Filed by the Home Inspection Advisory Committee on
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
HOME INSPECTION ADVISORY COMMITTEE

IN THE MATTER OF THE LICENSE OF **JOEL M. SCHERER** License Number: 24GI100043400 TO PRACTICE HOME INSPECTION IN THE STATE OF NEW JERSEY	Administrative Action CONSENT ORDER

This matter was opened to the State Home Inspection Advisory Committee (hereinafter referred to as the "Committee") following the Committee's review of a consumer complaint filed by Alexandros Michael concerning the home inspection services rendered by the respondent Joel M. Scherer, and his company Monmouth/Ocean Counties Home Inspection Services ("Monmouth"), at 8 Hamilton Court, Toms River, New Jersey on August 2, 2005. Mr.

Michael alleges that the respondent failed to properly inspect the roof of a house he had contracted to purchase.

Respondent performed a home inspection on property located at 8 Hamilton Court in Toms River, New Jersey, on or about July 26, 2005. He further prepared and issued a written home inspection report detailing his inspection report. Mr. Michael ultimately purchased the property in or about August 2005. Shortly after the first storm in the fall of 2005, the complainant alleges that the ceiling in the sunroom collapsed. Mr. Michael called Monmouth to report the damage. However, according to the complainant, Monmouth failed to adequately respond.

Mr. Michael further contends that Monmouth failed to sufficiently repair the roof on separate occasions after having been informed of the roof's defect and problematic leaks. The complainant continued to experience leaks in his sunroom and also attempted to repair the roof himself. Finally, Mr. Michael ultimately replaced the roof in March of 2006. Due to the roofing difficulties he experienced, the complainant maintains that Mr. Scherer did not properly inspect the roof when conducting the home inspection.

In his June 19, 2006 response to the Committee, the respondent maintains, among other things, that his visual inspection was hampered due to the presence of a large flex duct

in the attic and because the end of the roof line pitch only allowed for a few inches of clearance, thereby limiting access to the area in question. Mr. Scherer further asserts that his inspection company did respond to Mr. Michael, first with visits by the respondent himself to the house to apply a tar sealer type of paint in the supposed leak area. Additionally, Mr. Scherer sent a "qualified building contractor" to the complainant's home on three different occasions. This contractor reportedly made repairs to the house, including applying sealant to the leak. Finally, Mr. Scherer suggests that possible damage to the house might have been done by Mr. Michael when he choose to repair the roof himself.

The Committee, following its review of the complaint and other relevant documentation, has concluded that Mr. Scherer violated or failed to comply with the Home Inspection Professional Licensing Act, and the accompanying regulations administered by the Committee, contrary to N.J.S.A. 45:1-21(h). Specifically, the Committee found that the respondent, in the inspection report he prepared failed to describe the systems and components specified in the Committee's standard of practice regulation and that the report failed to state the significance of findings where material defects in the systems and components were found, in violation of N.J.A.C. 13:40-15.16(c)(2)(iii) and (v).

In its review of Mr. Scherer's inspection report, the Committee noted that the respondent advised that he prepared a "Photo Only" type of inspection of the premises. The report therefore consisted of photographs of certain items and/or portions of the home. These photographs were accompanied by short written comments relative to each photographed item. However, the Committee found that Mr. Scherer's report failed to properly describe the systems and components inspected during his home inspection as required by N.J.A.C. 13:40-15.16(c)(2)(iii). The Committee additionally finds that the respondent's written home inspection report failed to discuss in detail the significance and/or ramifications of his findings during the inspection, particularly concerning the respondent's findings relative to the roof. The Committee therefore finds that the conduct detailed above establishes a basis for disciplinary action by the Committee.

It appearing that the respondent desires to resolve this matter without further proceedings and waiving any right to a hearing; and the respondent acknowledging and not contesting the findings of fact and conclusions of law made by the Committee; and the Committee having been satisfied that the within resolution adequately protects the public health, safety and welfare; and for good cause shown:

ACCORDINGLY, IT IS ON THIS 13TH **DAY OF** MAY

APRIL 2008, **ORDERED that:**

1. The respondent, Joel M. Scherer, is hereby formally reprimanded for his conduct as described above, contrary to N.J.S.A. 45:1-21(h) and N.J.A.C. 13:40-15.16(c)(2)(iii) and (v).

2. Mr. Scherer shall cease and desist from further violations of N.J.S.A. 45:1-21(h) and specifically N.J.A.C. 13:40-15.16.

3. Mr. Scherer shall take and successfully complete a minimum of five (5) hours of Committee approved courses of continuing education in the area of Report Writing and provide proof of such successful completion to the Committee within six (6) months of the date of this Order. All continuing education courses taken by the respondent to fulfill this requirement **shall not** be used to satisfy any statutory continuing education requirements.

4. Respondent shall provide restitution to consumer Alexandros Michael in the amount of **$295.00** for the cost of the home inspection and subsequent report. The restitution shall be made payable to Mr. Michael, by certified check or money order, and shall be made contemporaneously with the entry of this Order. Proof of said restitution shall be submitted to Arthur Russo, Executive Director of the State Home Inspection Advisory Committee, at 124 Halsey Street, Post Office Box 45043, Newark,

New Jersey 07101, within ten (10) days of the entry of this Order.

5. Mr. Scherer is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22(b), in the amount of **$3,000.00** for his violations of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:40-15.16(c)(2)(v). Such penalty shall be paid by certified check or money order made payable to the State Home Inspection Advisory Committee and forwarded to Arthur Russo, Executive Director, Home Inspection Advisory Committee, at the address provided in paragraph 4. Payment of the civil penalty shall be made contemporaneously with the entry of this Order.

In the alternative, the respondent may pay the civil penalty, totaling **$3,000.00** in equal installments payments of **$125.00** for a total of twenty-four (24) months. These payments shall be made by certified check or money order made payable to the New Jersey Home Inspection Advisory Committee. The first payment shall be due on the fifteenth (15th) of each month beginning May 15, 2008 and every month thereafter until the total amount is paid in full.

Any failure to make an installment payment within ten (10) days of the due date shall cause the entire remaining balance to become immediately due and payable without further notice. Further, failure to pay the penalty within the time period allotted above will result in the filling of a Certificate

of Debt, including the applicable interest permitted by the New Jersey Court Rule, and may result in subsequent disciplinary proceedings before the Board for failure to comply with an Order of the Committee.

6. Failure on the part of the respondent to pay the civil penalty or the installment payments timely or to comply with any of the terms of this Consent Order would constitute a violation of the Order, proof of which would constitute grounds for disciplinary action by the Committee.

NEW JERSEY STATE HOME INSPECTION
ADVISORY COMMITTEE

By: _____
F. MICHAEL FITZPATRICK
Chairman

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

_____
JOEL M. SCHERER

DATED: 5/7/08

Consent as to form and entry.

_____
JAMES R. OZOL, ESQUIRE

DATED: 5/7/08