BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION

In the Matter of:

Robert Walsh,
Home Inspector Certification No. 62775,

Case No.: HI17-035

CONSENT AGREEMENT

In the interest of a prompt and judicious resolution of the above-captioned matter before the Arizona State Board of Technical Registration (the “Board”) and consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to Arizona Revised Statutes (“A.R.S.”) § 32-101, et seq., and Arizona Administrative Code (“A.A.C.”) R4-30-120(G), the Board and the undersigned party, Robert Walsh, Certification No. 62775 (“Respondent”), 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 records (as defined in A.R.S. § 41-151.18) 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 HI17-035 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, Respondent may not revoke 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, shall be of no evidentiary value, and shall not be relied upon nor introduced in any action by any party. Respondent agrees 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 agrees that any violation of this Consent Agreement may result in disciplinary action, including suspension or revocation of 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 inspectors in the State of Arizona.

2. Respondent is the holder of Home Inspector Certification No. 62775.

   On June 5, 2017, Respondent conducted a home inspection at 6784 W. Alegria Dr.,
Tucson, Arizona for potential home-buyers, Roger and Stephen McLean. Respondent drafted an inspection report and included the following observation:

"Polybutylene piping observed. This type of piping has been recalled due to possible leaking or failure. Recommend a system-wide plumbing evaluation to determine the need for repair/replacement of piping by a qualified plumber. Vanguard Thermoguard MANABLOC system with 3/8 inch tubing. PB2110. Note: Large water PEX supply lines were also noted in attic."

After reading the report, the McLeans determined not to purchase the property.

5. On June 8, 2017, the owner of the property, Dan Anderson, filed a complaint against Respondent with the Board. The complaint alleged that Respondent's report for the McLeans was "false," specifically the remarks made about the polybutylene plumbing. Anderson alleged that he had replaced all the plumbing in the house the previous year. Furthermore, Anderson alleged that Respondent's report "cost" him the sale of his house.

6. Board staff began investigating this complaint on June 23, 2017, sending Respondent notice of the complaint and asking that he send a written response, contracts, plans, agreements, photos and other relevant documents to the Board for review by July 10, 2017.

7. On August 17, 2017, Respondent provided the Board with a written statement about the complaint, in which he wrote that his inspection of the plumbing piping in the home was visual only. He explained that inspections of piping within the home under sinks, by the toilets and hose bibs gave no clear indication of the piping used. Furthermore, he stated that when he noticed polybutylene and PEX piping in the home, he drafted the note in the report and recommended that the potential buyers hire a qualified plumber to conduct a system-wide plumbing evaluation to determine the type of piping actually present in the home.

8. Two Board assessors, Michael Williams, C.H.I. #38045, and Robert Kille, C.H.I. #38351, reviewed Respondent's report, along with the complaint and all the
available evidence to assist the Board in determining whether Respondent's report met the minimum standards of professional practice for Arizona home inspectors.

9. On September 11, 2017, Michael Williams sent the Board his assessment. In it, he identified several deficiencies in Respondent's home inspection report. On November 20, 2017, the Board received Robert Kille's assessment, which also noted several deficiencies in Respondent's report. Mr. Kille recommended that the Board hold an Enforcement Advisory Committee ("EAC") meeting to discuss the evidence in greater detail and interview witnesses, including Respondent.

10. On November 24, 2017, Board staff contacted Respondent and informed him of the results of the assessments. Staff also informed him that an EAC meeting had been recommended to further review the complaint.

