

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 HI17-005 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2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no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 60420.

20 3. On or about May 27, 2016, Respondent conducted a Home Inspection at
21 4318 E. Graythorn Ave, Phoenix, AZ.

22 4. On or about September 14, 2016, the Board received a complaint that
23 Respondent failed to conduct a home inspection in accordance with the Standards of
24 Professional Practice by failing to accurately describe the water distribution piping
25 materials as polybutylene, failing to accurately observe and report on the kitchen
26 disposal, failing to accurately observe and/or report on the water pressure and accurately
27 observe and/or report on mold under the kitchen.

28 4. On December 8, 2016, the Board's Enforcement Advisory Committee

1 (“EAC”) convened to review the complaint against Respondent. After interviewing both
2 the Allegor and Respondent, the committee found that Respondent was in violation of
3 ARS 32-128(C)(4) in that:

4 a. Respondent Failed to conduct a home inspection in accordance with A.A.C.
5 R4-30-301.01, the Standards of Professional Practice for Arizona Home
6 Inspectors (“Standards”) by:

- 7 1) Failing to accurately describe the water distribution piping materials
8 as polybutylene.
9 2) Failing to accurately observe and report on the kitchen disposal.

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

- 16 a. Failed to list the inspection date on the contract.
17 b. Failed to list the inspector’s name and license number on the contract.
18 c. Failed to list the firm address on the contract.
19 d. Failed to describe the condition of the wall flashing.
20 e. Failed to describe the condition of the water heater automatic safety
21 controls.
22 f. Failed to describe the presence and condition of the electrical system
23 ground.
24 g. Failed to describe the condition of the electrical system overcurrent
25 protection devices.
26 h. Failed to describe the condition of the electrical system service voltage.
27 i. Failed to describe the condition of the electrical system branch circuit
28 conductors.

- 1 j. Failed to describe the condition of the electrical system compatibility.
2 k. Failed to describe the condition of the electrical system lights and switches.
3 l. Failed to describe the condition of the electrical system receptacles,
4 polarity and ground.
5 m. Failed to describe the condition of the electrical system ground fault circuit
6 interrupters.
7 n. Failed to describe the presence of a heat source in each room.
8 o. Failed to describe the presence of a cooling source in each room.
9 p. Failed to describe the condition of the kitchen and bathroom counters.
10 q. Failed to describe the type and condition of the vapor retarder.
11 r. Failed to describe the presence and condition of the attic ventilation.
12 s. Failed to describe the presence and condition of the bathroom ventilation.
13 t. Failed to describe the presence and condition of the laundry ventilation.
14 u. Failed to describe the condition of fire doors.

15 **CONCLUSIONS OF LAW**

- 16 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
17 2. The conduct alleged in the findings of fact constitutes grounds for discipline
18 pursuant to A.R.S. § 32-128(C) (4) (violation of Board rules) as it relates to A.A.C. R4-
19 30-301.01(A), in that Respondent failed to conduct a home inspection in accordance with
20 the Standards of Professional Practice for Arizona Home Inspectors.

21 **ORDER**

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

- 24 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
25 Reprimand.
26 2. STAYED SUSPENSION AND PROBATION. Respondent's certification
27 as a Home Inspector No. 60420, shall be suspended for twelve (12) months; however, the
28 suspension is stayed for as long as Respondent remains in compliance with this Order.

1 During the stay of suspension, Respondent's certification as a Home Inspector is placed
2 on probation for twelve (12) months. If Respondent is non-compliant with any terms of
3 this Order during the twelve (12) months stayed suspension and probation period, the stay
4 of the suspension shall be lifted and Respondent's certification as a Home Inspector shall
5 be automatically suspended without formal hearing, and remain suspended until
6 Respondent is compliant with all terms of this Order. If Respondent completes all terms
7 of this Order prior to the twelve (12) months stayed suspension and probation period,
8 Respondent may seek an early termination of this Order by requesting a formal review by
9 the Board. The Board may also consider Respondent's non-compliance with this Order
10 as a separate violation of A.R.S § 32-150.

