

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

<p>In the Matter of:</p> <p>Jay Clary Non-Registrant</p> <p>Engineering Construction Design & Assoc. Firm Registration No. 20711 Respondents</p>	<p style="text-align: center;">Case No. P18-074</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, Jay Clary, Non-Registrant, (“Respondent”), Engineering Construction Design & Assoc. (“Respondent Firm”), holder of Registration No. 20711, 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 P18-074 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 not registered with the Board as an Engineer.

16 3. Respondent Firm (Engineering Construction Design & Assoc.) is registered with
17 the Board and holds the Firm registration No. 20711. Respondent Firm was formerly the holder
18 of Firm registration No. 15568 which expired August 31, 2013. Respondent Firm obtained the
19 current Firm registration on September 25, 2017.

20 4. On July 19, 2017, Respondents submitted a bid proposal for mechanical and
21 electrical design work for the AllGreens Tenant Improvement project located at 10032 W Bell
22 Rd., Suite 100, Sun City, AZ, while not being registered with the Board.

23 5. On September 20, 2017, Respondent Firm engaged in the practice of mechanical
24 and electrical engineering without registration with the Board by producing Mechanical and
25 Electrical engineering plans for the AllGreens Tenant Improvement project.

26 6. On June 11, 2018, the Board received a complaint alleging that Respondent Firm
27 prepared Mechanical and Electrical engineering plans for the AllGreens, Inc. Tenant
28 Improvement, Sun City, Arizona, without firm registration with the Board. Respondent Firm

1 registration expired on August 31, 2013.

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 Firm prepared Mechanical and Electrical
7 engineering plans for the AllGreens, Inc. Tenant Improvement, Sun City, Arizona, without firm
8 registration with the Board.

9 **ORDER**

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

12 1. ADMINISTRATIVE PENALTY. Within Sixty (60) days from the effective date
13 of this Consent Agreement, Respondent shall pay a civil penalty of Five Hundred Dollars
14 (\$500.00). Payments to be submitted to the Board by cashier's check or money order made
15 payable to the Arizona State Board of Technical Registration, according to the provisions of
16 A.R.S. § 32-106.02(A).

17 2. COST OF INVESTIGATION. Within thirty (30) days from the effective date of
18 this Consent Agreement, Respondent shall pay the cost of investigation of this case to the Board
19 in the amount of Three Hundred Twenty-Three Dollars (\$323.00) by certified check or money
20 order made payable to the State of Arizona Board of Technical Registration, according to the
21 provisions of A.R.S. § 32-128(H).

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

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

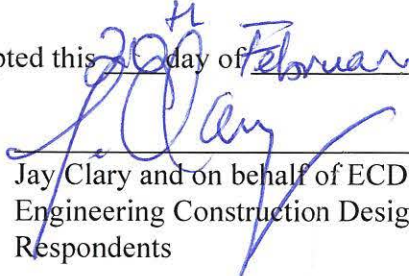
27 5. NONCOMPLIANCE. If Respondent violates this Order in any way or fails to
28 fulfill the requirements of this Order, the Board may seek a Petition for Injunction in accordance

1 with the provisions set forth in A.R.S. § 32-106.01.

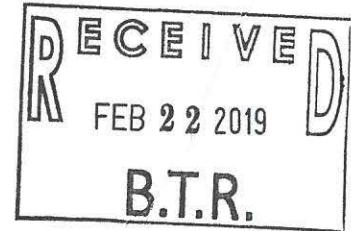
2
3 ACCEPTED and ORDERED this 26 day of February, 2019.

4
5 
6 Alejandro Angel, P.E., Chairman
7 Arizona State Board of
8 Technical Registration

9 Consent Agreement and Order, No. P18-049 accepted this 20th day of February, 2019.

10
11 
12 Jay Clary and on behalf of ECD -
13 Engineering Construction Design, Inc.,
14 Respondents

15 ORIGINAL filed this 28th day of
16 FEBRUARY, 2019, with:



17
18
19 Arizona State Board of Technical Registration
20 1110 W. Washington, Suite 240
21 Phoenix, AZ 85007

22 COPY of the foregoing mailed via Certified Mail
23 No. 9214 8901 9434 4600 0509 97 and
24 First Class mail this 29th day of FEBRUARY, 2019, to:

25 Jay Clary
26 Engineering Construction Design & Assoc.
27 925 W Baseline Rd.
28 Tempe, AZ 85283

By: 