

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

<p>In the Matter of:</p> <p>Robert S. Herrell Home Inspector Certification No. 67199</p> <p style="text-align: center;">Respondent</p>	<p style="text-align: center;">Case No. HI20-016</p> <p style="text-align: center;">CONSENT AGREEMENT and ORDER OF DISCIPLINE</p>
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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 party, Robert S. Herrell (“Respondent”), holder of Registration No. 67199 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.

1 4. Respondent understands that this Consent Agreement or any part of the agreement
2 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 public
5 records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this Consent
6 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 number
8 HI20-016 involving allegations that Respondent engaged in conduct that would subject him to
9 discipline under the Board's statutes and rules. The investigation into these allegations against
10 Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

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

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

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

23 10. This Consent Agreement is subject to the approval of the Board and is effective
24 only when accepted by the Board and signed on behalf of the Board. If the Board does not accept
25 this Consent Agreement, the Board retains its authority to hold a formal administrative hearing
26 pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent
27 Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor
28 introduced in any action by any party, except that the parties agree that should the Board reject

1 this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that
2 the Board was prejudiced by its review and discussion of this document or any records relating
3 thereto.

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

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

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

11 **FINDINGS OF FACT**

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

14 2. Respondent is the holder of Arizona Home Inspector Certification No.67199.

15 3. On or about June 10, 2019, Respondent conducted a Home Inspection at 956 W. La
16 Jolla Drive., Tempe, AZ.

17 4. On or about October 30, 2019, the Board received a complaint alleging that
18 Respondent failed to conduct a home inspection in accordance with the Standards of Professional
19 Practice by failing to report on the adverse condition of the air distribution duct work and failed
20 to accurately report on the amount of insulation in the attic.

21 5. On or about February 4, 2020, the Board's Enforcement Advisory Committee
22 ("EAC") convened to review the complaint against Respondent. After reviewing the evidence
23 and interviewing Respondent, the Committee did not substantiate the allegations but found that
24 Respondent failed to conduct a home inspection in accordance with the Standards of Professional
25 Practice for Arizona Home Inspectors ("S.O.P.") and found that:

26 a. Respondent failed to report on the condition of the floor structure as
27 required in S.O.P. #4.1,

28 b. Respondent failed to report on the condition of the wall structure as

- 1 required in S.O.P. #4.1,
- 2 c. Respondent failed to report on the condition of the roof/ceiling as required
- 3 in S.O.P. #4.1,
- 4 d. Respondent failed to report on the operations of all exteriors doors as
- 5 required in S.O.P. #5.1,
- 6 e. Respondent failed to report on the condition of windows as required in
- 7 S.O.P. #5.1,
- 8 f. Respondent failed to report on the condition of the interior supply and
- 9 distribution piping as required in S.O.P. #7.1,
- 10 g. Respondent failed to report on the condition of the waste and vent piping
- 11 system as required in S.O.P. #7.1,
- 12 h. Respondent failed to report on the condition of the breakers as required in
- 13 S.O.P. #8.1,
- 14 i. Respondent failed to report on the location and condition of the main and
- 15 distribution panels as required in S.O.P. #8.1,
- 16 j. Respondent failed to report on the condition of the lights and switches as
- 17 required in S.O.P. #8.1,
- 18 k. Respondent failed to report on the condition of the heating equipment as
- 19 required in S.O.P. #9.1,
- 20 l. Respondent failed to report on the type of energy source as required in
- 21 S.O.P. #9.1,
- 22 m. Respondent failed to report on the condition of the automatic safety controls
- 23 as required in S.O.P. #9.1,
- 24 n. Respondent failed to report on the condition of air filters as required in
- 25 S.O.P. #9.1,
- 26 o. Respondent failed to report on the type of energy source as required in
- 27 S.O.P. #10.1,
- 28 p. Respondent failed to report on the condition of the air filters as required in

1 S.O.P. #10.1,

2 q. Respondent failed to report on the condition of the counters and cabinetry
3 as required in S.O.P. #11.1,

4 r. Respondent failed to report on the condition of fire separation walls and
5 ceilings as required in S.O.P. #11.1,

6 s. Respondent failed to report on the condition of the attic ventilation as
7 required in S.O.P. #12.1,

8 t. Respondent failed to report on the type and condition of the vapor retarder
9 as required in S.O.P. #12.1 and #12.2.

10 **CONCLUSIONS OF LAW**

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

12 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
13 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301.01, in that Respondent
14 failed to conduct a Home Inspection in accordance with the Standards of Professional Practice for
15 Arizona Home Inspectors.

16 **ORDER**

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

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

20 2. RESTITUTION. Within thirty (30) days from the effective date of this Consent
21 Agreement, Respondent shall pay restitution to the client, Axel Olson, in the amount of Three
22 Hundred and Fifty-Five Dollars (\$355.00) for the cost of the home inspection fee related to case
23 HI20-016. Respondent shall provide proof of payment made to the client, such as a copy of the
24 check, to the Board of Technical Registration showing payment was made to the client.

25 3. ADMINISTRATIVE PENALTY. Within thirty (30) days from the effective
26 date of this Consent Agreement, Respondent shall pay an administrative penalty of Two Hundred
27 and Fifty Dollars (\$250.00) by certified check or money order made payable to the State of
28 Arizona Board of Technical Registration.

1 4. **COST OF INVESTIGATION.** Within Sixty (60) days from the effective date of
2 this Consent Agreement, Respondent shall pay the cost of investigation of this case to the Board
3 in the amount of Four Hundred and Eleven Dollars (\$411.00) by certified check or money order
4 made payable to the State of Arizona Board of Technical Registration, according to the
5 provisions of A.R.S. § 32-128(H).

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

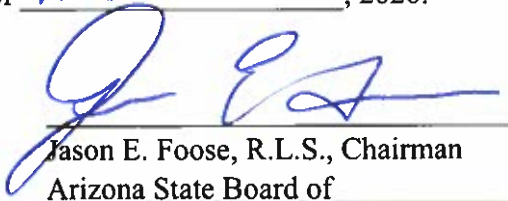
11 6. **RENEWAL OF REGISTRATION.** Respondent shall timely renew his Arizona
12 registration as a Home Inspector, and timely pay all required registration fees.

13 7. **EFFECTIVE DATE.** The effective date of this Consent Agreement is the date the
14 Respondent and Board sign the Consent Agreement. If the dates are different, the effective date is
15 the later of the two dates.

16 8. **COSTS OF COMPLIANCE.** Respondent shall pay all costs associated with
17 complying with this Consent Agreement.

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

22 ACCEPTED and ORDERED this 28TH day of APRIL, 2020.

23
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25 Jason E. Foose, R.L.S., Chairman
Arizona State Board of
26 Technical Registration
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1 Consent Agreement and Order, No. HI20-016 accepted this 24 day of February, 2020.

2
3 
4 Robert S. Herrell, Respondent

5 ORIGINAL filed this 28 day of

6 APRIL, 2020, with:

7 Arizona State Board of Technical Registration
8 1110 W. Washington, Suite 240
9 Phoenix, AZ 85007

10 COPY of the foregoing mailed via Certified Mail

11 No. 9214 8921 9434 4600 0692 03 and

12 First Class mail this 28 day of APRIL, 2020, to:

13 Robert S. Herrell
14 14647 E. Via de Palmas
15 Chandler, AZ 85249

16 By: 
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