

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION

PETER TAKACH
P.E. (CIVIL) #44085
Registrant,

Respondent;

And

TAKACH DESIGN & BUILDING
SERVICES INC., FIRM REGISTRATION
NO. 19655 (EXPIRED)
Non-Registrant Firm,

Respondent Firm.

Case No. P18-070

**CONSENT AGREEMENT AND
ORDER OF DISCIPLINE**

GENERAL PROVISIONS

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, Peter Takach (“Respondent”), holder of Registration No. 44085, P.E. (Civil), Takach Design & Building Services Inc. (“Respondent Firm”), 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. Respondents have read and understand this Consent Agreement and have had the opportunity to discuss this Consent Agreement with an attorney, or have waived the opportunity to discuss this Consent Agreement with an attorney.
2. Respondents understand that they have a right to a public administrative hearing concerning this case at which they could present evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondents knowingly, voluntarily, and irrevocably

1 waive the right to such an administrative hearing, as well as rights of rehearing, review,
2 reconsideration, appeal, judicial review or any other administrative and/or judicial action
3 concerning the matters set forth herein.

4 3. Respondents affirmatively agree that this Consent Agreement shall be irrevocable.

5 4. Respondents understand that this Consent Agreement or any part of the agreement may
6 be considered in any future disciplinary action by the Board.

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

11 6. Respondents understand this Consent Agreement deals with Board case numbers P18-070
12 and P19-031, involving allegations that Respondents engaged in conduct that would subject them
13 to discipline under the Board's statutes and rules. The investigation into the allegations of these
14 two cases shall be concluded upon the Board's adoption of this Consent Agreement.

15 7. Respondents understand that this Consent Agreement does not constitute a dismissal or
16 resolution of any other matters currently pending before the Board, if any, and does not
17 constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction
18 regarding any other pending or future investigation, action or proceeding.

19 8. Respondents understand that acceptance of this Consent Agreement does not preclude
20 any other agency, subdivision, or officer of this State from instituting any other civil or criminal
21 proceedings with respect to the conduct that is the subject of this Consent Agreement.

22 9. Respondents acknowledge and agree that the acceptance of this Consent Agreement is to
23 settle both Arizona Board of Technical Registration case numbers P18-070 and P19-031. This
24 settlement will solely settle these two cases, and does not preclude the Board from instituting any
25 other proceedings as may be appropriate now or in the future. Furthermore, and notwithstanding
26 any language in this Consent Agreement, this Consent Agreement does not preclude in any way

1 any other state agency or officer or political subdivision of this state from instituting
2 proceedings, investigating claims, or taking legal action as may be appropriate now or in the
3 future relating to this matter or other matters concerning Respondents, including but not limited
4 to violations of Arizona's Consumer Fraud Act. Respondents acknowledge that, other than with
5 respect to the Board, this Consent Agreement makes no representations, implied or otherwise,
6 about the views or intended actions of any other state agency or officer or political subdivision of
7 the state relating to this matter or other matters concerning Respondents.

8 10. Respondents acknowledge and agree that, upon signing this Consent Agreement and
9 returning this document to the Board's Executive Director, they may not revoke acceptance of
10 the Consent Agreement or make any modifications to the document regardless of whether the
11 Consent Agreement has been signed on behalf of the Board. Any modification to this original
12 document is ineffective and void unless mutually agreed by the parties in writing.

13 11. This Consent Agreement is subject to the approval of the Board and is effective only
14 when accepted by the Board and signed on behalf of the Board. If the Board does not accept this
15 Consent Agreement, the Board retains its authority to hold a formal administrative hearing
16 pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent
17 Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor
18 introduced in any action by any party, except that the parties agree that should the Board reject
19 this Consent Agreement and this case proceeds to hearing, Respondents shall assert no claim that
20 the Board was prejudiced by its review and discussion of this document or any records relating
21 thereto.

22 12. If a court of competent jurisdiction rules that any part of this Consent Agreement is void
23 or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full force
24 and effect.

25 13. Respondents understand that any violation of this Consent Agreement may result in
26 disciplinary action, including suspension or revocation of the registration under A.R.S. § 32-150.

1 14. Respondents agree that the Board will adopt the following Findings of Fact, Conclusions
2 of Law and Order

3 **FINDINGS OF FACT**

4 15. On May 22, 2018, the Board initiated an investigation into whether Respondent practiced
5 structural engineering and architecture without appropriate registration for himself or
6 Respondent Firm, and without the necessary education, technical knowledge, or experience for
7 the Cielo Villas Project ("The Project") in Phoenix, Arizona, in 2015.

8 16. On May 30, 2018, Board staff sent a Notice of Investigation to Respondent with a request
9 for a written response by June 22, 2018. On June 20, 2018, Respondent contacted staff to
10 request an extension for submitting a response until September 2018.

