BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION

In the Matter of:

Francisco Montano, Non-Registrant
M & M Home Inspections, LLC, Non-
Registered Firm
Respondents

Case No.: HI16-005

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, Francisco Montano ("Respondent"), Non-Registrant and M & M Home Inspections, LLC ("Respondent"), Non-Registered Firm, 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
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 HI16-005 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 Inspections in the State of Arizona.

2. Respondent is not registered with the Board as a Certified Home Inspector.

3. Respondent firm is not registered with the Board.

4. On or about June 27, 2006, Respondent’s certification as a Home Inspector was placed in an “Inactive” status at the request of Respondent.

5. On or about May 16, 2015, Respondent performed a Home Inspection at a Phoenix residence. At the time of the inspection, Respondent’s certification as a Home Inspector was Inactive/Invalid and Respondent firm was not registered with the Board.

6. On or about August 28, 2015, Board staff received a written response from Respondent’s attorney stating that Respondent does not contest the allegations and expressed his willingness to comply with Board rules and statutes.
CONCLUSIONS OF LAW

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

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

3. Pursuant to A.R.S § 32-127(D), it is unlawful for a registrant to practice, offer to practice or advertise if the certificate of registration is inactive.

4. Pursuant to A.R.S. § 141(A), a firm shall not engage in the practice of a Board regulated occupation unless the firm is registered with the Board.

5. Pursuant to A.R.S. § 32-145, it is unlawful for any person to practice, offer to practice or by any implication hold himself out as qualified to practice any board regulated profession or occupation if the person is not registered or certified.

ORDER

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

1. ASSURANCE OF DISCONTINUANCE. Respondents Francisco Montano and M & M Home Inspections, LLC shall not practice, offer to practice, display any card, sign or other device or by any implication hold themselves out as qualified to practice Home Inspections as defined by A.R.S. § 32-101(23) until such time as they are registered with the Board and in full compliance with the Board’s Statutes and Rules.

2. CIVIL PENALTY. The Respondent shall pay a civil penalty of Two Thousand Dollars ($2,000.00) within twenty-four (24) months. Payments of Eighty Five Dollars ($85.00) for twenty-three (23) months and Forty Five Dollars ($45.00) for the twelfth and final month are to be submitted to the Board 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. § 32-128(A)(3).

3. COST OF INVESTIGATION. Within Sixty (60) 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 One Hundred Eighty Two Dollars ($182.00) 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. 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.

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

ACCEPTED and ORDERED this 29th day of September, 2015.

Edward T. Marley, Chairman
Arizona State Board of Technical Registration

Consent Agreement and Order, No. HI16-005 accepted this 4th day of September, 2015.

Francisco Montano, Personally and on behalf of M & M Home Inspections, LLC.
Respondents

ORIGINAL filed this 29th day of September, 2015, with:

Arizona State Board of Technical Registration
1110 W. Washington, Suite 240
Phoenix, AZ 85007
COPY of the foregoing mailed via Certified Mail
No. 704 W 1300 0000 6116 3685 and
First Class mail this 2 day of October, 2015, to:

Francisco Montano
2233 S. Valle Verde Cir.
Mesa, AZ 85209

M & M Home Inspections, LLC.
2233 S. Valle Verde Cir.
Mesa, AZ 85209

By:  

[Signature]

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