

1 **BEFORE THE ARIZONA STATE**

2 **BOARD OF TECHNICAL REGISTRATION**

3 **In the Matter of:**

Case No.: HI17-020

4 **Rick Hoffman,**
5 **Home Inspector**
6 **Certification No.49571**

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

7 **Respondent**

8
9 In the interest of a prompt and judicious resolution of the above-captioned matter
10 before the Arizona State Board of Technical Registration ("Board") and consistent with
11 the public interest, statutory requirements, and the responsibilities of the Board, and
12 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
13 Rick Hoffman ("Respondent"), holder of Certification No. 49571, and the Board enter
14 into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent
15 Agreement") as a final disposition of this matter.

16 **RECITALS**

17 1. Respondent has read and understands this Consent Agreement and has had
18 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
19 opportunity to discuss this Consent Agreement with an attorney.

20 2. Respondent understands that he has a right to a public administrative hearing
21 concerning this case. He further acknowledges that at such formal hearing he could
22 present evidence and cross-examine witnesses. By entering into this Consent Agreement,
23 Respondent knowingly, voluntarily, and irrevocably waives his right to such an
24 administrative hearing, as well as rights of rehearing, review, reconsideration, appeal,
25 judicial review or any other administrative and/or judicial action concerning the matters
26 set forth herein.

27 3. Respondent affirmatively agrees that this Consent Agreement shall be
28 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 HI17-020 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 Inspection in the State of Arizona.

18 2. Respondent is the holder of Arizona Home Inspection Certification No.
19 49571.

20 3. On January 13, 2017, Respondent conducted a Home Inspection and prepared
21 a Home Inspection report for a property located at 7642 E. Hartford Dr., Scottsdale, AZ.

22 4. On January 20, 2017, the Board received a complaint alleging that
23 Respondent failed to conduct a Home Inspection in accordance with the Standards of
24 Professional Practice for Arizona Home Inspectors. It was alleged that Respondent failed
25 to accurately report on the condition of the roof coverings and roof structure, a lower
26 level window well, and one of the three HVAC units.

27 5. On September 28, 2017, an Enforcement Advisory Committee Meeting
28 ("EAC") was held to review the case evidence and conduct interviews. After their

1 review, the Committee concluded that the evidence did not support the initial allegation
2 put forth by the Alleger however, the committee found that Respondent's Home
3 Inspection Report failed ("AZSOP") the Arizona Standards of Professional Practice for
4 Arizona Home Inspectors and identified the following deficiencies in Respondent report:

5 a. Solid fuel heating devices. The fireplace was mentioned in the report as
6 present, but there was no mention of the condition, as required in AZSOP 9.2(A.1),

7 b. Fire separation doors. The report did mention the requirement for fire
8 separation between the house and the garage but did not mention the condition of the
9 door or if it automatically closes and latches, as required in AZSOP 11.1(E),

10 c. Vapor retarder. There was no mention in the report of existence or
11 nonexistence, as required in AZSOP 12.1(A),

12 d. Interior walls, ceilings and floors. These items were listed as present but
13 there was no report on their condition, as required in AZSOP 4.1(A.2.3.5.),

14 e. Counters and cabinetry. These items were listed as present but there was
15 no report on their condition, as required in AZSOP 11.1(C),

16 f. Insulation. The type of insulation was mentioned in the report but not the
17 condition, as required in AZSOP 12.1(A),

18 g. Inspector. The name of the Inspector was not clearly evident in the
19 inspection agreement, as required in AZSOP 2.2 3,

20 h. The firm address was not listed in the inspection agreement, as required in
21 AZSOP 2.2 2,

22 i. Foundation. Basement floor type and condition was not defined, as
23 required in AZSOP 4.1 (A.1),

24 j. Floors. Condition was not defined, as required in AZSOP 4.1(2.3.5),

25 k. Entry Door. Condition of all entry doors was not defined, and there was
26 no specific information regarding door closures for the pool, as required in AZSOP 5.2
27 (B),

28 l. GFCI. Condition of all GFCI was not defined, as required in AZSOP

1 8.1(G),

2 m. Automatic safety controls. Presence and condition of dedicated safety
3 controls for the heating system were not defined, as required in AZSOP 9.3,

4 n. Attic ventilation. The condition was not defined, as required in AZSOP
5 4.1(A),

6 o. Heat source. The report failed to contain a reference to heating source
7 present in each room, as required in AZSOP 9.1(7),

8 p. Cooling source. The report failed to contain a reference to cooling source
9 present in each room, as required in AZSOP 10.1,

10 q. Distribution system. There was no mention of type or condition, as
11 required in AZSOP 10.1(B.1),

12 r. Decks, steps, coping. Coping was not defined, as required in Pool and
13 Spa AZSOP 3.1 (B),

14 s. Electrical components. All GFCI's were not tested, as required in Pool
15 and Spa AZSOP 3.1(F),

16 t. Cleaning System. The type was not defined, as required in Pool and Spa
17 AZSOP 3.2(A5),

18 u. Child Safe Barriers. The condition was not defined. As required in Pool
19 and Spa AZSOP 3.1 (H),

20 **CONCLUSIONS OF LAW**

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

22 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
23 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301.1 in that Respondent
24 failed to conduct a Home Inspection in accordance with the Standards of Professional
25 Practice for Arizona Home Inspectors.

