BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION

In the Matter of:

David Sturgeon Home Inspector Certification No. 40109 Case No.: HI24-030

CONSENT AGREEMENT and ORDER OF DISCIPLINE

Respondent

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, David Sturgeon ("Respondent"), holder of Certification No. 40109, 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

- 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 and 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. Respondent understands this document, any record prepared in this matter, all investigative materials prepared or received by the Board, and all related exhibits and materials are public records 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 HI24-030 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 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 Board staff, he may not revoke his 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. Respondent understands 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 shall be withdrawn and of no evidentiary value and shall not be relied upon nor introduced in any action by any party, except that the parties agree 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. Respondent understands 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 understands that any violation of this Consent Agreement may result in disciplinary action, including suspension or revocation of the registration under A.R.S. § 32-150.
- 13. 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 Home Inspections in the State of Arizona.
- 2. Respondent is the holder of Home Inspector Certification No. 40109, issued by the Board on August 26, 2003.
- 3. At all times relevant to the allegations of this Consent Agreement, Arizona Home Inspector Registration No. 40109 was active.
- 4. On or about September 19, 2023, Respondent submitted a renewal application in which he answered "No" to the question asked if he had been investigated and/or disciplined by any regulatory agency since his last renewal and failed to disclose Board Order HI23-008. According to Board Order HI23-008, Respondent entered into a Board Order on or about January 24, 2023 for Respondent failing to disclose a criminal conviction on his home inspector renewal application.

5. On March 25, 2024, Respondent told Board staff that since he signed the Consent Agreement regarding complaint HI23-008, in December of 2022 that he believed that the investigation was for 2022, and not 2023. Respondent stated that he did not intentionally mark 'no' on his renewal application and that it was unintentional.

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. § 32-128(C)(4), and A.R.S. § 32-145(5), as it relates to A.A.C. R4-30-301(1), in that Respondent may have submitted false statements and failed to disclose material facts requested in connection with an application for registration.

<u>ORDER</u>

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 thirty (30) days from the effective date of this Consent Agreement, Respondent shall pay an administrative penalty of Two Hundred Dollars (\$200.00) by certified check or money order made payable to the State of Arizona Board of Technical Registration.
- 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 Fifty Eight Dollars (\$58.00) 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 as well as all rules governing the practice of Home Inspection in the State of Arizona. The Board shall consider any violation of this paragraph to be a separate violation of the rules and statues governing the Arizona Board of Technical Registration.

1	COPY of the foregoing mailed via Certified Mail
2	No. 9214890194344600096773 and
3	No. 9214890194344600096773 and First Class mail this 23 2d day of April , 2024, to:
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5	David Sturgeon
6	125 W. Wahalla Lane Phoenix, Arizona 85027
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