

JUN 7 2016

BEFORE THE ARIZONA STATE  
BOARD OF TECHNICAL REGISTRATION

In the Matter of:  
Jeffrey Garay  
Certified Home Inspector  
Registration No. 56405  
Respondent

Case No.: HI16-020  
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, Jeffrey Garay ("Respondent"), holder of Registration No. 56405, 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 HI16-020 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 56405.

20 3. On or about August 27, 2015, Respondent performed a home inspection and  
21 prepared a home inspection report for the property located at 9847 E. Seven Palms Dr.  
22 Scottsdale, AZ.

23 4. On or about February 8, 2016, the Board received a complaint alleging that  
24 Respondent failed to conduct the home inspection in accordance with the Standards of  
25 Professional Practice for Arizona Home Inspectors.

26 5. On April 29, 2016, the Board's Enforcement Advisory Committee ("EAC")  
27 convened to review the complaint against Respondent. After interviewing the Allegor and  
28 the Respondent, and reviewing the evidence, the committee found that Respondent's

1 report failed to meet Arizona Standards of Practice for Home Inspectors in the following  
2 areas:

3 a. Respondent failed to accurately report the condition of insufficient  
4 insulation in the attic. (An error or omission made during the inspection or in the report  
5 that could adversely affect the client and/or failed to comply with the Standards)

6 b. Respondent failed to accurately observe the condition of the Casita Zone  
7 HVAC system. (An error or omission made during the inspection or in the report that  
8 could adversely affect the client and/or failed to comply with the Standards)

9 6. The EAC further found the following reporting deficiencies including those  
10 which were the result of Respondent not reporting certain non-adverse conditions:

11 a. Omitted firm address from the agreement,

12 b. Failed to report on the condition of structural columns on patio,

13 c. Failed to report in type of wall cladding,

14 d. Failed to report on condition of interior water supply and distribution

15 piping,

16 e. Failed to report on condition of water piping supports and insulation,

17 f. Failed to report on condition of functional drainage,

18 g. Failed to report on condition of gas water heater chimneys flues and vents,

19 h. Failed to report on condition of gas fuel piping and supports,

20 i. Failed to report on condition of branch circuit wiring,

21 j. Failed to report on operation and condition of ground-fault circuit

22 interrupters on the exterior, and in the kitchen and bathrooms,

23 k. Failed to report on the presence and condition of heating automatic safety

24 controls,

25 l. Failed to report on the condition of gas furnace chimneys, flues and vents,

26 m. Failed to report on condition of cooling equipment,

27 n. Failed to report on type and condition of vapor retarder in attic and

28 o. Failed to report on condition of laundry room ventilation.

1 CONCLUSIONS OF LAW

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

3 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline  
4 pursuant to A.R.S. § 32-128(C)(4); as it relates to A.A.C. R4-301.01(A), in that  
5 Respondent failed to conduct the home inspection in accordance with the Standards of  
6 Professional Practice for Arizona Home Inspectors.

7 ORDER

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

10 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of  
11 Reprimand, a disciplinary action that becomes a public record upon the effective date of  
12 this Consent Agreement.

13 2. STAYED SUSPENSION AND PROBATION. Respondent's registration as  
14 Certified Home Inspector, No. 50421, shall be suspended for six (6) months; however,  
15 the suspension is stayed for as long as Respondent remains in compliance with this  
16 Order. During the stay of suspension, Respondent's registration as a Certified Home  
17 Inspector is placed on probation for six (6) months. If Respondent is non-compliant with  
18 any terms of this Order during the six (6) month stayed suspension and probation period,  
19 the stay of the suspension shall be lifted and Respondent's registration as a Professional  
20 Engineer shall be automatically suspended without a formal hearing, and remain  
21 suspended until Respondent is compliant with all terms of this Order. If Respondent  
22 completes all terms of this Order prior to the six (6) month stayed suspension and  
23 probation period, Respondent may seek an early termination of this Order by requesting a  
24 formal review by the Board. The Board may also consider Respondent's non-compliance  
25 with this Order as a separate violation of A.R.S. § 32-150.

26 3. RESTITUTION. Within sixty (60) days from the effective date of this  
27 Consent Agreement, Respondent shall pay in the form of a cashier's check or money  
28 order to: Louis Chacos, 9847 E. Seven Palms Dr. Scottsdale, AZ, restitution in the

1 amount of Four Hundred Ninety Five Dollars (\$495.00). Within ten (10) days of  
2 payment, Respondent shall provide documentation to the Board that such payment was  
3 made.

4 3. ADMINISTRATIVE PENALTY. Within six (6) months from the effective  
5 date of this Consent Agreement, Respondent shall pay an administrative penalty of Five  
6 Hundred Dollars (\$500.00) by certified check or money order made payable to the State  
7 of Arizona Board of Technical Registration. Five payments of Eighty Five (\$85.00)  
8 Dollars shall be made to the Board on the first of each month with a Sixth and final  
9 payment of Seventy Five (\$75.00)

10 4. COST OF INVESTIGATION. Within six (6) months from the effective date  
11 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to  
12 the Board in the amount of Seven Hundred Forty Seven Dollars (\$747.00) by certified  
13 check or money order made payable to the State of Arizona Board of Technical  
14 Registration, according to the provisions of A.R.S. § 32-128(H). Six (6) payments of  
15 One Hundred Twenty Four Dollars and Fifty Cents (\$124.50) shall be paid to the Board  
16 on the first of each month.

17 5. REMEDIAL TRAINING. Within Ninety (90) days from the effective date  
18 of this Consent Agreement, Respondent shall provide proof to the Board that he has  
19 successfully completed home inspection remedial training in the following areas:

- 20 a) Standards of Professional Practice for Arizona Home Inspectors
- 21 b) Home Inspection Report writing

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

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

27  
28

1 ACCEPTED and ORDERED this 26<sup>th</sup> day of JULY, 2016.

2  
3 E. Leroy Brady

4 E. Leroy Brady, Chairman  
5 Arizona State Board of  
6 Technical Registration

7 Consent Agreement and Order, No. HI16-020 accepted this 13 day of  
8 June, 2016.

9 [Signature]

10 Jeffrey Garay, Respondent

11  
12 ORIGINAL filed this 26 day of  
13 JULY, 2016, with:

14 Arizona State Board of Technical Registration  
15 1110 W. Washington, Suite 240  
16 Phoenix, AZ 85007

17  
18  
19 COPY of the foregoing mailed via Certified Mail  
20 No. 7815 3010 0000 3864 7771 and  
21 First Class mail this 27 day of JULY, 2016, to:

22 Jeffrey Garay  
23 AZ Tech Home Inspections LLC  
24 595 S. 219 Dr.  
25 Buckeye, AZ 85326

26 By: [Signature]