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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 SUSPENSION  
OR REVOCATION OF THE LICENSE OF

DAVID G. WILSON

TO PRACTICE HOME INSPECTION  
IN THE STATE OF NEW JERSEY  
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: Administrative Action  
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: FINAL ORDER  
: OF DISCIPLINE  
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This matter was opened to the Home Inspection Advisory Committee (hereinafter referred to as the "Committee"), under the State Board of Professional Engineers and Land Surveyors, following the Committee's review of a consumer complaint filed by Eartha Franklin subsequent to an inspection of her home in Jersey City, New Jersey, in 2006. The Board, after its consideration of this matter, made the following findings of facts and conclusions of law:

## FINDINGS OF FACTS

1. The respondent, David Wilson, is a licensed home inspector in the State of New Jersey and has been a licensee at all times relevant hereto.

2. In or about April 2006, the complainant Eartha Franklin contacted the respondent, doing business as Quality Inspectors, Incorporated ("Quality"), to schedule the inspection of a multi-family home, located in Jersey City, she was contemplating purchasing. Mr. Wilson agreed to provide inspection services to her and advised her that someone representing his company would appear and perform the inspection of the premises on April 15, 2006.

3. On April 15<sup>th</sup>, Joseph LaTorre, a licensed home inspector, appeared at the Jersey City premises and performed a home inspection of the premises on behalf of Mr. Wilson and Quality. At the conclusion of the inspection, Mr. LaTorre presented Ms. Franklin with a written home inspection report and a pre-inspection agreement on the respondent's behalf. Ms. Franklin accepted the report, signed the agreement and gave Mr. LaTorre a check totaling \$400.00 for his inspection services. Mr. LaTorre advised Ms. Franklin that he would return the pre-inspection agreement and the check to Mr. Wilson.

4. A review of the inspection report prepared by Mr. LaTorre revealed that, relative to the roof of the multi-family

home, he concluded the condition of the roof was "average." Mr. LaTorre further opined that the roof would need to be replaced in "2-5 years."

5. Ms. Franklin subsequently purchased and moved into the inspected premises in May 2006. Later, in or about June 2006, the tenants in her newly purchased property began to complain of leaks in the roof and ceilings of their apartments. Upon contacting three (3) roofing repair companies, the complainant was advised that the roof was in complete disrepair and needed immediate replacing. Ms. Franklin then contacted her banking institution in June 2006 and learned that Mr. Wilson had not yet presented her check for payment even though she had written the check nearly six (6) weeks earlier. She withdrew most of the available funds from her banking account on which the check for the home inspection services had been written.

6. Mr. Wilson subsequently presented the check to the bank for payment a total of three (3) times and each time the check was returned to him unpaid due to a lack of sufficient funds. Thereafter, the respondent began a barrage of inappropriate and harassing telephone calls to the consumer's home and place of employment.

7. Subsequent to her receipt of the respondent's harassing telephone calls and demeaning voice messages, Ms. Franklin contacted the Jersey City Police Department to report his

conduct. A Police Department Investigative Report was prepared by the Jersey City Police detailing the respondent's alleged conduct. A review of this document reveals that Ms. Franklin reported that

[Respondent] began telephoning Ms. Franklin and leaving harassing telephone calls and also bias incident offense by calling Ms. Franklin, "fat nigger cunt". Several messages were left by [respondent] on the victim's cell phone. [Respondent] also faxed messages to the victim's branch home of UPS in Atlanta, Georgia.

8. Subsequently, the consumer filed a complaint, in Jersey City, against Mr. Wilson alleging harassment, in violation of N.J.S.A. 2C:33-4A. Specifically, the complaint alleged that Mr. Wilson

. . . did commit an act of harassment upon the said complainant to wit: Did make telephone calls leaving several messages on the complainant's phone stating bias, sexual and foul language causing annoyance and alarm. Also made threats to come to [complainant's] home causing her to fear for her safety.

9. On or about November 28, 2006, Ms. Franklin filed a complaint with the Committee regarding Mr. Wilson's professional conduct following the April 2006 inspection of her home. In her May 8, 2007 appearance before the Committee, Ms. Franklin testified that she had recorded two (2) of the respondent's telephone messages and that she had furnished a copy of those two tape

recorded messages to the Committee. She then identified, under oath, that the contents of the messages included the following language:

You know who it is. You know you owe me money. It's Dave Wilson, Quality Inspectors. . . . don't worry, eventually I'll get over there, when things slow down. I'll put a lien on your fucking house. You fat nigger cunt . . . . .

Eartha Franklin, how are you? Dave Wilson calling. I got the letter from the attorney. I appreciate that, but you and I both know it's a bunch of shit that your roof collapsed. This is why they call you niggers. This is why the niggers now always have to pay cash. You will get yours, you fat nigger. So nigger, I can't wait until you get yours. . . . .

10. On or about August 5, 2008, Mr. Wilson pleaded guilty to a petty disorderly persons offense of engaging in ". . . . . loud and offensively coarse or abusive language," contrary to N.J.S.A. 2C:33-2(b). He was fined \$300.00 plus other fines and costs totaling \$458.00.