11. On January 30, 2018, the EAC meeting convened. Respondent attended by telephone. The EAC members did not substantiate the plumbing allegation, but voted to substantiate a finding that Respondent's report and documentation fell below the Standards of Professional Practice for Arizona Home Inspectors ("S.O.P"), because of the following deficiencies:

   a. The contract failed to list the Respondent's name, license number, or firm address; and did not cite the Arizona standards of professional practice in agreement, as required in S.O.P #2.2;

   b. Respondent failed to report on the condition of the foundation, as required in S.O.P #4.1 and #4.2;

   c. Respondent failed to report the type of exterior wall structure, as required in S.O.P #4.1 and #4.2;

   d. Respondent failed to report the method used to view the attic structure, as required in S.O.P #4.2;

   e. Respondent failed to report the condition of the windows, as required in S.O.P #5.2;
f. Respondent failed to report on the condition of the safety reverse for the
   garage door, as required in S.O.P #5.2;

g. Respondent failed to report on compatibility of the amperage and voltage,
as required in S.O.P #8.1;

h. Respondent failed to report on the type of electrical service conductor, as
   required in S.O.P #8.2;

i. Respondent failed to report on the location of main and distribution
   electrical panels, as required in S.O.P #8.2;

j. Respondent failed to report on the type of heating equipment, as required in
   S.O.P #9.2;

k. Respondent failed to report the presence and condition of any fire
   separation wall, ceiling, or door, as required in S.O.P #11.1;

l. Respondent failed to report on the presence and condition of laundry dryer
   ventilation as required by S.O.P #12.1; and

m. Respondent failed to state the presence and type of vapor barrier as required
   by S.O.P #12.2.

12. The EAC recommended that the Board issue Respondent a Letter of
    Concern. The Board reviewed the EAC's recommendation to resolve this complaint by
    issuing a letter of concern to Respondent at its February 27, 2018 meeting. After
    discussion and consideration of the evidence, the Board decided to send the case back to
    staff for further evaluation and investigation.

13. On March 6, 2018, Peter Leeds, C.H.I. # 38044 and long-time member of
    the Board's Home Inspector Rules and Standards Committee, reviewed all the evidence in
    this complaint. He determined that Respondent's report, as a whole, fell below the S.O.P.,
    and that the violations found by the committee would warrant action more severe than a
    letter of concern. Mr. Leeds recommended that Respondent should be subject to peer
    review through a consent agreement.
14. Respondent submitted a revised home inspection report, and the EAC confirmed that the revised report was satisfactory and that Respondent had corrected all noted discrepancies, many of which the EAC considered to be de minimis.

15. Respondent has avowed that he intends to retire from the practice of home inspection due to health concerns.

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq., including A.R.S. § 32-106.02(A).

2. The conduct alleged above constitutes grounds for discipline pursuant to A.R.S. § 32-128(C)(4) as it relates to R4-30-301.01, in that Respondent may have 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. ADMINISTRATIVE PENALTY. Within thirty (30) days from the effective date of this Consent Agreement, Respondent shall pay an administrative penalty of Two Hundred Fifty Dollars ($250.00) by certified check or money order made payable to the State of Arizona Board of Technical Registration.

3. COST OF INVESTIGATION. Within thirty (30) days 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 Four Hundred Dollars ($400.00) 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).

4. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, as well as, all rules governing the practice of home inspector in the State of Arizona. The
Board shall consider any violation of this paragraph to be a separate violation of the rules and statues governing the Arizona Board of Technical Registration.

5. NON-COMPLIANCE. 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.

6. EFFECTIVE DATE. The effective date of this Consent Agreement is the date it was last executed by the Respondent or the Board.

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

ACCEPTED and ORDERED this 20 day of January, 2020.

Jason E. Foose, RLS, Chairman
Arizona State Board of Technical Registration

CONSENT AGREEMENT and Order, Number HI17-035 accepted this 20 day of January, 2020.

By: Robert Walsh, Respondent
ORIGINAL filed this \textit{30th} day of January, 2020, with:

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

COPY of the foregoing mailed/e-mailed this \textit{30th} day of January, 2020 to:

Robert M. Walsh,  
6909 E. Kingston Dr.  
Tucson, AZ 85710  
going2az@gmail.com  
Respondent

Deanie Reh  
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Counsel for the State

By: 

\textit{Cert. Mail: 9214 89 01 94 34 4600 0661 89}