



BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION

In the Matter of:
John Allen
Certified Home Inspector
Registration No. 59631
Respondent

Case No.: HI16-014

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 Allen ("Respondent"), holder of Registration No. 59631, 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.

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 HI16-014 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 Inspector in the State of Arizona.

18 2. Respondent is the holder of Certified Home Inspector Registration No.  
19 59631.

20 3. On or about May 28, 2015 Respondent conducted a Home Inspection at 15 E.  
21 Kinderman Dr., Avondale, AZ.

22 4. On or about October 10, 2015, the Board received a complaint alleging that  
23 Respondent failed to conduct a home inspection in accordance with the Standards of  
24 Professional Practice by not accurately observing and reporting on evidence of leaking on  
25 the basement walls.

26 5. On March 24, 2016, the Board's Enforcement Advisory Committee ("EAC")  
27 convened to review the complaint against Respondent. After interviewing both the  
28 Allegor and Respondent, the committee found that Respondent failed to conduct a home

1 inspection in accordance with the Standards of Professional Practice for Arizona Home  
2 Inspectors (“Standards”) by:

- 3 a. Failing to accurately observe and report on evidence of leaking at the  
4 basement walls as required by 4.2.E of the Standards. Long term leaking  
5 existed at the basement area sourced from both the plumbing system and  
6 from the exterior walls in the area of the windows. Multiple forms of  
7 evidence were provided by the Allegor to substantiate the allegation.
- 8 b. Failing to accurately observe and report on missing insulation at the  
9 supply duct plenum in the attic as required by 9.1.6 & 10.1.B1 (shared  
10 duct system) of the Standards. An attic photo in the inspection report  
11 clearly shows the missing plenum insulation.

12 6. According to the Standards of Professional Practice for Arizona Home  
13 Inspectors, the home inspector is to generally observe systems and components of the  
14 home and report their condition, whether good (i.e.; non-adverse) or bad, and also  
15 describe the systems and components by their type. The following reporting deficiencies  
16 found, include those which were as a result of not reporting certain non-adverse  
17 conditions:

- 18 a. Failed to provide proof of a signed inspection contract obtained prior to  
19 report delivery.
- 20 b. Failed to accurately report the foundation type. Report notes the type as  
21 brick when its construction type is masonry (CMU).
- 22 c. Failed to report the type of the structure columns.
- 23 d. Failed to report the method used to inspect the under-floor crawl space.
- 24 e. Failed to accurately report the type of plumbing waste and vent system.
- 25 f. Failed to accurately report on the significance and locations of plumbing  
26 supply side leaks.
- 27 g. Failed to properly report on the plumbing waste system functional drainage.

28 ////

- 1 h. Failed to report the condition of the of the electrical incoming service
- 2 conductor.
- 3 i. Failed to report the condition of the heating system vents.
- 4 j. Failed to report the type of the attic insulation. The severity level is elevated
- 5 slightly because the committee noted that older homes have the possibility of
- 6 having hazardous types of insulation present.
- 7 k. Failed to report the type and condition of the vapor retarder.
- 8 l. Failed to report the condition of the gas supply lines and supports.
- 9 m. Failed to report the voltage of the electrical system.

### 10 CONCLUSIONS OF LAW

- 11 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 12 2. The conduct alleged in the findings of fact constitutes grounds for discipline
- 13 pursuant to A.R.S. § 32-128(C) (4) (violation of Board rules) as it relates to A.A.C. R4-
- 14 30-301.01(A), in that Respondent failed to conduct a home inspection in accordance with
- 15 the Standards of Professional Practice for Arizona Home Inspectors.

### 16 ORDER

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

- 19 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
- 20 Reprimand.
- 21 2. STAYED SUSPENSION AND PROBATION. Respondent's certification
- 22 as a Home Inspector No. 59631, shall be suspended for sixty (60) days; however, the
- 23 suspension is stayed for as long as Respondent remains in compliance with this Order.
- 24 During the stay of suspension, Respondent's certification as a Home Inspector is placed
- 25 on probation for sixty (60) days. If Respondent is non-compliant with any terms of this
- 26 Order during the sixty (60) days stayed suspension and probation period, the stay of the
- 27 suspension shall be lifted and Respondent's certification as a Home Inspector shall be
- 28 automatically suspended without a formal hearing, and remain suspended until

1 Respondent is compliant with all terms of this Order. If Respondent completes all terms  
2 of this Order prior to the sixty (60) days stayed suspension and probation period,  
3 Respondent may seek an early termination of this Order by requesting a formal review by  
4 the Board. The Board may also consider Respondent's non-compliance with this Order as  
5 a separate violation of A.R.S. § 32-150.

6         3.     RESTITUTION. Within thirty (30) days from the effective date of this  
7 Consent Agreement, Respondent shall pay restitution to the client, David L. Gregor, in  
8 the amount of Three Hundred Fifty (\$350.00) for the cost of the home inspection in case  
9 HI16-014. Respondent shall provide proof of payment to the client, such as a copy of the  
10 check, to the Board of Technical Registration showing payment was made to the client.

11         4.     REMEDIAL TRAINING. Within sixty (60) days from the effective date of  
12 this Consent Agreement, Respondent shall provide proof to the Board that he has  
13 successfully completed remedial training in Home Inspection Report Writing.

14         5.     ADMINISTRATIVE PENALTY. Within sixty (60) days from the  
15 effective date of this Consent Agreement, Respondent shall pay an administrative penalty  
16 of Five Hundred Dollars (\$500.00) by certified check or money order made payable to  
17 the State of Arizona Board of Technical Registration.

18         6.     COST OF INVESTIGATION. Within sixty (60) 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 Seven Hundred Two Dollars (\$702.00) by certified  
21 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         7.     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         8.     COSTS OF COMPLIANCE. Respondent shall pay all costs associated  
27 with complying with this Consent Agreement.

28         9.     NONCOMPLIANCE. If Respondent violates this Order in any way or fails

1 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity  
2 to be heard, may revoke, suspend or take other disciplinary actions against the  
3 registration. The issue at such a hearing will be limited solely to whether this Order has  
4 been violated.

5 ACCEPTED and ORDERED this 24<sup>th</sup> day of MAY, 2016.

6  
7 E. Leroy Brady  
8 E. Leroy Brady, Chairman  
9 Arizona State Board of  
10 Technical Registration

11 Accil Consent Agreement and Order, No. HI16-014 accepted this 14 day of  
12 April, 2016.

13 John Allen  
14 John Allen, Respondent

15 ORIGINAL filed this 24 day of  
16 MAY, 2016, with:

17 Arizona State Board of Technical Registration  
18 1110 W. Washington, Suite 240  
19 Phoenix, AZ 85007

20 COPY of the foregoing mailed via Certified Mail  
21 No. 7015 3010 0000 3864 7689 and  
22 First Class mail this 27 day of MAY, 2016, to:

23 John Allen  
24 2113 W Spur Dr.  
25 Phoenix, AZ 85085

26  
27  
28 By: D. Braemer