#### CONCLUSIONS OF LAW

1. The Committee provisionally finds that respondent David G. Wilson engaged in professional misconduct, in violation of N.J.S.A. 45:1-21(e), in that he, in an effort to collect payment for his services, harassed and left derogatory, insulting and abusive voice messages for the complainant.

2. The Committee also provisionally finds that the respondent's conduct as detailed above further establishes that Mr. Wilson has engaged in acts constituting an offense relating adversely to the profession of home inspection, contrary to N.J.S.A. 45:1-21(f).

#### DISCUSSION OF FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline, preliminarily suspending his license to practice home inspection and imposing a civil penalty, among other sanctions, was entered on August 10, 2009, and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor. The Provisional Order was sent both certified and regular mail to the respondent's last known address of record on August 10, 2009. The regular mail was not returned. The green card return receipt of the certified mail was returned on August 27, 2009 and indicated that the

Provisional Order had been served and received at the respondent's address on August 24, 2009.

To date, the respondent has failed to respond to the Provisional Order. This matter was reviewed by the Committee at its December 8, 2009 meeting. The Committee determined that further proceedings were not necessary and that no material discrepancies had been raised. The Committee noted that currently the respondent's home inspector license is presently administratively suspended due to his failure to renew his license as of May 1, 2009 for the 2009-2011 licensure period. This Final Order imposes discipline upon the respondent. A licensee cannot evade disciplinary process by failing to renew his license or by failing to respond. Thereafter, the Committee voted to finalize the Provisional Order with no modifications.

**ACCORDINGLY, IT IS on this 30<sup>th</sup> day of**

**DECEMBER 2009 ORDERED that:**

1. The respondent, David G. Wilson, is hereby formally reprimanded for his conduct as described above, which constitute engaging in professional misconduct and engaging in acts relating adversely to the practice of home inspection, in violation of N.J.S.A. 45:1-21 (e) and (f).

2. Mr. Wilson's license to practice home inspection is hereby suspended for a period of thirty-six (36) months; twelve (12) months of the suspension to be active while the remaining

twenty-four (24) months of the suspension shall be stayed and served as a period of probation. The active suspension will commence on the entry date of this Order. The respondent shall be precluded from engaging in the practice of home inspection during the period of the active suspension.

3. Mr. Wilson shall provide evidence of full attendance at and successful completion of an ethics and/or standards course approved by the Committee within six (6) months of the entry of this Order. As pursuant to N.J.A.C. 13:40-15.14(b)(4), the continuing education credits completed in compliance with this Consent Order shall not be used to satisfy the minimum continuing education requirements for a subsequent biennial renewal period.

4. Mr. Wilson is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22(b), in the amount of **\$10,000.00** for engaging in professional misconduct and engaging in acts relating adversely to the practice of home inspection, contrary to N.J.S.A. 45:1-21 (e) and (f). Such penalty shall be paid by certified check or money order made payable to the State of New Jersey and submitted to the Home Inspection Advisory Committee, to the attention of Arthur Russo, Executive Director of the Committee, at 124 Halsey Street, Post Office Box 45015, Newark, New Jersey 07101, contemporaneously with the entry of this Order.

In the alternative, the respondent may pay the civil penalty, totaling **\$10,000.00**, in equal monthly installments

payments of \$415.00 for a total of twenty-three (23) months. The twenty-fourth (24th) and final payment will total \$455.00. The first payment shall be due on the fifteenth of each month beginning July 15, 2009 and every month thereafter until the total amount is paid in full.

Any failure to make any 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 filing of a Certificate of Debt, including the applicable interest permitted by the New Jersey Court Rules and may result in subsequent disciplinary proceedings before the Committee for failure to comply with an Order of the Committee.

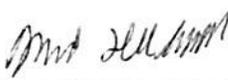
5. Respondent is hereby assessed costs in the amount of \$1,278.25 incurred by the State in the investigation of this matter. Payment for costs shall be submitted by certified check or money order made payable to the Home Inspection Advisory Committee and submitted to the Committee contemporaneously with the signing of this Order. Payment shall be sent to Arthur Russo, Executive Director, at the address detailed in paragraph four above.

6. Prior to any restoration of his license, Mr. Wilson shall apply to the Committee for reinstatement, comply with the requirements of N.J.A.C. 45:1-7.2 and satisfy the requirements of this Final Order of Discipline, and:

- a. Appear before the Committee to discuss his readiness to reenter the practice of home inspection;
- b. Demonstrate to the satisfaction of the Committee that he is psychologically fit and capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- c. Affirmatively establish his fitness, competence and capacity to re-enter the active practice of home inspection within New Jersey, including an accounting of all continuing education courses completed while his license was actively suspended.

7. The Committee may require respondent to submit to an independent psychiatric or psychological evaluation prior to his return to practice. All costs from this evaluation will be borne by the respondent. Following its review of all relevant documents submitted, the Committee, in its sole discretion, will determine whether and under what conditions respondent may return to practice.

NEW JERSEY HOME INSPECTION  
ADVISORY COMMITTEE

By:   
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MICHAEL DEL GRECO  
Chairman