11 17. Subsequently, Board staff provided the case file materials to two structural engineers and
12 two architects for independent evaluations. These materials included:

- 13 a. Structural calculations for The Project stamped by Respondent on May 7, 2015 on
14 letterhead for Respondent Firm;
- 15 b. Structural analysis for The Project stamped by Respondent on June 11, 2015 on
16 letterhead for Respondent Firm;
- 17 c. Shear wall design documents for The Project stamped by Respondent on June 17,
18 2015;
- 19 d. Plans for The Project stamped by Respondent on June 18, 2015 on letterhead for
20 Respondent Firm; and
- 21 e. Plans for The Project stamped by Respondent on October 6, 2015 with Respondent
22 Firm listed as the "Structural" Project Consultant.

23 18. On December 27, 2018, the Board received a consumer complaint, opened under P19-
24 031, alleging abandonment of a client after receiving some \$10,380 in payments and failure to
25 deliver building plans.

26

1 19. On January 23, 2019, Registered Professional Engineer (Structural and Civil) Claude
2 Baker ("Baker") submitted an evaluation to the Board. In this evaluation, Baker found that
3 Respondent's calculations were "poorly done with serious errors" and fell below professional
4 standards for knowledge and skill. Additionally, Baker found the plans were poorly done,
5 missing dimensions and critical information, and fell below the technical standard of knowledge
6 and skill. Baker concluded Respondent took an engagement "beyond his ability to properly
7 conduct it" and "may have sealed documents not prepared by his bona fide employee."

8 20. On January 28, 2019, Registered Architect Mani Subra ("Subra") submitted an evaluation
9 to the Board. In this evaluation, Subra found that "[i]t is very difficult to evaluate (if)
10 [Respondent] had any education in Architecture or experience in reviewing drawings prepared
11 by others and stamped by him as Civil Engineer." Subra then recommended the Board convene
12 an Enforcement Advisory Committee ("EAC") to evaluate Respondent's qualifications,
13 experience, and practice.

14 21. On February 5, 2019, Registered Architect Michael Condor ("Condor") submitted an
15 evaluation to the Board. In this evaluation, Condor found the materials demonstrated a "lack of
16 technical knowledge", including the coversheet referencing building codes that were ten years
17 out-of-date, lack of ADA accessible toilets in one of the buildings, issues with fire rated wall
18 designs between units, and lack of secondary overflows at the roof scupper locations.
19 Additionally, Condor found that Respondent appeared to have "accepted a professional
20 engagement outside of his professional registered category."

21 22. On February 20, 2019, Registered Professional Engineer (Structural) Melvin Slaysman
22 ("Slaysman") submitted an evaluation to the Board. In this evaluation, Slaysman found:

- 23 a. Numerous errors in the lateral analysis;
- 24 b. Seismic analysis incomplete;
- 25 c. No complete load path for lateral loads;

26

- 1 d. Hold down hardware specified without any calculation regarding values of hold down
- 2 required;
- 3 e. No seismic weight calculations for lateral analysis;
- 4 f. Seismic analysis wrong in several areas;
- 5 g. Specific tie downs not specified;
- 6 h. Floor to floor tie not specified;
- 7 i. Shear walls lack accounting for openings in wall or blocking required; and
- 8 j. Proper ASD vs. USD load factors not used.

9 Slaysman recommended an EAC be convened.

10 23. On May 1, 2019, Board staff received a written response from Respondent. In his
11 response, Respondent confirmed that he performed structural engineering on the Ceilo Villas
12 project, but alleged he did not prepare or perform any mechanical or architectural plans or
13 analysis. Respondent then requested additional time to address the structural critiques and asked
14 that the EAC be pushed back to September of 2019.

15 24. On July 11, 2019, the EAC convened to review the complaint against the Respondent.
16 Respondent did not attend. After reviewing all case materials, the EAC found substantiated to
17 the highest level of severity the allegations that:

- 18 a. Respondent may have accepted a professional engagement outside of his
- 19 professional registered category while lacking the qualifications, technical
- 20 knowledge or experience to perform the engagement in possible violation of
- 21 A.R.S. 32-128(C)(4) as it relates to A.A.C. R4-30-301(17);
- 22 b. Respondent may have failed to apply the appropriate technical knowledge and
- 23 skill in the practice of a Board regulated profession in possible violation of
- 24 A.R.S. 32-128(C)(4) as it relates to A.A.C. R4-30-301(6); and
- 25
- 26

1 c. Respondent may have sealed documents not prepared by himself or his bona
2 fide employee in possible violation of A.R.S. 32-128(C)(4) as it relates to
3 A.A.C. R4-30-301(16).

