

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

3 **In the Matter of:**

4 **Michael Nelson**
5 **Certified Home Inspector**
6 **Registration No. 72994**

7 **Respondent**

Case No.: HI23-012

**CONSENT AGREEMENT
and
ORDER OF DISCIPLINE**

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 Michael Nelson ("Respondent"), holder of Registration No. 72994, 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 upon acceptance by the Board of this Consent Agreement and may be
6 retained in the Board's files pertaining to this matter.

7 6. Respondent understands this Consent Agreement deals with Board case
8 number HI23-012 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 Certified Home Inspector Certification
19 No. 72994.

20 3. On or about August 14, 2022, Respondent conducted a home inspection in
21 Tempe, Arizona.

22 4. On or about October 17, 2022, Alleger filed a complaint with the Board
23 alleging that Respondent, after conducting a home inspection on or about August 14,
24 2022, failed to report on visible areas of mold around the house, including the wood
25 boards under the AC return.

26 5. On February 22, 2023, an Enforcement Advisory Committee (EAC) meeting
27 was held to discuss the case. After reviewing the evidence and interviewing Respondent,
28 the Committee did not find the original allegation to be substantiated but did find that

1 Respondent failed to conduct a home inspection in accordance with the Standards of
2 Professional Practice for Arizona Home Inspectors ("S.O.P.") and found that:

- 3 1. Respondent failed to reference the correct Standards of Practice in his agreement
4 as required in S.O.P. #2.2
- 5 2. Respondent failed to report on the type and condition of the upstairs floor as
6 required by S.O.P. #4.1 and #4.2
- 7 3. Respondent failed to report on the columns as required by S.O.P. #4.1 and #4.2
- 8 4. Respondent failed to report on the ceiling structure of the first floor as required by
9 S.O.P #4.1 and #4.2
- 10 5. Respondent failed to report on the exterior doors as required by S.O.P. #5.1 and
11 #5.2
- 12 6. Respondent failed to report on the garage door opener condition as required by
13 S.O.P. #5.1
- 14 7. Respondent failed to report on the condition of roof flashings, penetrations, or
15 chimney flashing as required by S.O.P. #6.1
- 16 8. Respondent failed to report on the condition of supports and insulation as required
17 by S.O.P. #7.1
- 18 9. Respondent failed to report on functional flow as required by S.O.P. #7.1
- 19 10. Respondent failed to report on functional drainage as required by S.O.P. #7.1
- 20 11. Respondent failed to accurately report on the fuel storage and distribution system
21 and supports as required by S.O.P. # 7.1
- 22 12. Respondent failed to report on the condition of the service ground as required by
23 S.O.P. #8.1
- 24 13. Respondent failed to report on the condition of overcurrent protection devices as
25 required in S.O.P. #8.1
- 26 14. Respondent failed to report on the condition of the main and distribution panels as
27 required by S.O.P. #8.1 and #8.2
- 28 15. Respondent failed to report on the condition of branch circuit conductors as
required in S.O.P. #8.1

- 1 16. Respondent failed to report on over amped circuits or under sized conductors as
2 required by S.O.P. #8.1
- 3 17. Respondent failed to report on the type of heating equipment as required by S.O.P.
4 #9.2
- 5 18. Respondent failed to report on the condition of heating automatic safety controls
6 as required by S.O.P. #9.1
- 7 19. Respondent failed to report on the heating air duct condition as required by S.O.P.
8 #9.1
- 9 20. Respondent failed to report on the heat source presence in each room as required
10 by S.O.P. #9.1
- 11 21. Respondent failed to report on type of cooling equipment as required by S.O.P.
12 #10.2
- 13 22. Respondent failed to report on the cooling air duct condition as required by S.O.P.
14 #10.1
- 15 23. Respondent failed to report on the cooling source presence in each room as
16 required by S.O.P. #10.1
- 17 24. Respondent failed to report on the condition of the counters and cabinetry as
18 required by S.O.P. # 11.1
- 19 25. Respondent failed to report on the condition of fire separation walls and ceilings
20 as required in S.O.P. #11.2
- 21 26. Respondent failed to report on the type and condition of vapor retarder as required
22 by S.O.P. #12.1 and #12.2
- 23 27. Respondent failed to report on the presence and condition of attic ventilation as
24 required by S.O.P. #12.1
- 25 28. Respondent failed to report on the condition of kitchen ventilation as required by
26 S.O.P. #12.1
- 27 29. Respondent failed to report on the presence and condition of laundry ventilation as
28 required by S.O.P. #12.1

1 Pool and Spa

2 30. Respondent failed to report on the condition of the interior finish materials as
3 required by S.O.P. #3.1

4 31. Respondent failed to report on the condition of steps, seats, ladders, coping, tile or
5 grout as required by S.O.P. #3.1

6 32. Respondent failed to report on the condition of the filter as required by S.O.P. #3.1

7 33. Respondent failed to report on the presence of cross connections as required by
8 S.O.P. #3.1

9 34. Respondent failed to report on the condition of the pump, motor, drain, pipes or
10 valves as required by S.O.P. #3.1

