
27 FEBRUARY, 2019, with:
28

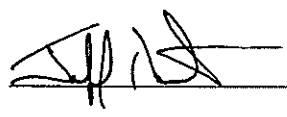
1 Arizona State Board of Technical Registration
2 1110 W. Washington, Suite 240
3 Phoenix, AZ 85007

4 **COPY** of the foregoing mailed via Certified Mail

5 No. 9214 8901 9434 4600 0504 61 and

6 First Class mail this 15th day of FEBRUARY, 2019, to:

7 Ralph Baca
8 2401 E Taxidea Way
9 Phoenix AZ 85048

10 By:  _____
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28