Filed by the Home Inspection Advisory Committee on
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JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, Fifth Floor
Post Office Box 45029
Newark, New Jersey 07101
Attorney for the New Jersey Home
Inspection Advisory Committee

By: Olga E. Bradford
Deputy Attorney General
Tel. No: (973)648-3696

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
HOME INSPECTION ADVISORY COMMITTEE

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| IN THE MATTER OF<br><br>**BRIAN FINNEGAN**<br>**License No. 24G100011700**<br><br>LICENSED TO PRACTICE HOME INSPECTION IN THE STATE OF NEW JERSEY | Administrative Action<br><br>CONSENT ORDER |

This matter was opened to the New Jersey Home Inspection Advisory Committee ("Committee") upon receipt and review of consumer complaint, filed by L.W., and the subsequent issuance of a Provisional Order of Discipline, against respondent Brian Finnegan, doing business as Peake Home Inspections, by the Committee. The respondent is a licensed home inspector in the State of New Jersey and has been a licensee at all times relevant hereto.

The Committee received a consumer complaint filed by L.W. that alleged misconduct on the part of Mr. Finnegan. In a letter

dated April 22, 2010, the Committee requested a response to the allegations of the complaint. A second letter, dated July 13, 2010, was sent to Mr. Finnegan by the Committee seeking additional information regarding the complaint. As of December 2010, the respondent had failed to reply to any of the Committee's correspondence.

On December 4, 2010, the Committee issued a Provisional Order of Discipline ("POD") to the respondent preliminarily imposing a civil penalty totaling $1,000.00 for his failure to cooperate and respond to the Committee's written requests, in violation of N.J.S.A. 45:1-21(e) and N.J.A.C. 13:45C-1.3. In response to the POD, Mr. Finnegan submitted a letter dated December 21, 2010.

In this correspondence, the respondent, among other things, requested a modification or dismissal of said findings and conclusions, and alternatively requested elimination or reduction of the $1,000.00 civil penalty for his failure to respond to prior communications from the Committee. Specifically, the respondent maintained that he erroneously believed that he had responded to the Committee's earlier letters and therefore requested that the Committee refrain from imposing any discipline on him for failing to cooperate with its written requests.

Mr. Finnegan also provided a response as to the merits of the consumer complaint filed against him initially in April 2010.

He disputed the consumer's contentions that he had failed to prepare and issue to her a written home inspection report for which she had paid. The respondent maintained that he was hired only to perform an evaluation of certain systems and components in the consumer's residential home rather than to perform a standard home inspection which included the preparation and issuance of a written report.

The Committee, following its review of the complaint and other relevant documentation, has concluded that Mr. Finnegan failed to cooperate and respond to its written correspondences which, pursuant to N.J.S.A. 45:1-21(e) and N.J.A.C. 13:45C-1.3, constitutes professional misconduct.

As to the merits of the complaint filed against the respondent, the Committee has concluded that Mr. Finnegan 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 consumer requested that Mr. Finnegan perform a home inspection on her premises and that the respondent failed to prepare and issue a written report to her following his receipt of a fee and his inspection of her residential premises, contrary to N.J.S.A. 45:1-21(h) and N.J.A.C. 13:40-15.16(c)(2). The Committee therefore finds that the conduct detailed above establishes a basis for disciplinary action against the respondent.

It appearing that the respondent desires to resolve this matter without further proceedings; 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:

**IT IS, THEREFORE, ON THIS** 19th **day of**

**FEBRUARY 2013 HEREBY ORDERED AND AGREED THAT:**

1. The Provisional Order of Discipline, issued on December 14, 2010, in this matter is hereby resolved via this Consent Order in that the respondent Brian Finnegan has agreed to sanctions for failing to cooperate with the Committee and to terms regarding the merits of the complaint.

2. Mr. Finnegan, shall hereby cease and desist from further violations of N.J.S.A. 45:1-21(e) and (h) and specifically, N.J.A.C. 13:45C-1.3 and N.J.A.C. 13:40-15.16.

3. Mr. Finnegan is hereby assessed a civil penalty in the amount of **$500.00,** of which the entirety is stayed for a period of five (5) years, for his failure to cooperate with the Committee, in violation of N.J.S.A. 45:1-21(e) and N.J.A.C. 13:45C-1.3. If no further violations are found during the five year period, the penalty shall be rescinded. If during the period, the respondent is found to have violated the terms of this agreement or any provisions of the Home Inspection Professional Licensing Act or

regulations promulgated under that Act, the $500.00 penalty will become due. The Committee may pursue additional sanctions, including enhanced penalties, costs, attorney's fees and contempt based on any new violation.

4. The respondent shall provide restitution to consumer L.W. in the amount of **$195.00.** The restitution shall be made payable to Ms. W., 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 Karl Reidel, 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.

NEW JERSEY STATE HOME
INSECTION ADVISORY COMMITTEE

By: F. Michael Fitzpatrick
~~DANIEL CASPER~~ F. Michael Fitzpatrick
Chairperson

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.

BRIAN FINNEGAN
d/b/a Peake Home ~~Inspections~~

DATED: 1/24/13