



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Professional Engineers and Land Surveyors
Home Inspection Advisory Committee
124 Halsey Street, 3rd Floor, Newark, NJ 07102
www.njconsumeraffairs.gov



ANNE MILGRAM
Attorney General

DAVID SZUCHMAN
Director

Mailing Address:
P.O. Box 45043
Newark, NJ 07101
(973) 504-6233
FAX: (973) 273-8020

By Certified and Regular Mail

June 18, 2009

Herman Andrade
d/b/a Checkmark Plus, Incorporated
679 Grant Terrace
Teaneck, New Jersey 07666

Uniform Penalty Letter In Lieu of Formal Disciplinary Complaint

Dear Mr. Andrade:

This letter is to advise you that the New Jersey Home Inspection Advisory Committee (hereinafter referred to as the "Committee") has had an opportunity to review information it received which suggested that you violated the Committee's regulations regarding the advertisement of your home inspection company, Checkmark Plus, Incorporated, ("Checkmark").

Specifically, the information reviewed included, but is not limited to:

1. A copy of an advertisement for Checkmark Plus, Incorporated.

Upon review of all available information, the Committee has preliminarily found that you engaged in the use of dishonesty, deception and misrepresentation, in violation of N.J.S.A. 45:1-21(b) and N.J.A.C. 13:40-15.19 (a)(13), in that your advertisement inappropriately suggests that you are licensed as an engineer by the New Jersey State Board of Professional Engineers and Land Surveyors ("Board"). A copy of the advertisement in question is attached for your convenience.

Your review of the attached document will reveal that the advertisement contains the following statement:

Checkmark Plus Inc. is a fully insured business owned by Herman Andrade, an engineer, licensed in New Jersey and New York.

The Committee, following its review of this advertisement, has concluded that the document is misleading in that it suggests that you are a licensed professional engineer in the State of New Jersey, rather than licensed by the Home Inspection Advisory Committee and therefore a licensed home inspector. While the Committee recognizes that, pursuant to N.J.S.A. 45:8-63(a), that it is a committee established under the Board, it finds that its enabling statutes are clear in indicating that home inspectors are licensed by the Committee, not the Board of Professional Engineers and Land Surveyors ("Board"). The Committee notes that its licensees have no contact with the Board and any reference to the Board is misleading at best. While you provided proof which indicates that you graduated in 1995 from New Jersey Institute of Technology with a Bachelor of Science degree in Mechanical Engineering, the Committee notes that you are neither licensed as an engineer nor do you provide or perform engineering services. Therefore, the Committee finds that your designation of yourself as an engineer without any qualifiers, such as the listing the educational degree in engineering or the use of a modifier, such as "graduate engineer, only serves to deceive or confuse consumers as to your appropriate credentials and licensure. As such, the Committee concludes that your conduct as detailed above constitutes a violation of N.J.S.A. 45:1-21(b) and N.J.A.C. 13:40-15.19 (a)(13), and therefore establishes a basis for disciplinary action.

The Committee has determined that it will first offer you an opportunity to settle this matter and thereby avoid the initiation of disciplinary proceedings. Should you wish to avail yourself of this opportunity, you should sign the acknowledgment below and agree to the following:

1. Cease and desist from future violations of N.J.S.A. 45:1-21(b) and N.J.A.C. 13:40-15.19(c)(13);
2. Pay a civil penalty in the amount of **\$2,500.00** (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter); and
3. Submit to the Committee copies of a modified advertisement of your inspection company which complies with the mandates of the Committee's advertising regulation, N.J.A.C. 13:40-15.18©, within fifteen (15) days of your signing of

the acknowledgment at the bottom of this letter.

Alternatively you may waive your right to a hearing and submit a written statement or explanation to the Committee. The Committee will then consider your submission and render a final decision, which may include any of the terms set forth above. Any disposition by way of a settlement will be a public record and will have the same effect as an order of the Committee. Any failure to comply with the terms to which you agree may subject you to will be deemed a violation.

