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

In the Matter of:

**SCOTT FIDEL,
HOME INSPECTOR CERTIFICATION
NO. 52986; and**

**FIDELITY HOME INSPECTION,
FIRM REGISTRATION NO. 17216,**

Respondents.

Docket No. HI16-023

**CONSENT AGREEMENT
AND
ORDER OF DISCIPLINE**

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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 parties, Scott Fidel ("Respondent"), holder of Registration No. 529896, Fidelity Home Inspection ("Respondent Firm"), holder of Firm Registration No. 17216, 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.

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RECITALS

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1. Respondents have read and understand this Consent Agreement and have had the opportunity to discuss this Consent Agreement with an attorney, or have waived the opportunity to discuss this Consent Agreement with an attorney.
 2. Respondents understand that this Consent Agreement or any part of the agreement may be considered in any future disciplinary action by the Board against either Respondent.
 3. Respondents understand the Consent Agreement, any record prepared in this matter, all investigative materials prepared or received by the Board and all related

- 1 exhibits and materials, are public records (as defined in A.R.S. § 41-158.18).
- 2 4. Respondents understand this Consent Agreement deals with Board case number HI16-
3 023 involving allegations that Respondents engaged in conduct that would constitute violations
4 of the Board's statutes and rules. The investigation into these allegations against Respondents
5 shall be concluded upon the Board's adoption of this Consent Agreement.
- 6 5. Respondents understand that this Consent Agreement does not constitute a dismissal or
7 resolution of any other matters currently pending before the Board, if any, and does not
8 constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction
9 regarding any other pending or future investigation, action or proceeding.
- 10 6. Respondents understand that acceptance of this Consent Agreement does not preclude
11 any other agency, subdivision, or officer of this State from instituting any other civil or criminal
12 proceedings with respect to the conduct that is the subject of this Consent Agreement.
- 13 7. Respondents understand that, upon signing this Consent Agreement and returning this
14 document to the Board's Executive Director, they may not revoke his acceptance of the Consent
15 Agreement or make any modifications to the document regardless of whether the Consent
16 Agreement has been signed on behalf of the Board. Any modification to this original document
17 is ineffective and void unless mutually agreed by the parties in writing.
- 18 8. This Consent Agreement is subject to the approval of the Board and is effective only
19 when accepted by the Board and signed on behalf of the Board. In the event that the Board does
20 not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value and
21 shall not be relied upon nor introduced in any action by any party.
- 22 9. If a court of competent jurisdiction rules that any part of this Consent Agreement is void
23 or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full force
24 and effect.
- 25 10. Respondents understand that any violation of this Consent Agreement may result in
26 disciplinary action, including suspension or revocation of the registration under A.R.S. § 32-150.

1 **FINDINGS OF FACT**

2 11. The Board is the duly constituted authority for the regulation and control of the practice
3 of several professions in the State of Arizona, including that of home inspector. A.R.S. § 32-
4 101, *et seq.*

5 12. The Arizona Board of Technical Registration (“Board”) issues this Complaint and
6 Notice of Hearing pursuant to A.R.S. § 32-128, *et seq.* and A.R.S. § 41-1092, *et seq.*

7 **PARTIES**

8 13. The Board is the duly constituted authority for the regulation and control of the practice
9 of several professions in the State of Arizona, including that of home inspector. A.R.S. § 32-
10 101, *et seq.*

11 14. Respondent is the sole Director, Officer, and Owner of Respondent Firm.

12 15. On or about October 16, 2015 Complainants David E. Bennet and Maureen Gerrard
13 entered into a “Consent to Limited Representation” with Realty Executives Elite Tucson, LLC
14 (“Realty Executives”) for representation by Tina Sheridan (“Sheridan”) and Jacob Van Camp
15 regarding the potential purchase by Complainants of 12120 W. Formosa Ln., Marana, AZ. With
16 this Consent, Complainants received a “Realty Executives Affiliated Services Disclosures”
17 document identifying a marketing services agreement between Realty Executives and
18 Respondent Firm.

19 16. Complainants subsequently entered into a purchase contract dated October 16, 2015, with
20 a ten-day inspection period.

21 17. Following authorization by Complainants, Sheridan arranged a home inspection by
22 Respondent Firm and, on or about October 21, 2015, Respondent, through Respondent Firm,
23 conducted a home inspection at 12120 W. Formosa Ln., Marana, AZ. Complainants were out of
24 the state at the time, and did not attend the home inspection.

