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

In the Matter of:

**DON JOLLEY
Registered Architect
Registration No. 30779**

Respondent

Case No.: P23-056

**CONSENT AGREEMENT
AND
ORDER OF DISCIPLINE**

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, Don Jolley (“Respondent”), holder of Registration No. 30779, 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 upon acceptance by the Board of this Consent Agreement and may be
6 retained in the Board's files pertaining to this matter.

7 6. Respondent understands this Consent Agreement deals with Board case
8 number P23-056 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. Respondent understands this Consent Agreement is subject to the approval of
27 the Board and is effective only when accepted by the Board and signed on behalf of the
28 Board. If the Board does not accept this Consent Agreement, the Board retains its

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2 event that the Board does not approve this Consent Agreement, it is withdrawn and shall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

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

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

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

16 **FINDINGS OF FACT**

17 1. The Board is the duly constituted authority for the regulation and control of
18 the practice of Architecture in the State of Arizona.

19 2. Respondent is the holder of Registered Architect Registration No. 30779.

20 3. On or about December 2, 2022, the Board received a complaint alleging that
21 Respondent failed to deliver completed plans and failed to respond to contact attempts
22 after being hired and paid to complete plans for the Hozan Apartments project at 6826 N
23 59th Dr. Glendale, AZ.

24 4. On or about October 26, 2023, an Enforcement Advisory Committee
25 (“EAC”) meeting convened to review the complaint.

26 A. During the EAC meeting, Respondent acknowledged the following:

27 I. failing to conduct a code analysis of applicable Glendale city
28 codes at the beginning of the project in preparation for his

1 designs;

2 II. preparing a design that included two duplex apartment buildings
3 connected by a firewall rated for two hours and submitting this
4 design to the City of Glendale for review; and

5 III. after having already submitted his design plans to the City of
6 Glendale, reviewing the applicable Glendale city codes and
7 finding that the firewall in his design plans was required to be
8 rated for four hours instead of two hours.

9 B. At the conclusion of the EAC meeting, the Committee determined that
10 Respondent failed to apply the appropriate technical knowledge and skill
11 through:

12 I. failing to conduct a code analysis at the beginning of the project to
13 ensure his designs complied with the applicable Glendale city
14 codes; and

15 II. designing and submitting sealed architectural plans to the City of
16 Glendale with a firewall that was not in compliance with the
17 applicable codes.

18 Additionally, the Committee determined that Respondent's failure to include a firewall
19 that was in compliance with the applicable city codes is a life safety issue.

20 **CONCLUSIONS OF LAW**

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

22 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
23 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(6), in that
24 Respondent failed to apply the appropriate technical knowledge and skill in the practice
25 of a Board regulated profession.

26 **ORDER**

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

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

3 2. STAYED SUSPENSION AND PROBATION. As of the effective date of
4 this Order, Respondent's registration as a Registered Architect Registration No. 30779
5 shall be suspended for Twelve (12) Months; however, the suspension shall be stayed for
6 as long as Respondent remains in compliance with this Order. During the period of
7 stayed suspension, Respondent's registration as a Registered Architect shall be placed on
8 probation. If Respondent is non-compliant with any term of this Order during the
9 probationary period, the stay of suspension shall be lifted and Respondent's registration
10 as a Registered Architect shall be automatically suspended without formal hearing, and
11 remain suspended until Respondent is compliant with all terms of this Order.

12 3. EARLY TERMINATION OF SUSPENSION AND PROBATION: Upon
13 completion of all terms of this Order, and no sooner than six (6) months from the
14 effective date of this Order, Respondent may petition the Board for early termination of
15 the suspension and probation imposed by this Order.

16 4. ADMINISTRATIVE PENALTY. Within Twelve (12) Months from the
17 effective date of this Consent Agreement, Respondent shall pay an administrative penalty
18 of One Thousand Dollars (\$1,000.00) by certified check or money order made payable to
19 the State of Arizona Board of Technical Registration.

20 5. COST OF INVESTIGATION. Within Twelve (12) Months from the
21 effective date of this Consent Agreement, Respondent shall pay the cost of investigation
22 of this case to the Board in the amount of Seven Hundred Fifty Eight Dollars (\$758.00)
23 by certified check or money order made payable to the State of Arizona Board of
24 Technical Registration.

25 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws,
26 as well as, all rules governing the practice of Architecture in the State of Arizona. The
27 Board shall consider any violation of this paragraph to be a separate violation of the rules
28 and statues governing the Arizona Board of Technical Registration.

1 7. RENEWAL OF REGISTRATION. During the probationary period,
2 Respondent shall timely renew his Arizona registration as an Architect, and timely pay all
3 required registration fees.

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

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

9 10. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
10 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity
11 to be heard, may revoke, suspend or take other disciplinary actions against the
12 registration. The Board may also consider Respondent's non-compliance with this Order
13 as a separate violation of A.R.S. § 32-150 with the sole issue at such a hearing whether
14 this Order has been violated.

15
16 ACCEPTED and ORDERED this 22nd day of January, 2024.

17 

18 _____
19 Michael Kolejka, R.A., Chairman
20 Arizona State Board of
21 Technical Registration

22 Accepted this 17th day of January, 2024.

23 
24 _____
25 Don Volley, Respondent
26
27
28

1 **ORIGINAL** filed this 22nd day of
2 January, 2024, with:
3 Arizona State Board of Technical Registration
4 1110 W. Washington, Suite 240
5 Phoenix, AZ 85007
6 **COPY** of the foregoing mailed via Certified Mail
7 No. 9214 8901 9434 4600 0000 0958 44 and
8 First Class mail this 22nd day of January, 2024, to:
9 Don Jolley
10 4515 E. Megan St.
11 Gilbert, AZ 85295

12
13 By: *Daniel Carthel*
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