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FILED BY:
HOME INSPECTION ADVISORY COMMITTEE
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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 :
: Administrative Action
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: BRIAN McDEVITT :
: License Number: 24GI00107600 : CONSENT ORDER
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:
: 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 L.O., concerning the home inspection services rendered by the respondent Brian McDevitt ("Respondent"), and his company Universal Home Inspection, LLC, at 8 Dartmoor Place, Southampton, New Jersey 08088. The complaint alleged, among other contentions, that the respondent failed to properly inspect the roof and reported on the condition of the heat pump when the home does not contain a heat pump.

The Committee's review of this matter revealed that respondent performed a home inspection of the premises located in Southampton, New Jersey, on July 17, 2012. He subsequently prepared and issued a written home inspection report concerning this property to the complainant. L.O. later purchased the property. In his inspection report, respondent indicated that the "asphalt shingle roof appeared to be in good condition." However, he also reported, in the Exterior portion of the report, that a shingle was missing at the rear of the roof located near the main peak and that the drip edge capping on the right side of the home near the peak or to the left of the peak was separated and needed repair. There is no indication in the report as to the significance of these findings.

In his inspection of the interior of the residential home, Mr. McDevitt found that the top of the wall and ceiling at the rear of the house in the bathroom "showed high moisture content." He indicated that this condition should be "monitored." Mr. McDevitt further provided that

At the time of the inspection the inside of the house was extremely humid as no air conditioning had been operating. This, in combination with poor circulation of air over the eaves of the home, may have resulted in moist air being trapped and partially absorbed by the drywall. Noticeable discoloration was also evident.

Mr. McDevitt's report fails to indicate the significance or the importance of these findings for L.O.

Finally, following his inspection of the Electrical system in the home, Mr. McDevitt reported that neither the kitchen, laundry room nor the garage of the house were protected by ground fault circuit interrupters. Additionally, he noted that several wires located in the attic were loose and needed securing. Again, there is no indication in the report as to the significance of these findings.

The Committee, following its review of the complaint and other relevant documentation, concluded that respondent 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 Mr. McDevitt, in his inspection report, failed to state the significance of findings where any material defect in a system or component was found, contrary to the requirements of N.J.A.C. 13:40-15.16(c)(2)(v). Namely, he failed in detailing his findings of water penetration in both the roofing and interior systems, to advise L.O. that the reported conditions could lead to the presence of potentially or suspected hazardous substances or adverse conditions such as mold, fungus or contaminants. Additionally, Mr. McDevitt failed to advise L.O. in his report that the absence of GFCIs in the kitchen, laundry room and the garage of the house were unsafe shock hazards. The Committee found that these report omissions constituted a violation of N.J.A.C. 13:40-15.16(c)(2)(v)

and establish a basis for disciplinary action.

Moreover, the Committee found that Mr. McDevitt's alleged inspection and reporting on the condition of the heat pump in the residential home constitutes professional misconduct, in violation of N.J.S.A. 45:1-21(e) in that no heat pump existed in the property inspected. The Committee therefore finds that the conduct detailed above establishes a basis for disciplinary action by the Committee.

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 respondent waiving his 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:

IT IS, THEREFORE, ON THIS 8TH day of MARCH 2014

HEREBY ORDERED AND AGREED THAT:

1. The home inspector license of respondent, Brian McDevitt, #24GI00107600 is hereby placed on inactive status, as authorized by N.J.S.A. 45:1-7.3(b), effective on the entry date of this Order, until such time as the respondent seek to return to the active practice of home inspection.

2. Mr. McDevitt is hereby formally reprimanded for his conduct as described above, contrary to N.J.S.A. 45:1-21(h), N.J.A.C. 13:40-15.16 and N.J.S.A. 45:1-21(e).

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

4. Mr. McDevitt shall take and successfully complete a minimum of fifteen (15) hours of Committee approved courses of continuing education in the following areas; six (6) hours in Report Writing; six (6) hours in Heating and Air Conditioning systems and components; and three (3) hours in Electrical systems and components; and provide proof of such successful completion to the Committee within six (6) months of the date 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.

5. Respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22(b), in the amount of \$2,000.00, for his violations of N.J.S.A. 45:1-21(h), N.J.A.C. 13:40-15.16 and N.J.S.A. 45:1-21(e), which shall be due contemporaneously with the signing of this Order. Payment for the civil penalty shall be submitted, by certified check or money order, made payable to the State Home Inspection Advisory Committee and shall be forwarded to Karl Reidel, Executive Director, of the Committee, at 124 Halsey Street, Post Office Box 45043, Newark, New Jersey 07101.

In the alternative, the respondent may pay the civil penalty due, totaling \$2,000.00, in equal monthly installment

payments of \$100.00 for a total twenty (20) months. The first payment shall be paid simultaneously with submission of this Order with subsequent payments due on the fifteenth of each 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.

6. Mr. McDevitt shall provide restitution to consumer L.O. for the full cost of the home inspection which totals \$300.00. The restitution shall be made payable to L.O., 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 Home Inspection Advisory Committee, at the address detailed in paragraph 5.

7. The civil penalty imposed in paragraph 5 above, as well as the requirement to successfully complete fifteen (15) hours of continuing education in paragraph 4 above, shall both be stayed in its entirety while Mr. McDevitt's home inspection license is on inactive status. The penalty shall remain stayed until such

time as the respondent seeks to activate his home inspection license to active status as authorized by N.J.S.A. 45:1-7.3(b).

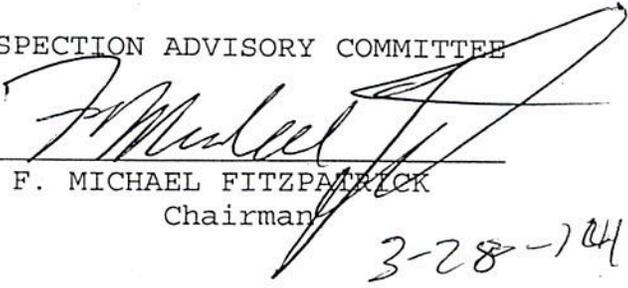
Additionally, the requirement to successfully complete fifteen (15) hours of Committee approved courses of continuing education, imposed in paragraph 4 above, shall be **stayed** in its entirety while the respondent's home inspection license is on inactive status. As indicated in paragraph 4, these credits shall not be used to satisfy the statutory continuing education requirements for reinstatement contained in N.J.S.A. 45:1-7.2(d).

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

9. Failure on the part of the respondent to pay the civil penalty or the installment payments timely, when applicable, 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.

HOME INSPECTION ADVISORY COMMITTEE

By: _____


F. MICHAEL FITZPATRICK
Chairman

3-28-124

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.

Brian McDevitt

BRIAN McDEVITT

DATED: 3-8-14