11 3. PEER REVIEW. Within thirty (30) days of the effective date of this
12 Consent Agreement, Respondent shall accompany a supervising Certified Home
13 Inspector ("Peer Reviewer") for three (3) Home Inspections, and perform inspections at
14 the same time and location as the Peer Reviewer. Respondent shall write a Home
15 Inspection Report, and submit the written report to the Peer Reviewer for review. The
16 Respondent may select his Peer Reviewer who shall be in good standing with the Board
17 and shall not have received any disciplinary action from the Board within the last 3-years.
18 The Peer Reviewer shall have been continuously certified by the Board as a Home
19 Inspector for at least five (5) years and shall have conducted at least two hundred fifty
20 (250) Home Inspections in the State of Arizona. The Respondent shall cause the Peer
21 Reviewer to sign an Affidavit and Agreement to Conduct Peer Review with the Board
22 affirming that the Peer Reviewer has met the Peer Review selection criteria prior to
23 conducting any Peer Reviews. At the conclusion of each peer reviewed Home Inspection,
24 Respondent will submit his work product, specifically a Home Inspection Report, to the
25 Peer Reviewer who will review and make all corrections to the Respondent's Home
26 Inspection Report necessary for the report to meet the Standards of Professional Practice
27 for Arizona Home Inspectors. Respondent shall not perform any Home Inspections or
28 provide any client with a Home Inspection Report for a fee until all Peer Reviews are

1 completed. Respondent shall ensure that the Peer Reviewer provides a written report to
2 the Board after each peer reviewed Home Inspection, detailing any deficiencies in the
3 Respondent's practice, and certifying that the deficiencies have been explained and
4 corrected, in so far as the peer reviewed Home Inspection is concerned. Respondent shall
5 retain the Peer Reviewer at his own expense.

6 4. REMEDIAL TRAINING. Within sixty (60) days from the effective date of
7 this Consent Agreement, Respondent shall provide proof to the Board that he has
8 successfully completed Board Staff approved home inspection remedial training in each
9 of the following areas:

- 10 a) Home Inspection Report Writing
- 11 b) Plumbing System Inspection
- 12 c) Electrical System Inspection

13 5. RESTITUTION. Within thirty (30) days from the effective date of this
14 Consent Agreement, Respondent shall pay restitution to the client, John McAvoy in the
15 amount of Two Hundred Seventy-Five Dollars (\$275.00) for the cost of the home
16 inspection amount in case HI17-005. Respondent shall provide proof of payment to the
17 client, such as a copy of the check, to the Board of Technical Registration showing
18 payment was made to the client.

19 6. ADMINISTRATIVE PENALTY. Within six (6) months from the effective
20 date of this Consent Agreement, Respondent shall pay an administrative penalty of Five
21 Hundred Dollars (\$500) by certified check or money order made payable to the State of
22 Arizona Board of Technical Registration.

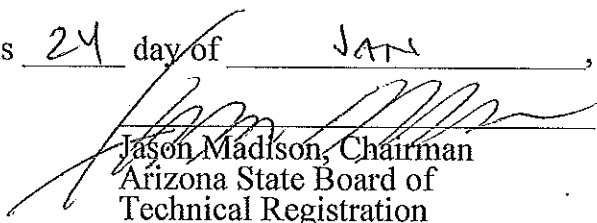
23 7. COST OF INVESTIGATION. Within twelve (12) months from the
24 effective date of this Consent Agreement, Respondent shall pay the cost of investigation
25 of this case to the Board in the amount of One Thousand Thirty-Two Dollars (\$1032.00).
26 Payments of Eighty-Six Dollars (\$86) are to be made on the first of each month to the
27 Board by certified check or money order made payable to the State of Arizona Board of
28 Technical Registration, according to the provisions of A.R.S. § 32-128(H).

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

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

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

11 ACCEPTED and ORDERED this 24 day of JAN, 2017.

12
13 
14 Jason Madison, Chairman
Arizona State Board of
Technical Registration

15 Consent Agreement and Order, No. HI17-005 accepted this 5th day of
16 JANUARY, 2017.

17 
18 James Ricker, Respondent

19 ORIGINAL filed this 24 day of
20 JANUARY, 2017, with:

21 Arizona State Board of Technical Registration
22 1110 W. Washington, Suite 240
Phoenix, AZ 85007

23 COPY of the foregoing mailed via Certified Mail
24 No. 9214 8901 9434 4600 0076 56 and
First Class mail this 27 day of JANUARY, 2017, to:

25 James Ricker
26 Ricker Home Inspection
27 42015 N Kenworthy Rd
San Tan Valley, AZ 85140

28 By: D. Isaacson