

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

3 In the Matter of:

Case No.: HI16-001

4 **John Clayton**
5 **Certified Home Inspector**
6 **Certification No. 38555**

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

7 **Respondent**

8
9 In the interest of a prompt and judicious resolution of the above-captioned matter
10 before the Arizona State Board of Technical Registration (“Board”) and consistent with
11 the public interest, statutory requirements, and the responsibilities of the Board, and
12 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
13 John Clayton (“Respondent”), holder of Home Inspection Certification No. 38555, and
14 the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and
15 Order (“Consent Agreement”) as a final disposition of this matter.

16 **RECITALS**

17 1. Respondent has read and understands this Consent Agreement and has had
18 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
19 opportunity to discuss this Consent Agreement with an attorney.

20 2. Respondent understands that he has a right to a public administrative hearing
21 concerning this case. He further acknowledges that at such formal hearing he could
22 present evidence and cross-examine witnesses. By entering into this Consent Agreement,
23 Respondent knowingly, voluntarily, and irrevocably waives his right to such an
24 administrative hearing, as well as rights of rehearing, review, reconsideration, appeal,
25 judicial review or any other administrative and/or judicial action concerning the matters
26 set forth herein.

27 3. Respondent affirmatively agrees that this Consent Agreement shall be
28 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 (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this
6 Consent Agreement and may be retained in the Board's files pertaining to this matter.

7 6. Respondent understands this Consent Agreement deals with Board case
8 number HI16-001 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. This Consent Agreement is subject to the approval of the Board and is
27 effective only when accepted by the Board and signed on behalf of the Board. If the
28 Board does not accept this Consent Agreement, the Board retains its authority to hold a

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2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no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

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

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

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

15 **FINDINGS OF FACT**

16 1. The Board is the duly constituted authority for the regulation and control of
17 the practice of Home Inspectors in the State of Arizona.

18 2. Respondent is the holder of Arizona Home Inspector Certification No.
19 38555.

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

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

26 5. On October 23, 2015, an Enforcement Advisory Committee convened to
27 review this case. Although no allegations were substantiated, the committee found Thirty
28 Five (35) technical deficiencies in the Respondent's Home Inspection report. Even

1 though the committee found that Respondent's reporting deficiencies were de minimis in
2 nature, the committee recommended that Respondent receive additional training.

3 CONCLUSIONS OF LAW

- 4 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 5 2. The conduct alleged in the Findings of Fact constitutes grounds for
6 discipline, pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-301.01(A), in
7 that Respondent failed to prepare a home inspection report in accordance with the
8 Standards of Professional Practice for Arizona Home Inspectors.

9 ORDER

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

- 12 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
13 Reprimand.
- 14 2. STAYED SUSPENSION AND PROBATION. Respondent's certification
15 as Home Inspector, Certification No. 38555, shall be suspended for Ninety (90) Days;
16 however, the suspension is stayed for as long as Respondent remains in compliance with
17 this Order. During the stay of suspension, Respondent's certification as a Home
18 Inspector is placed on probation. If Respondent is non-compliant with any terms of this
19 Order, the stay of the suspension shall be lifted and Respondent's certification as a Home
20 Inspector shall be automatically suspended without a formal hearing, and remain
21 suspended until Respondent is compliant with all terms of this Order. The Board may
22 also consider Respondent's non-compliance with this Order as a separate violation of
23 A.R.S. § 32-150.
- 24 3. REMEDIAL EDUCATION. Within Ninety (90) Days from the effective
25 date of this Consent Agreement, Respondent shall provide proof to the Board that he has
26 successfully completed remedial education in home inspection report writing.
- 27 4. ADMINISTRATIVE PENALTY. Within Ninety (90) Days from the
28 effective date of this Consent Agreement, Respondent shall pay an administrative penalty

1 of Four Hundred Dollars (\$400.00) by certified check or money order made payable to
2 the State of Arizona Board of Technical Registration.

3 5. COST OF INVESTIGATION. Within Ninety (90) Days from the effective
4 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
5 case to the Board in the amount of Seven Hundred Eighteen Dollars (\$718.00) by
6 certified check or money order made payable to the State of Arizona Board of Technical
7 Registration, according to the provisions of A.R.S. § 32-128(H).

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

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

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

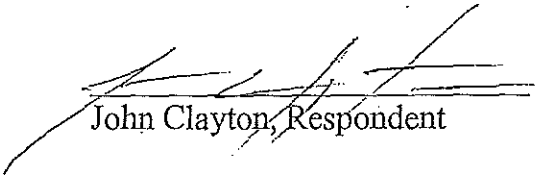
19 9. COSTS OF COMPLIANCE. Respondent shall pay all costs associated
20 with complying with this Consent Agreement.

21
22 ACCEPTED and ORDERED this 24th day of MAY, 2016.

23
24 E. Leroy Brady
25 E. Leroy Brady, Chairman
26 Arizona State Board of
27 Technical Registration
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Consent Agreement and Order, No. HI16-001 accepted this 26 day of April, 2016.


John Clayton, Respondent

ORIGINAL filed this 24 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 3010 0000 3864 7665 and
First Class mail this 26 day of MAY, 2016, to:

John Clayton
PO BOX 657
Sierra Vista, AZ 85636

By: D. Primmer