4 Specifically, the EAC determined, in part, that:

5 ...Respondent clearly practiced outside his professional registered category as a
6 civil engineer and that as a civil engineer Respondent should not be practicing
7 architecture or signing and sealing architectural plans. ...the architectural work
8 performed on this project was not incidental to the project and ...the architectural
9 work on this project is not work that a civil engineer should be performing.

10 ...Respondent does not possess the technical knowledge to practice structural
11 engineering. ...the structural plans contain serious deficiencies. ...plans were
12 poorly done ... falling well below what is expected of a licensed structural
13 engineer. ...Respondent is a severe risk to the public by practicing structural
14 engineering and architecture.

15 ...the plans appear to have been drawn by Carl Dominguez but ...there is no
16 evidence that Mr. Dominguez was employed by Respondent. ...it is clear that
17 Respondent stamped plans not prepared by himself or a bona fide employee.

18 Ultimately, the EAC determined "Respondent does not possess the ability to be regulated. Based
19 upon Respondent's record, his lack of professional conduct and his disregard for the Board's
20 practice act", the EAC recommended Registrant's registration be revoked.

21 **CONCLUSIONS OF LAW**

22 25. The Board possesses jurisdiction over the subject matter hereof and over Respondent
23 pursuant to A.R.S. § 32-101, *et seq.*

24 26. A.R.S. § 32-128(C) provides, in part, that "[t]he board may take disciplinary action
25 against the holder of a certificate or registration under this chapter who is charged with... (4)
26 [v]iolation of this chapter or board rules."

- 1 27. Pursuant to A.R.S. § 32-128(A), the board may take disciplinary actions in combination
2 or alternatively, including, but not limited to, revocation of a certificate or registration,
3 suspension of a certificate or registration, and imposition of an administrative penalty.
- 4 28. A.R.S. § 32-121 provides, in part, that “[e]xcept as otherwise provided in this section, a
5 person or firm desiring to practice any board-regulated profession or occupation shall first secure
6 a certificate or registration...”
- 7 29. A.R.S. § 32-106.02(A) provides, in part, that “[t]he board may initiate a hearing pursuant
8 to title 41, chapter 6, article 10 on receipt of a complaint that a person who is not exempt from
9 this chapter and is not registered or certified under this chapter is practicing, offering to practice
10 or by implication purporting to be qualified to practice any board regulated profession or
11 occupation.” A.R.S. § 32-106.02(B) provides, in part, the Board “shall issue an order that
12 imposes a civil penalty of no more than two thousand dollars per violation.”
- 13 30. A.R.S. § 32-101(B)(26) defines “Person” in part as any “ ...firm, partnership ...or other
14 organization.”
- 15 31. Pursuant to A.A.C. R4-30-301(17), “...a registrant shall not accept any professional
16 engagement or assignment outside the registrant’s professional registration category unless: a.
17 [t]he registrant is qualified by education, technical knowledge, or experience to perform the
18 work; and b. [t]he work is exempt under A.R.S. § 32-143.”
- 19 32. Pursuant to A.A.C. R4-30-301(6), “[a] registrant shall apply the technical knowledge and
20 skill that would be applied by other qualified registrants who practice the same profession in the
21 same area and at the same time.”
- 22 33. Pursuant to A.A.C. R4-30-301(16), “[a] registrant shall not sign, stamp, or seal any
23 professional documents not prepared by the registrant or a bona fide employee of the registrant.”
- 24 34. The conduct and circumstances in the Factual Allegations above constitute a violation of
25 A.R.S. § 32-128(C)(4) by Respondent through A.A.C. R4-30-301(17).

26

1 35. The conduct and circumstances in the Factual Allegations above constitute a violation of
2 A.R.S. § 32-128(C)(4) by Respondent through A.A.C. R4-30-301(6).

3 36. The conduct and circumstances in the Factual Allegations above constitute a violation of
4 A.R.S. § 32-128(C)(4) by Respondent through A.A.C. R4-30-301(16).

5 37. The conduct and circumstances in the Factual Allegations above constitute multiple
6 violations of A.R.S. § 32-121 by Respondent Firm.

7 **ORDER**

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

10
11 1. **STAYED REVOCATION.** Certificate 44085, P.E. (Civil) ("Certificate"), issued to
12 Respondent by the Board shall be under a stayed revocation for a period of two (2) years starting
13 on the effective date of this Order. The failure of Respondent to meet any of the requirements of
14 this Order shall result in a lifting of the stay of revocation and the revocation of the Certificate.
15 In the event of a failure by Respondent to meet the required payment terms of restitution,
16 administrative penalty, or costs and fees, or to complete the continuing education as required
17 under this Order, the stay of revocation may be lifted without hearing at any meeting of the
18 Board where identified as an item for lifting a stay of revocation on the agenda and with no less
19 than ten (10) business days notice to Respondent of such Board agenda item.

