

1. Cease and desist from violating the mandates of N.J.A.C. 13:40-15.22 by performing septic system inspections, until respondent has obtained the requisite education, training, license or certification enumerated in the above cited regulation, namely until respondent is licensed by the New Jersey State Board of Engineers and Land Surveyors as a professional engineer or is registered as a registered health specialist; and
2. Pay a civil penalty in the amount of \$750.00 for violating N.J.S.A. 45:1-21(h) and N.J.A.C. 13:40-15.22.

Alternatively, Respondent was given the options of either requesting a hearing before the Committee or submitting a written explanation and waiving his right to a hearing.

As indicated above, the UPL was served on the respondent, via certified and regular mail, on or about August 17, 2006 at his address of record with the Committee. A response to the UPL, dated September 8, 2006, was received and reviewed by the Committee at its September 2006 meeting. The UPL was re-issued on or about February 17, 2009. A response to this letter, dated March 18, 2009, was also received and reviewed by the Committee. Finally, the Committee also considered a letter from Mr. Van Pelt, dated May 18, 2006, regarding septic inspections performed by home inspectors.

In the responses, Mr. Van Pelt, through his attorney, Robert J. Bernot, Esquire, advised that he had been performing septic systems for the past eighteen (18) years and that he was unaware of the Committee's 2002 regulation, that prohibited licensed home inspectors from performing septic inspections without the requisite license and/or certification, until in or about 2006. Additionally, the respondent indicated, in his

letter dated March 18, 2009, that upon his learning of the Committee's applicable regulation, he voluntarily ceased performing septic inspections in or about 2006.

The Committee, at its September 2006, April 2009 and February 14, 2012 meetings, considered the UPL and relevant documentation. Upon review of the matter, the Committee found that the information upon which the allegations were based to be credible and true and, accordingly, concludes that respondent failed to conform with statutory and regulatory obligations, prior to 2006, as set forth in the UPL and thus concludes that the violations of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:40-15.22 occurred.

However, in February 2012, the Committee further found that sufficient mitigating circumstances; including the age of this matter, current economic difficulties and the requirements of Executive Order #2 issued by Governor Chris Christie in January 2010 which encouraged the use of performance based outcomes by State agencies rather than disciplinary actions; exists permitting it to alter its intended sanctions, including the imposition of the civil penalty.

THEREFORE, IT IS on this 27th day of JANUARY 2014,

ORDERED that:

1. Respondent shall continue to cease and desist from engaging in performing septic system inspections as a licensed home inspector until he obtains requisite certification and/or license required for home inspectors to perform these services, as required by N.J.A.C. 13:40-15.22, which he voluntarily ceased in or about 2006;

2. Respondent shall be assessed a civil penalty in the total amount of **\$750.00** for the violations as set forth in the U.P.L. and found as detailed above. Said penalty shall be **stayed in its entirety** and therefore is not required to be paid by the respondent.

NEW JERSEY HOME
INSPECTION ADVISORY COMMITTEE

BY:



F. MICHAEL FITZPATRICK
Chairman