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Attorney for the Arizona State Board of Technical Registration

BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION

In the Matter of:

Case Nos. P21-003

Martin Kuhn,

Professional Engineer Registration

No. 10560,

and

Mineral Advisory Group, LLC,

Firm Registration

No. 14952, Expired 5/31/19;

Respondents.

CONSENT AGREEMENT

In the interest of a prompt and judicious resolution of the above-captioned matter before the Arizona State Board of Technical Registration (the "Board") and consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to Arizona Revised Statutes ("A.R.S.") § 32-101, et seq., and Arizona Administrative Code ("A.A.C.") R4-30-120(G), the Board and the undersigned party, Martin Kuhn, ("Respondent") holder of registration No. 10560, on behalf of himself and

as the principal of Minerals Advisory Group ("Respondent Firm"), holder of firm registration No. 14952, 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.
- 4. Respondent understands that this Consent Agreement or any part of the agreement may be considered in any future disciplinary action by the Board against him.
- 5. The Consent Agreement, any record prepared in this matter, all investigative materials prepared or received by the Board and all related exhibits and materials, are records (as defined in A.R.S. § 41-151.18) upon acceptance by the Board of this Consent Agreement and may be retained in the Board's files pertaining to this matter.
- 6. Respondent understands this Consent Agreement deals with Board case number P21-003 involving allegations that Respondent engaged in conduct that would subject him to discipline under the Board's statutes and rules. The investigation into

these allegations against Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

- 7. Respondent understands that this Consent Agreement does not constitute a dismissal or resolution of any other matters currently pending before the Board, if any, and does not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any other pending or future investigation, action or proceeding.
- 8. Respondent also understands that acceptance of this Consent Agreement does not preclude any other agency, subdivision, or officer of this State from instituting any other civil or criminal proceedings with respect to the conduct that is the subject of this Consent Agreement.
- 9. Respondent acknowledges and agrees that, upon signing this Consent Agreement and returning this document to the Board's Executive Director, Respondent may not revoke acceptance of the Consent Agreement or make any modifications to the document regardless of whether the Consent Agreement has been signed on behalf of the Board. Any modification to this original document is ineffective and void unless mutually agreed by the parties in writing.
- 10. This Consent Agreement is subject to the approval of the Board and is effective only when accepted by the Board and signed on behalf of the Board. If the Board does not accept this Consent Agreement, the Board retains its authority to hold a formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent Agreement, it is withdrawn, shall be of no evidentiary value, and shall not be relied upon nor introduced in any action by any party. Respondent agrees that should the Board reject this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this document or any records relating thereto.

- 11. If a court of competent jurisdiction rules that any part of this Consent Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full force and effect.
- 12. Respondent agrees that any violation of this Consent Agreement may result in disciplinary action, including suspension or revocation of registration under A.R.S. § 32-150.
- Respondent agrees that the Board will adopt the following Findings of Fact,
 Conclusions of Law and Order.

FINDINGS OF FACT

- 1. The Board is the duly constituted authority for the regulation and control of the practice of engineering in the State of Arizona.
- 2. Respondent is the holder of professional engineering, registration No. 10560.
- 3. Respondent Firm is the holder of firm registration No. 14952, which expired on May 31, 2019.
- 4. Respondent did not respond to the Board Notice of Violation, but Marta Buchanan, who is the Respondent Firm's office Manager, did respond. Ms. Buchanan stated that she normally takes care of the renewals, but last year Mr. Kuhn was responsible for that. She was not aware the firm registration had expired.
- 5. Marta renewed the firm registration on August 25, 2020. The new registration number is 22789.

CONCLUSIONS OF LAW

- 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-141, in that Respondent Firm practiced or offered to practice a Board regulated profession without firm registration.

ORDER

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

- 1. **LETTER OF REPRIMAND.** Respondent is hereby issued a letter of reprimand.
- 2. **ADMINISTRATIVE PENALTY.** Within Sixty (60) days from the effective date of this Consent Agreement, Respondent shall pay an administrative penalty of Five Hundred Dollars (\$500.00) by cashier's check or money order made payable to the Arizona State Board of Technical Registration, according to the provisions of A.R.S. § 32-106.02.
- 3. COST OF INVESTIGATION. Within thirty (30) days from the effective date of this Consent Agreement, Respondent shall pay the cost of investigation of this case to the Board in the amount of Four Hundred Forty Dollars (\$440.00) by certified check or money order made payable to the State of Arizona Board of Technical Registration, according to the provisions of A.R.S. § 32-128(H).
- 4. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local laws, related to the practice of engineering in the State of Arizona. The Board shall consider any violation of this paragraph to be a separate violation of the statutes governing the Arizona Board of Technical Registration. The Board may also consider Respondent's non-compliance with this order as a separate violation of A.R.S. § 32-150.
- 5. **RENEWAL OF REGISTRATION.** Respondent and Respondent Firm shall timely renew their Arizona registration as an engineer and an engineering firm, and timely pay all required registration fees.
- 6. **EFFECTIVE DATE.** The effective date of this Consent Agreement and Order is the date it was last executed by the Respondent or the Board.
- 7. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with complying with this Consent Agreement.

1	8. NONCOMPLIANCE. If Respondent violates this Order in any way or
2	fails to fulfill the requirements of this Order, the Board may seek a Petition for Injunction
3	in accordance with the provisions set forth in A.R.S. § 32-106.01.
4	
5	ACCEPTED and ORDERED this 27 day of April , 2021.
6	
7	By: Clusetoff
8	Carmen Wyckoff, RA, Board Chair
9	Arizona Board of Technical Registration
10	4,240
11	CONSENT AGREEMENT and Order, Number P21-003, accepted this 1940 day
12	of <u>MARCH</u> , 2021.
13	Martin Kuhn, Respondent
14	/ Martin Hami, Hospendon
15	ORIGINAL of the foregoing filed
16	this 21th day of April, 2021, with:
17	Arizona State Board of Technical Registration 1110 W. Washington, Suite 240
18	Phoenix, AZ 85007
19	COPIES of the foregoing served via First Class Mail and U.S. Certified Mail
20	Nos.: 9214 8901 9434400081250 & this 274 day of April, 2021, to:
21	
22	Martin Kuhn Mineral Advisory Group, LLC
23	3331 W Pepperwood Loop Tucson, AZ 85742
24	
25	Martin Kuhn Minerals Advisory Group, LLC
26	P.O. Box 13534
27	Tucson, AZ 85732

COPY of the foregoing served via email, with delivery receipt requested, this 21 day of April, 2021, to: Martin Kuhn mckuhn@magintucson.com COPY of the foregoing e-mailed this 21 day of April, 2021, to: Deanie Reh Assistant Attorney General deanie.reh@azag.gov Attorney for the State of Arizona #9373000

USPS CERTIFIED MAIL



9214 8901 9434 4600 0812 50

MARTIN KUHN 3331 W PEPPERWOOD LOOP TUCSON AZ 85742-9388

APR 2 7 2021

Username: Andrew Puccino (andrew.puccino@azbtr.gov)