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27 ////

28 **ORDER**

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

3 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
4 Reprimand.

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

9 3. COST OF INVESTIGATION. Within Ninety (90) days from the effective
10 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
11 case to the Board in the amount of Eight Hundred and Seventy-Eight Dollars (\$878.00)
12 by certified check or money order made payable to the State of Arizona Board of
13 Technical Registration, according to the provisions of A.R.S. § 32-128(H).

14 4. STAYED SUSPENSION AND PROBATION. Respondent's certification
15 as Home Inspector, certification No. 49571 shall be suspended for Six (6) months:
16 however, the suspension is stayed for as long as Respondent remains in compliance with
17 this order. During the stay of suspension Respondent certification as a Home Inspector is
18 placed on probation. If Respondent is non-compliant with any terms of this Order, the
19 stay of suspension shall be lifted and Respondent certification as a Home Inspector shall
20 be automatically suspended without a formal hearing, and remain suspended until
21 Respondent is compliant with all terms of this Order.

22 5. PEER REVIEW. Within (30) days of the effective date of this Consent
23 Agreement, Respondent shall accompany a supervising certified Home Inspector ("peer
24 reviewer) for two Home Inspections, and perform the inspections at the same time and
25 location as the Peer Reviewer. Respondent shall write a Home Inspection report, and
26 submit the written report to the Peer Reviewer for review. The Respondent may select his
27 Peer Reviewer who shall be in good standing with the Board and shall not have received
28 any disciplinary action from the Board within the last 3 years. The Peer Reviewer shall

1 have been continuously certified by the Board as a Home Inspector for at least 5 years
2 and shall have conducted at least two hundred and fifty Home Inspections in the state of
3 Arizona. The Respondent shall cause the Peer Reviewer to sign an affidavit and
4 Agreement to conduct peer review with the Board affirming that the Peer Reviewer has
5 met the Peer review selection criteria prior to conducting any peer reviews. At the
6 conclusion of the peer review Respondent shall submit his work product, specifically a
7 Home Inspection report to the Peer Reviewer who will review and make all corrections to
8 the Respondent Home Inspection report necessary for the report to meet the Standards of
9 Professional Practice for Arizona Home Inspections. Respondent shall not perform any
10 Home Inspection or provide any client with a Home Inspection report for a fee until he
11 completes his peer review. Respondent shall ensure that the Peer Reviewer provides a
12 written report to the Board after the peer reviewed Home Inspection, detailing any
13 deficiencies in the Respondent practice, and certifying that the deficiencies have been
14 explained and corrected, in so far as the peer reviewed Home Inspection is concerned.
15 Respondent shall retain the Peer Reviewer at his own expense.

16 6. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local
17 laws, as well as, all rules governing the practice of Home Inspection in the State of
18 Arizona. The Board shall consider any violation of this paragraph to be a separate
19 violation of the rules and statues governing the Arizona Board of Technical Registration.
20 The Board may also consider Respondent's non-compliance with this Order as a separate
21 violation of A.R.S. § 32-150.


22 7. **RENEWAL OF REGISTRATION.** Respondent shall timely renew their
23 Arizona registration as a Home Inspector, and timely pay all required registration fees.

24 8. **EFFECTIVE DATE.** The effective date of this Consent Agreement is the
25 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
26 effective date is the later of the two dates.

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

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

6 ACCEPTED and ORDERED this 27 day of February, 2018.

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9 _____
Alejandro Angel, P.E., Chairman
Arizona State Board of
10 Technical Registration

11 Consent Agreement and Order, No. HI17-020 accepted this 19th day of
12 January, 2018.

13
14 
15 _____
Rick Hoffman,
Respondent

16 ORIGINAL filed this 1st day of
17 MARCH, 2018, with:

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

20 COPY of the foregoing mailed via Certified Mail
21 No. 9214 8901 9434 4600 0318 80 and
First Class mail this 1st day of MARCH, 2018, to:

22 Rick Hoffman
23 14201 N. Hayden Rd.
24 Scottsdale, AZ 85260

25 By: 
26 _____
27
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