25 18. At the time of inspection, Respondent provided Sheridan a copy of an Inspection
26 Agreement (“Agreement”). This Agreement provided the disclosure that Respondent “is also a
licensed real estate agent in the State of Arizona, employed by Realty Executives Tucson Elite”,
the same real estate company for which Sheridan works. While signed by Respondent, the
Agreement was not signed by the Complainants. Instead, the Agreement simply has a hand-

1 written notation stating "client not present agent to represent".

2 19. On or about February 9, 2016, Complainants filed a complaint against Respondent with
3 the Board alleging that failure to conduct a home inspection in accordance with the Standards of
4 Professional Practice.

5 CONCLUSIONS OF LAW

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

7 2. The conduct and circumstances alleged above constitute grounds for disciplinary action
8 against Respondent pursuant to A.R.S. § 32-128(C)(4) as it relates to R4-30-301(9)(b) ("[a]
9 registrant shall make full disclosure to all parties concerning: ...[a]ny monetary, financial, or
10 beneficial interest the registrant holds in a contracting firm or other entity providing goods or
11 services, other than the registrant's professional services, to a project or engagement.")

12 3. The conduct and circumstances alleged above constitute grounds for disciplinary action
13 against Respondent pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301.1(B)(1)
14 ("[a] Certified Home Inspector shall not: [p]ay, directly or indirectly, in full or in part, a
15 commission or compensation as a referral or finder's fee to a real estate company, real estate
16 office, real estate broker/salesperson(s), real estate employees or real estate independent
17 contractors in order to obtain referrals for home inspection business. This prohibition includes,
18 but is not limited to, participation in pay-to-play programs by any name (e.g. "preferred vendor,"
19 "approved vendor," "marketing partner," "marketing services agreement.")

20 ORDER

21 Based on the Findings of Fact and Conclusions of Law as stated above, the Board issues
22 the following Order:

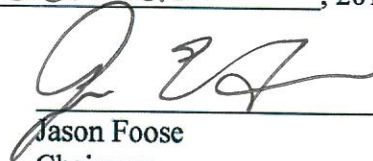
23 1. **ADMINISTRATIVE PENALTY.** Within twelve (12) months from the effective date of
24 this Consent Agreement, Respondents shall pay an administrative penalty in the total amount of
25 (five-hundred Dollars). Payments shall be submitted to the Board by certified check or money
26 order made payable to the State of Arizona Board of Technical Registration. Respondents shall
be jointly and severally liable for the total amount of the administrative penalty.

1 **2. EFFECTIVE DATE.** The effective date of this Consent Agreement is the date the
2 Respondents and Board sign the Consent Agreement. If the dates are different, the effective date
3 is the later of the two dates.


4 **3. FEES AND COSTS.** Respondents shall pay directly to the Board costs of enforcement
5 in the total amount of \$1,032.00 (one-thousand, thirty-two dollars) within 12 (twelve) months of
6 the effective date of this Consent Agreement. Respondents shall be jointly and severally liable
7 for the total amount of the administrative penalty.

8 **4. NONCOMPLIANCE.** If either Respondent violates this Order in any way or fails to
9 fulfill the requirements of this Order, the Board, after giving notice and the opportunity to be
10 heard, may revoke, suspend or take other disciplinary action against the registration of that
11 Respondent. The issue at such a hearing will be limited solely to whether this Order has been
12 violated.

13 ACCEPTED and ORDERED this 22ND day of OCTOBER, 2019.

14 
15 Jason Foose
16 Chairman
17 Arizona State Board of
18 Technical Registration

19 Consent Agreement and Order, No. HI16-023 accepted this 5th day of October, 2019.

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21 Scott Fidel
22 on behalf of himself and
23 as authorized signer for
24 Respondent Firm
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ORIGINAL of the foregoing filed
this 23 day of OCTOBER, 2019, with:

The Arizona State Board of Technical Registration
1110 W. Washington Street
Suite 240
Phoenix, Arizona 85007

COPY of the foregoing mailed by
both Certified and First Class Mail
this same date to:

CERT MAIL No. 9214 8901 9434 4600 0628 08

Scott Fidel
Fidelity Home Inspection
P.O. Box 64067
Tucson, AZ 85728
Scfidel@comcast.net



Patrick J. Lopez, Attorney
259 N. Meyer Avenue
Tucson, AZ 85701-1090
plopez@mcrazlaw.com

COPY of the foregoing mailed by
First Class Mail this same date to:

Scott Donald
Assistant Attorney General
License and Enforcement Section
2005 N. Central Ave
Phoenix, AZ 85004-2926