BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION

In the Matter of:
James Ricker
Home Inspector
Registration No. 60420

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

Case No.: HI17-005

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, James Ricker ("Respondent"), holder of Registration No. 60420, 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.
4. Respondent understands that this Consent Agreement or any part of the agreement may be considered in any future disciplinary action by the Board against him.

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

6. Respondent understands this Consent Agreement deals with Board case number HI17-005 involving allegations that Respondent engaged in conduct that would subject him to discipline under the Board’s statutes and rules. The investigation into these allegations against Respondent shall be concluded upon the Board’s adoption of this Consent Agreement.

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

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

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

10. This Consent Agreement is subject to the approval of the Board and is effective only when accepted by the Board and signed on behalf of the Board. If the Board does not accept this Consent Agreement, the Board retains its authority to hold a
formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any action by any party, except that the parties agree that should the Board reject this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this document or any records relating thereto.

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

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

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

**FINDINGS OF FACT**

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

2. Respondent is the holder of Certified Home Inspector Registration No. 60420.

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

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

4. On December 8, 2016, the Board’s Enforcement Advisory Committee
("EAC") convened to review the complaint against Respondent. After interviewing both the Allegor and Respondent, the committee found that Respondent was in violation of ARS 32-128(C)(4) in that:

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

1) Failing to accurately describe the water distribution piping materials as polybutylene.

2) Failing to accurately observe and report on the kitchen disposal.

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

a. Failed to list the inspection date on the contract.

b. Failed to list the inspector’s name and license number on the contract.

c. Failed to list the firm address on the contract.

d. Failed to describe the condition of the wall flashing.

e. Failed to describe the condition of the water heater automatic safety controls.

f. Failed to describe the presence and condition of the electrical system ground.

g. Failed to describe the condition of the electrical system overcurrent protection devices.

h. Failed to describe the condition of the electrical system service voltage.

i. Failed to describe the condition of the electrical system branch circuit conductors.
j. Failed to describe the condition of the electrical system compatibility.
k. Failed to describe the condition of the electrical system lights and switches.
l. Failed to describe the condition of the electrical system receptacles, polarity and ground.
m. Failed to describe the condition of the electrical system ground fault circuit interrupters.
n. Failed to describe the presence of a heat source in each room.
o. Failed to describe the presence of a cooling source in each room.
p. Failed to describe the condition of the kitchen and bathroom counters.
q. Failed to describe the type and condition of the vapor retarder.
r. Failed to describe the presence and condition of the attic ventilation.
s. Failed to describe the presence and condition of the bathroom ventilation.
t. Failed to describe the presence and condition of the laundry ventilation.
u. Failed to describe the condition of fire doors.

CONCLUSIONS OF LAW

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

ORDER

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

1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of Reprimand.
2. STAYED SUSPENSION AND PROBATION. Respondent's certification as a Home Inspector No. 60420, shall be suspended for twelve (12) months; however, the suspension is stayed for as long as Respondent remains in compliance with this Order.
During the stay of suspension, Respondent’s certification as a Home Inspector is placed on probation for twelve (12) months. If Respondent is non-compliant with any terms of this Order during the twelve (12) months stayed suspension and probation period, the stay of the suspension shall be lifted and Respondent’s certification as a Home Inspector shall be automatically suspended without formal hearing, and remain suspended until Respondent is compliant with all terms of this Order. If Respondent completes all terms of this Order prior to the twelve (12) months stayed suspension and probation period, Respondent may seek an early termination of this Order by requesting a formal review by the Board. The Board may also consider Respondent’s non-compliance with this Order as a separate violation of A.R.S § 32-150.

3. PEER REVIEW. Within thirty (30) days of the effective date of this Consent Agreement, Respondent shall accompany a supervising Certified Home Inspector (“Peer Reviewer”) for three (3) Home Inspections, and perform inspections at the same time and location as the Peer Reviewer. Respondent shall write a Home Inspection Report, and submit the written report to the Peer Reviewer for review. The Respondent may select his Peer Reviewer who shall be in good standing with the Board and shall not have received any disciplinary action from the Board within the last 3-years. The Peer Reviewer shall have been continuously certified by the Board as a Home Inspector for at least five (5) years and shall have conducted at least two hundred fifty (250) Home Inspections in the State of Arizona. The Respondent shall cause the Peer Reviewer to sign an Affidavit and Agreement to Conduct Peer Review with the Board affirming that the Peer Reviewer has met the Peer Review selection criteria prior to conducting any Peer Reviews. At the conclusion of each peer reviewed Home Inspection, Respondent will submit his work product, specifically a Home Inspection Report, to the Peer Reviewer who will review and make all corrections to the Respondent’s Home Inspection Report necessary for the report to meet the Standards of Professional Practice for Arizona Home Inspectors. Respondent shall not perform any Home Inspections or provide any client with a Home Inspection Report for a fee until all Peer Reviews are
completed. Respondent shall ensure that the Peer Reviewer provides a written report to
the Board after each peer reviewed Home Inspection, detailing any deficiencies in the
Respondent’s practice, and certifying that the deficiencies have been explained and
corrected, in so far as the peer reviewed Home Inspection is concerned. Respondent shall
retain the Peer Reviewer at his own expense.

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

a) Home Inspection Report Writing
b) Plumbing System Inspection
c) Electrical System Inspection

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

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

7. COST OF INVESTIGATION. Within twelve (12) months from the
effective date of this Consent Agreement, Respondent shall pay the cost of investigation
of this case to the Board in the amount of One Thousand Thirty-Two Dollars ($1032.00).
Payments of Eighty-Six Dollars ($86) are to be made on the first of each month to the
Board by certified check or money order made payable to the State of Arizona Board of
Technical Registration, according to the provisions of A.R.S. § 32-128(H).
8. EFFECTIVE DATE. The effective date of this Consent Agreement is the date the Respondent and Board sign the Consent Agreement. If the dates are different, the effective date is the later of the two dates.

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

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

ACCEPTED and ORDERED this 24th day of January, 2017.

Jason Madison, Chairman
Arizona State Board of Technical Registration

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

James Ricker, Respondent

ORIGINAL filed this 24th day of
January, 2017, with:

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

COPY of the foregoing mailed via Certified Mail
No. 9204 8901 9134 4600 0076 56 and
First Class mail this 27th day of January, 2017, to:

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

By: [Signature]