

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

3 **In the Matter of:**

4 **Francisco Montano, Non-Registrant**
5 **M & M Home Inspections, LLC, Non-**
6 **Registered Firm**

7 **Respondents**

Case No.: HI16-005

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

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 Francisco Montano (“Respondent”), Non-Registrant and M & M Home Inspections, LLC
14 (“Respondent”), Non-Registered Firm, and the Board enter into the following Recitals,
15 Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as a final
16 disposition of this matter.

17 **RECITALS**

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

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

28 3. Respondent affirmatively agrees that this Consent Agreement shall be

1 irrevocable.

2 4. Respondent understands that this Consent Agreement or any part of the
3 agreement may be considered in any future disciplinary action by the Board against him.

4 5. The Consent Agreement, any record prepared in this matter, all investigative
5 materials prepared or received by the Board and all related exhibits and materials, are
6 public records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this
7 Consent Agreement and may be retained in the Board's files pertaining to this matter.

8 6. Respondent understands this Consent Agreement deals with Board case
9 number HI16-005 involving allegations that Respondent engaged in conduct that would
10 subject him to discipline under the Board's statutes and rules. The investigation into
11 these allegations against Respondent shall be concluded upon the Board's adoption of
12 this Consent Agreement.

13 7. Respondent understands that this Consent Agreement does not constitute a
14 dismissal or resolution of any other matters currently pending before the Board, if any,
15 and does not constitute any waiver, express or implied, of the Board's statutory authority
16 or jurisdiction regarding any other pending or future investigation, action or proceeding.

17 8. Respondent also understands that acceptance of this Consent Agreement does
18 not preclude any other agency, subdivision, or officer of this State from instituting any
19 other civil or criminal proceedings with respect to the conduct that is the subject of this
20 Consent Agreement.

21 9. Respondent acknowledges and agrees that, upon signing this Consent
22 Agreement and returning this document to the Board's Executive Director, he may not
23 revoke his acceptance of the Consent Agreement or make any modifications to the
24 document regardless of whether the Consent Agreement has been signed on behalf of the
25 Board. Any modification to this original document is ineffective and void unless
26 mutually agreed by the parties in writing.

27 10. This Consent Agreement is subject to the approval of the Board and is
28 effective only when accepted by the Board and signed on behalf of the Board. If the

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

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

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

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

16 **FINDINGS OF FACT**

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

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

20 3. Respondent firm is not registered with the Board.

21 4. On or about June 27, 2006, Respondent's certification as a Home Inspector
22 was placed in an "Inactive" status at the request of Respondent.

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

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

1 CONCLUSIONS OF LAW

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

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

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

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

9 5. Pursuant to A.R.S. § 32-145, it is unlawful for any person to practice, offer
10 to practice or by any implication hold himself out as qualified to practice any board
11 regulated profession or occupation if the person is not registered or certified.
12

13 ORDER

14
15 Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues
16 the following Order:

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

22 2. CIVIL PENALTY. The Respondent shall pay a civil penalty of Two Thousand
23 Dollars (\$2,000.00) within twenty-four (24) months. Payments of Eighty Five Dollars
24 (\$85.00) for twenty-three (23) months and Forty Five Dollars (\$45.00) for the twelfth and
25 final month are to be submitted to the Board by cashier's check or money order made
26 payable to the Arizona State Board of Technical Registration, according to the provisions
27 of A.R.s. § 32-128(A)(3).

28 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

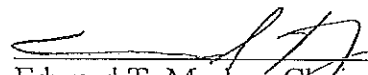
1 the Board in the amount of One Hundred Eighty Two Dollars (\$182.00) by certified
2 check or money order made payable to the State of Arizona Board of Technical
3 Registration, according to the provisions of A.R.S. § 32-128(H).

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B.T.R.

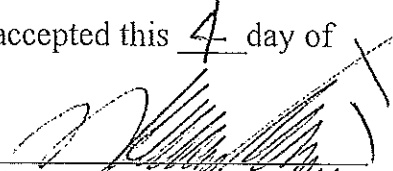
4 4. EFFECTIVE DATE. The effective date of this Consent Agreement is the date
5 the Respondent and Board sign the Consent Agreement. If the dates are different, the
6 effective date is the later of the two dates.

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

11 ACCEPTED and ORDERED this 29th day of SEPTEMBER, 2015.

13 
14 Edward T. Marley, Chairman
15 Arizona State Board of
16 Technical Registration

17 Consent Agreement and Order, No. HI16-005 accepted this 4 day of
18 SEPTEMBER, 2015.

19 
20 Francisco Montano, Personally and on
21 behalf of M & M Home Inspections,
22 LLC.
23 Respondents

24 ORIGINAL filed this 29 day of
25 SEPTEMBER, 2015, with:

26 Arizona State Board of Technical Registration
27 1110 W. Washington, Suite 240
28 Phoenix, AZ 85007

///

1 **COPY** of the foregoing mailed via Certified Mail
2 No. 7014 1200 0000 6616 3685 and

3 First Class mail this 2 day of OCTOBER, 2015, to:

4 Francisco Montano
5 2233 S. Valle Verde Cir.
6 Mesa, AZ 85209

7 M & M Home Inspections, LLC.
8 2233 S. Valle Verde Cir.
9 Mesa, AZ 85209

10 By: D. Baerman

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