

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

Filed by the Home Inspection Advisory Committee on
Date April 9, 2013

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

IN THE MATTER OF	:	Administrative Action
	:	
IVAN RIVERA	:	
License Number: 24GI00089200	:	CONSENT ORDER
	:	
LICENSED TO PRACTICE HOME INSPECTION :	:	
IN THE STATE OF NEW JERSEY :	:	

This matter was opened to the Home Inspection Advisory Committee (hereinafter the "Committee") following the Committee's review of a consumer complaint filed by Kristen Waychoff concerning the home inspection services rendered by respondent Ivan Rivera, doing business as Horizon Home Inspection, LLC at 5 First Street, Clifton, New Jersey, on April 27, 2010. Ms. Waychoff alleges that the respondent failed to disclose the presence of aluminum wiring, which posed a fire hazard, in the condominium she purchased.

Respondent performed a home inspection on premises known as 376 Hoover Avenue, Bloomfield, New Jersey on May 7, 2008. He subsequently prepared and issued a written home inspection report detailing his findings. Ms. Waychoff thereafter purchased the property. Later, in or about 2010, the owner learned of the existence of the aluminum wiring and complained that this information did not appear in the home inspection report prepared by the respondent.

In his response to the Committee, Mr. Rivera asserted that he found “no issues with the wiring,” but noted that his inspection report advised the complainant to have a licensed electrician further evaluate the property. Respondent speculates that a licensed electrician would have alerted the complainant to the wiring problem prior to the closing of the condo. Mr. Rivera noted in his inspection report that the wiring method was “Romex.” He, however, neither notes in his report the presence of aluminum wiring in the condominium nor the significance of this finding and the potential problem this could cause.

The Committee, following its review of the complaint and other relevant documentation, has concluded that the respondent violated and/or failed to comply with the Home Inspection Professional Licensing Act, and its 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). Specifically, the respondent failed to identify the presence of aluminum wiring and to describe the significance of the presence of aluminum wiring, namely, that of a fire hazard.

Additionally, the Committee found that Mr. Rivera's inspection report failed to comply with its regulations in several aspects, contrary to N.J.S.A. 45:1-21(h). For example, the report failed to contain the respondent's home inspection license number, as required by N.J.A.C. 13:40-15.18(g)(2). The Committee concluded that Mr. Rivera's inspection report failed to comply with its standards of practice regulation in that it fails to : 1) adequately describe the material systems and components specified in the regulations; 2) state the material defects found in the inspected systems and components; and 3) state the significance of the findings where any material defects in the systems and components are found; all as required by N.J.A.C. 13:40-15.16(c)(2)(iii), (iv) and (v). The Committee therefore finds that the conduct detailed above establishes a basis for disciplinary action.

The Committee noted that currently the respondent's home inspector license is presently on inactive status beginning May 1, 2011. The Committee further notes that a licensee cannot evade disciplinary process by placing his license on inactive status and therefore the Committee has agreed to stay the imposition of the penalties in this matter.

It appearing that respondent desires to resolve this matter without admissions, and any and all liability and wrongdoing being expressly denied, and without recourse to further proceedings, and waiving any right to a hearing; 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 3/5th day of MARCH 2013

ORDERED that:

1. The respondent, Ivan Rivera, is hereby formally reprimanded for his conduct as described above, contrary to N.J.S.A. 45:1-21(h), N.J.A.C. 13:40-15.18(g)(2), N.J.A.C. 13:40-15.16(c)(2)(iii), (iv) and (v).

2. Mr. Rivera 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 and 15.18.

3. Mr. Rivera shall take and successfully complete a minimum of five (5) hours of Committee approved courses of continuing education in the areas of Electrical Systems and Report Writing and provide proof of such successful completion to the Committee within six (6) months of the date of this Order, subject to the provisions contained in paragraph 6 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 Kristen Waychoff for the cost of the home inspection report. Restitution shall be made to Ms. Waychoff, via certified check or money order, and proof of said restitution shall be forwarded 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.

5. Mr. Rivera is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22(b), in the amount of **\$2,500.00** for his violations of N.J.S.A. 45:1-21(h), and specifically, N.J.A.C. 13:40-15.16 and 15.18, subject to the provisions contained in paragraph 6 of this Order. Such penalty shall be paid by certified check or money order made payable to the State Home Inspection Advisory Committee and forwarded to Karl Reidel, 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 **\$2,500.00**, in equal installments payments of \$104.00 for the first 23 months and the last payment in the amount of \$108.00, totaling 24 payments. These payments shall be made by certified check or money order made payable to the State Home Inspection Advisory Committee. The first payment shall be made contemporaneously with submission of this Order with subsequent payments due on the fifteenth (15th) of each 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 filing 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. The civil penalty imposed in paragraph 5 above, as well as the requirement to successfully complete five (5) hours of continuing education in paragraph 3 above, shall both be **stayed in its entirety** while Mr. Rivera's home inspection license is on inactive status. The penalty shall remain stayed until such time as the respondent seeks to activate his license to active status as authorized by N.J.S.A. 45:1-7.3(b).

Additionally, the requirement to successfully complete five (5) hours of Committee approved courses of continuing education, imposed in paragraph 3 above, shall be **stayed in its entirety** while the respondent's home inspection license is on inactive status. As indicated in paragraph 3, these credits **shall not be used** to satisfy the

statutory continuing education requirements for reinstatement contained in N.J.S.A. 45:1-7.2(d).

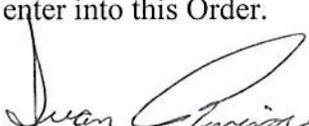
7. The terms of this Consent Order shall be satisfied prior to the reactivation of the respondent's license to active status.

8. 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 this Order, proof of which would constitute grounds for additional 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 Committee to enter into this Order.


IVAN RIVERA

DATED: 03/20/2013

Consent as to form and entry of Order.


STEPHANIE E. CANGIALOSI, ESQUIRE
Andalraft and Associates, LLC

DATED: 03/20/2013