

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

3 **In the Matter of:**
4 **Phillip Westlund**
5 **Home Inspector, Non-Registrant**
6 **Respondent**

Case No.: HI16-002

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

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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 Phillip Westlund (“Respondent”), Non-Registrant, and the Board enter into the following
14 Recitals, Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as a
15 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 HI16-002 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 a Non-Registrant.

19 3. On or about April 28, 2015, Respondent certification as a Home Inspector
20 was cancelled.

21 4. On or about May 26, 2015, Respondent performed a Home Inspection
22 without Board registration.

23 CONCLUSIONS OF LAW

24 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.

25 2. Pursuant to A.R.S. § 32-121, a person or firm desiring to practice any board
26 regulated profession must obtain a registration.

27 3. Pursuant to A.R.S. § 32-145(1), it is unlawful for any person to practice,
28 offer to practice or by any implication hold himself out as qualified to practice any board

1 regulated profession or occupation if the person is not registered or certified.

2 4. The conduct alleged in the Findings of Fact constitutes grounds for discipline
3 against Respondent pursuant to A.R.S. § 32-106.2 (authorizing the Board to impose
4 discipline against non-registrants for unregistered practice).

5 **ORDER**

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

8 1. ASSURANCE OF DISCONTINUANCE. Respondent Phillip Westlund
9 shall not practice, offer to practice, display any card, sign or other device or by any
10 implication hold themselves out as qualified to practice as a Home Inspector as defined
11 by A.R.S. § 32-101(25) until such time as they are registered with the Board and in full
12 compliance with the Board's Statutes and Rules.

13 2. CIVIL PENALTY. Within five (5) months from the effective date of this
14 Consent Agreement, Respondent shall pay an administrative penalty of Five Hundred
15 Dollars (\$500.00). Payments of One Hundred Dollars (\$100) should be made on the first
16 of each month for by certified check or money order made payable to the State of
17 Arizona Board of Technical Registration.

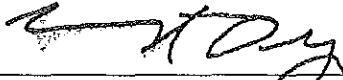
18 3. COST OF INVESTGATION. Within thirty (30) days from the effective
19 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
20 case to the Board in the amount of One Hundred Eighty-Nine Dollars (\$189.00) by
21 certified check or money order made payable to the State of Arizona Board of Technical
22 Registration, according to the provisions of A.R.S. § 32-128(H).

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

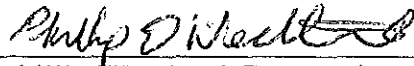
26 5. COSTS OF COMPLIANCE. Respondent shall pay all costs associated
27 with complying with this Consent Agreement.

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1 ACCEPTED and ORDERED this 4TH day of SEPTEMBER, 2015.

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3 
4 Edward T. Marley, Chairman
5 Arizona State Board of
6 Technical Registration

7 Consent Agreement and Order, No. HI16-002 accepted this 25 day of
8 AUGUST, 2015.

9 
10 Phillip Westlund, Respondent

11 ORIGINAL filed this 4 day of
12 SEPTEMBER, 2015, with:

13 Arizona State Board of Technical Registration
14 1110 W. Washington, Suite 240
Phoenix, AZ 85007

15 COPY of the foregoing mailed via Certified Mail
16 No. 7014 1200 0000 6616 3616 and
First Class mail this 14 day of SEPTEMBER, 2015, to:

17 Phillip Westlund
18 432 W Thunder Hill Dr.
Phoenix, AZ 85045

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21 By: D. Proemer
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