If you do not wish to settle this matter, you may request a hearing. In that event, this letter will serve as notice of the charges against you and a hearing will be scheduled before the Committee. At that hearing you may, either personally or with the assistance of an attorney, submit evidence and present testimony as may be necessary in order for the Committee to make a final determination concerning the charges of unlawful activity. You should be aware that in making its final decision, the Committee may, if unlawful activity has been proven, assess civil penalties in the amount greater than that herein offered in this letter. Additionally, the Committee may, if the facts are found to so warrant, enter an Order, requiring you to reimburse certain monies, directing you to cease and desist from engaging in unlawful acts and/or requiring you to pay costs incurred by the Committee. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Olga E. Bradford, who may be reached at (973) 648-3696.

The enclosed certification **must be completed and returned to the Committee within fifteen (15) days** following your receipt of this letter. In the event that the Committee receives no response from you within fifteen (15) days, the Committee's settlement offer will be withdrawn, and you will be deemed in default. The allegations against you will be deemed uncontested. The Committee will then proceed to schedule the matter for final review and will enter an appropriate order. Once an Order has been entered, your failure to pay any penalties may result in further action to suspend or revoke your license.

NEW JERSEY HOME INSPECTION
ADVISORY COMMITTEE

By: Arthur Russo
ARTHUR RUSSO
Executive Director

cc: Olga E. Bradford, Deputy Attorney General

CERTIFICATION

I, **HERMAN ANDRADE**, hereby acknowledge that I have read and reviewed the Committee's letter dated June 18, 2009 regarding allegations of violations of the Committee's enabling act and/or regulations.

Please check one:

A. _____ I acknowledge the conduct which has been charged and agree to:

1. cease and desist from future violations of N.J.S.A. 45:1-21(B) and N.J.A.C. 13:40-15.19(c)(13);
2. pay a civil penalty in the amount of **\$2,500.00** (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter);

In the alternative, the respondent may pay the civil penalty, totaling **\$2,500.00**, in equal installment payments of \$104.00 for a total of twenty-three (23) months. The twenty-fourth (24th) and final payment will total \$108.00. The first payment shall be due on the fifteenth of each month beginning **August 15, 2009** and every month thereafter until the total amount is paid in full.

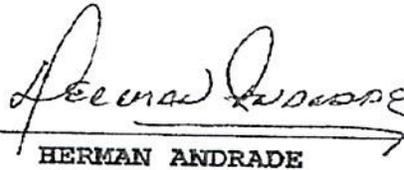
Any failure to make any installment payments within then (10) days of the due date shall cause the entire remaining balance to become immediately due and payable without further notice. Further, failure to pay the penalty within the time period allotted above will result in the filing of a Certificate of Debt, including the applicable interest permitted by the New Jersey Court Rules, and may result in other enforcement proceedings as permitted by law; and

3. submit to the Committee copies of a modified advertisement for your inspection company which complies with the Committee's advertising regulation, N.J.A.C. 13:40-15.18©, within fifteen (15) days of your signing of the acknowledgment at the bottom of this letter.

I am also aware that the action taken against me by the Committee here is a matter of public record, and that the Committee's letter and this certification are public documents.

✓
B. _____ I hereby waive any rights I may have to hearing in this matter defend myself against any charges, but ask the Committee to consider my explanation before rendering its final decision. I understand that the Committee may order any of the terms specified in its letter and that if it does so I will be obligated to comply. I am also aware that the action taken against me by the Committee herein is a matter of public record, and that the Committee's letter and this certification are public documents. Failure to comply may subject me to further disciplinary action and any failure to make a required payment will result in the filing of a certificate of debt.

C. _____ I request a formal administrative hearing to contest the charges specified in the Committee. I understand that I will be advised of the time, date and place for that hearing at another time. I am aware that I may be represented by an attorney and that at the time of the hearing I may submit to the Committee testimony and documentation relevant to the charges. I understand that in making its final decision, the Committee may, if unlawful activity has been proven, assess civil penalties in an amount greater than that herein offered in its letter and may order such other remedies as it may deem appropriate. I am also aware that this proceeding is a matter of public record and that the Committee's letter and this certification are public documents.


HERMAN ANDRADE

Dated: July 8/2009