11 35. Respondent failed to report on the condition of GFCI circuit, timer box
12 components, service disconnects or bond components as required by S.O.P. # 3.1

13 CONCLUSIONS OF LAW

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

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

19 ORDER

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

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

24 2. STAYED SUSPENSION AND PROBATION. Respondent's registration
25 as Certified Home Inspector, No. 72994, shall be suspended for sixty (60) days; however,
26 the suspension is stayed for as long as Respondent remains in compliance with this
27 Order. During the stay of suspension, Respondent's registration as a Certified Home
28 Inspector is placed on probation for sixty (60) days. If Respondent is non-compliant with

1 any terms of this Order during the sixty (60) day stayed suspension and probation period,
2 the stay of the suspension shall be lifted and Respondent's registration as a Certified
3 Home Inspector shall be automatically suspended without a formal hearing, and remain
4 suspended until Respondent is compliant with all terms of this Order

5 3. ADMINISTRATIVE PENALTY. Within sixty (60) days from the
6 effective date of this Consent Agreement, Respondent shall pay an administrative penalty
7 of Eight Hundred Dollars (\$800.00) by certified check or money order made payable to
8 the State of Arizona Board of Technical Registration.

9 4. COST OF INVESTIGATION. Within thirty (30) 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 Three Hundred Sixty Dollars (\$360.00) by certified
12 check or money order made payable to the State of Arizona Board of Technical
13 Registration, according to the provisions of A.R.S. § 32-128(H).

14 5. PEER REVIEW. Within sixty (60) days of the effective date of this
15 Consent Agreement, Respondent shall accompany a supervising Certified Home
16 Inspector ("Peer Reviewer") for one (1) Home Inspection, and perform inspections at the
17 same time and location as the Peer Reviewer. Respondent shall write a Home Inspection
18 Report, and submit the written report to the Peer Reviewer for review. The Respondent
19 may select his Peer Reviewer who shall be in good standing with the Board and shall not
20 have received any disciplinary action from the Board within the last 3-years. The Peer
21 Reviewer shall have been continuously certified by the Board as a Home Inspector for at
22 least five (5) years and shall have conducted at least two hundred and fifty (250) Home
23 Inspections in the State of Arizona. The Respondent shall cause the Peer Reviewer to
24 sign and notarize an Affidavit and Agreement to Conduct Peer Review with the Board
25 affirming that the Peer Reviewer has met the Peer Review selection criteria prior to
26 conducting any Peer Reviews. At the conclusion of each peer reviewed Home Inspection,
27 Respondent will submit his work product, specifically a Home Inspection Report, to the
28 Peer Reviewer who will review and make all corrections to the Respondent's Home

1 Inspection Report necessary for the report to meet the Standards of Professional Practice
2 for Arizona Home Inspectors. Respondent shall not perform any Home Inspections or
3 provide any client with a Home Inspection Report for a fee, until all Peer Reviews are
4 completed. Respondent shall ensure that the Peer Reviewer provides a written report to
5 the Board after each peer reviewed Home Inspection, detailing any deficiencies in
6 Respondent's practice, and certifying that the deficiencies have been explained and
7 corrected, in so far as the peer reviewed Home Inspection is concerned. Respondent shall
8 retain the Peer Reviewer at their own expense.

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

15 7. **RENEWAL OF REGISTRATION.** Respondent shall timely renew their
16 Arizona registration as a Certified Home Inspector, and timely pay all required
17 registration fees.

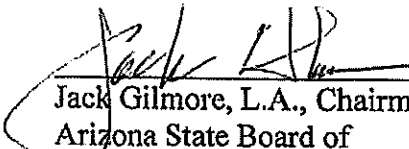
18 8. **EFFECTIVE DATE.** The effective date of this Consent Agreement is the
19 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
20 effective date is the later of the two dates.

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

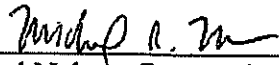
23 10. **NONCOMPLIANCE.** If Respondent violates this Order in any way or fails
24 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity
25 to be heard, may revoke, suspend or take other disciplinary actions against the
26 registration. The issue at such a hearing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

28 ///

1 ACCEPTED and ORDERED this 11 day of April, 2023.

2
3 
4 Jack Gilmore, L.A., Chairman
5 Arizona State Board of
6 Technical Registration

7 Consent Agreement and Order, No. HI23-012 accepted this 11th day of
8 April, 2023.

9 
10 Michael Nelson, Respondent

11 ORIGINAL filed this 11th day of
12 April, 2023, with:

13 Arizona State Board of Technical Registration
14 1110 W. Washington, Suite 240
15 Phoenix, AZ 85007

16 COPY of the foregoing mailed via Certified Mail
17 No. 9214 8901 9434 4600 0919 76 and
18 First Class mail this 11th day of April, 2023, to:

19 Michael Nelson
20 2513 W Straford Drive
21 Chandler, AZ 85224

22
23
24 By: Kathlyn Crawford
25
26
27
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