BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION

In the Matter of:
John Clayton
Certified Home Inspector
Certification No. 38555
Respondent

Case No.: HI16-001

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, John Clayton ("Respondent"), holder of Home Inspection Certification No. 38555, 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.
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 public records (as defined in A.R.S. § 41-158.18) 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 HI16-001 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, 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. 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 and shall be 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. 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 Inspectors in the State of Arizona.

2. Respondent is the holder of Arizona Home Inspector Certification No. 38555.

3. On February 16, 2015, the Respondent performed a home inspection and prepared a home inspection report for the property located at 7237 E. Canada Drive., Sierra Vista, AZ.

4. On June 22, 2015, the Board received a complaint alleging that the Respondent failed to conduct a home inspection in accordance with the Standard of Professional Practice. Based upon this complaint, the Board initiated an investigation.

5. On October 23, 2015, an Enforcement Advisory Committee convened to review this case. Although no allegations were substantiated, the committee found Thirty Five (35) technical deficiencies in the Respondent’s Home Inspection report. Even
though the committee found that Respondent's reporting deficiencies were de minimis in nature, the committee recommended that Respondent receive additional training.

**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) as it relates to A.A.C. R4-301.01(A), in that Respondent failed to prepare a home inspection report in accordance with the Standards of Professional Practice for Arizona Home Inspectors.

**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. STAYED SUSPENSION AND PROBATION. Respondent's certification as Home Inspector, Certification No. 38555, shall be suspended for Ninety (90) Days; however, the suspension is stayed for as long as Respondent remains in compliance with this Order. During the stay of suspension, Respondent's certification as a Home Inspector is placed on probation. If Respondent is non-compliant with any terms of this Order, the stay of the suspension shall be lifted and Respondent's certification as a Home Inspector shall be automatically suspended without a formal hearing, and remain suspended until Respondent is compliant with all terms of this Order. The Board may also consider Respondent's non-compliance with this Order as a separate violation of A.R.S. § 32-150.
3. REMEDIAL EDUCATION. Within Ninety (90) Days from the effective date of this Consent Agreement, Respondent shall provide proof to the Board that he has successfully completed remedial education in home inspection report writing.
4. ADMINISTRATIVE PENALTY. Within Ninety (90) Days from the effective date of this Consent Agreement, Respondent shall pay an administrative penalty.
of Four Hundred Dollars ($400.00) by certified check or money order made payable to the State of Arizona Board of Technical Registration.

5. COST OF INVESTIGATION. Within Ninety (90) 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 Seven Hundred Eighteen Dollars ($718.00) 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).

6. OBEY ALL LAWS. During the probationary period, Respondent shall obey all federal, state and local laws, as well as, all rules governing the practice of Home Inspections in the State of Arizona. The Board shall consider any violation of this paragraph to be a separate violation of the rules and statutes governing the Arizona Board of Technical Registration.

7. RENEWAL OF REGISTRATION. During the probationary period, Respondent shall timely renew his Arizona registration as a Home Inspections and timely pay all required registration fees.

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

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

ACCEPTED and ORDERED this 04th day of MAY, 2016.

E. Leroy Brady
E. Leroy Brady, Chairman
Arizona State Board of Technical Registration
Consent Agreement and Order, No. HI16-001 accepted this 26th day of April, 2016.

John Clayton, Respondent

ORIGINAL filed this 24th day of May, 2016, with:

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

COPY of the foregoing mailed via Certified Mail
No. 7015 3000 0000 3964 7665 and
First Class mail this 26th day of May, 2016, to:

John Clayton
PO BOX 657
Sierra Vista, AZ 85636

By: [Signature]