20 2. **CEASE STRUCTURAL ENGINEERING.** Neither Respondent nor Respondent Firm
21 shall perform structural engineering work unless licensed by the Board specifically to perform
22 structural engineering work.

23 3. **RESTITUTION.** Within Twelve (12) Months from the effective date of this Order,
24 Respondents shall pay restitution in the amount of Five Thousand Dollars (\$5000.00) by certified
25 check or money order made payable to the allegor in Board Case Number P19-031. Respondents
26 shall be jointly and severally responsible for the entire amount of this restitution.

1 4. ADMINISTRATIVE PENALTY. Within Sixty (60) Days from the effective date of this
2 Order, Respondents shall pay an administrative penalty of Two Thousand Dollars (\$2000.00) by
3 certified check or money order made payable to the State of Arizona Board of Technical
4 Registration. Respondents shall be jointly and severally responsible for the entire amount of this
5 administrative penalty.

6 5. COST OF INVESTIGATION. Within Ninety (90) days from the effective date of this
7 Order, Respondents shall pay the cost of investigation of this case to the Board in the amount of
8 Six Hundred Dollars (\$600.00) by certified check or money order made payable to the State of
9 Arizona Board of Technical Registration, according to the provisions of A.R.S. § 32-128(H).
10 Respondents shall be jointly and severally liable for the entire amount of these costs.

11 6. CONTINUING EDUCATION. Respondent shall successfully complete a continuing
12 education course lasting 6-8 hours in Civil Engineering approved by the Board within Ninety
13 (90) days from the effective date of this Order.

14 7. PEER REVIEW. Respondent shall submit his next three (3) projects for peer review.
15 Within ninety (90) days of the effective date of this Consent Agreement, Respondent shall
16 furnish to the Board, the name of an Arizona registered Engineer (P.E. Civil) ("Peer Reviewer")
17 who agrees to review and report on Respondent's work. The proposed Peer Reviewer shall have
18 at least five years of actual engagement as a registered Civil Engineer, shall be registered and in
19 good standing with the Board, and shall not have received any disciplinary action from the Board
20 within the last three years. Respondent shall submit to the Board a current resume detailing the
21 qualifications of the proposed Peer Reviewer, and an Affidavit and Agreement to Conduct Peer
22 Review signed by the proposed Peer Reviewer. Upon approval by the Board of the Peer
23 Reviewer, Respondent shall ensure that the Peer Reviewer provides a written report to the Board
24 after each peer reviewed project describing any deficiencies in Respondent's practice, and
25 certifying that the peer reviewed project provided to the client by the Respondent is in
26 compliance with Board rules and statutes. Respondent shall not give final approval on any

1 projects to a client, contractor, any regulatory or review body or any other person until the
2 project has been reviewed and approved by the Peer Reviewer. Respondent shall retain the Peer
3 Reviewer at his own expense.

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

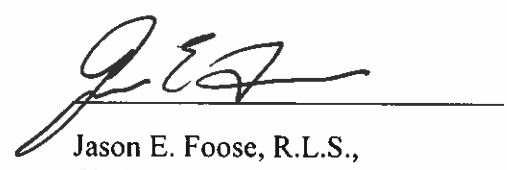
9 9. RENEWAL OF REGISTRATION. Respondent shall timely renew his Arizona
10 registration and timely pay all required registration fees during the period of this Order.

11 10. EFFECTIVE DATE. The effective date of this Order is the date the Respondents and
12 Board sign the Consent Agreement. If the dates are different, the effective date is the later of the
13 two dates.

14 11. COSTS OF COMPLIANCE. Respondents shall pay all costs associated with complying
15 with this Order.

16 12. NONCOMPLIANCE. If Respondents violate this Order in any way or fail to fulfill the
17 requirements of this Order, the Board, after giving notice and the opportunity to be heard, may
18 revoke, suspend or take other disciplinary actions against Respondent's registration. The issue at
19 such a hearing will be limited solely to whether this Order has been violated.

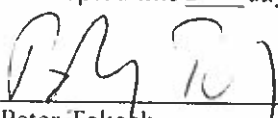
20 ACCEPTED and ORDERED this 28TH day of JULY, 2020.

21
22 

23 Jason E. Foose, R.L.S.,
24 Chairman
25 Arizona State Board of Technical Registration
26

1 Consent Agreement and Order, No. I1119-023, accepted this 20 day of JULY, 2020.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26


Peter Takach,
Both personally and on behalf of
Takach Design & Building Services Inc.

ORIGINAL filed this
28 day of July, 2020, with:

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

COPY of the foregoing
mailed via Certified Mail No. 9214 8901 9434 460 0719 09
and First Class mail this 28 day of July, 2020, to:

Peter Takach
Takach Design and Building Services, Inc.
5318 E. Le Marche Avenue
Scottsdale, AZ 85254

By: 