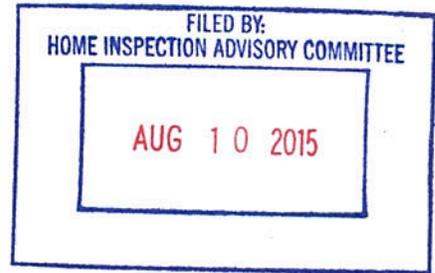


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Home Inspection Advisory Committee



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	:	Administrative Action
	:	
<b>MICHAEL GRACE</b>	:	<b>FINAL ORDER</b>
	:	<b>OF DISCIPLINE</b>
UNLICENSED TO PRACTICE OF HOME	:	
INSPECTION IN THE STATE OF	:	
NEW JERSEY	:	

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This matter was opened to the New Jersey State Home Inspection Advisory Committee (the "Committee") upon receipt of information which the Committee has reviewed and upon which the following findings of fact and conclusions of law are made:

**FINDINGS OF FACT**

1. The Department of Housing and Urban Development ("HUD"), a federal agency, offers loans via Section 203(k) insurance which enables homebuyers and homeowners to finance both the purchase, or refinancing, of a house and the cost of its rehabilitation through a single mortgage or to finance the rehabilitation of their existing home.

A 203(k) consultant is a professional who is responsible for advising clients on the complicated 203(k) process and who performs an inspection of the real estate for compliance with the 203(k) program.

2. Michael Grace, whose mailing address is Post Office Box 341, Cranford, New Jersey, is a 203(k) consultant.

3. In a letter dated May 18, 2014, Mr. Grace admitted that he has been an active HUD 203(k) consultant in New Jersey since 1999.

4. In July 2000, HUD issued Mortgagee Letter 00-25, which details the application process for 203(k) consultants. This letter indicates, in the relevant portion, that

In those states where a Home Inspector is required to be licensed, [HUD] requires the applicant to be licensed and to provide proof of that licensing.

5. The Committee's review of its records indicates that Mr. Grace has never been licensed as a home inspector in the State of New Jersey.

#### CONCLUSIONS OF LAW

1. HUD 203(k) inspections constitute a home inspection as defined by N.J.S.A. 45:8-62.

2. Respondent's conduct detailed above demonstrates that he engaged in the unlicensed practice of home inspection by performing a HUD 203(k) inspection on property located in New Jersey when he is not licensed as a home inspector in this State, contrary to N.J.S.A.

N.J.S.A. 45:8-67. This conduct constitutes grounds for enforcement action pursuant to N.J.S.A. 45:1-18.2.

#### DISCUSSION ON FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD"), preliminarily imposing a cease and desist directive and a civil penalty totaling \$1,000.00, was entered on December 11, 2014, 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.

Respondent did not submit a written response to the POD issued in December 2014. In a letter to the Committee, dated May 18, 2014 which pre-dated the issuance of the POD, Mr. Grace admitted that he had performed 203(k) inspections in New Jersey without being licensed as a home inspector in this State. He asserted, among other contentions, that he was performing the job he was hired by HUD to perform and that he in no way performed a home inspection as defined by the Committee's regulation. Mr. Grace further contended that 203(k) consultants are

not home inspectors, but rather construction managers or project managers.

The Committee again reviewed the respondent's May 2014 submission at its May 12, 2015 meeting. Following its review of this entire matter, the Committee determined that further proceedings were not necessary and that no material discrepancies had been raised. The Committee concluded that the respondent had violated its statutes and regulations, in violation of N.J.S.A 45:1-21(h) and N.J.A.C. 13:40-15.16, by engaging in the unlicensed practice of home inspection.

Specifically, the Committee affirmed its previous determination that 203(k) inspections constitute the practice of home inspection in New Jersey. Contrary to the respondent's contentions, it found that a 203(k) consultant, among other responsibilities, performs an inspection of the systems and components of a residential home and prepares a written report of his/her inspection findings so that insureds under the HUD program may borrow sufficient funds for the acquisition as well as the rehabilitation of certain property. The Committee therefore concluded that the inspection required for the granting of a 203(k) rehab mortgage constitutes the practice of home inspection.

Additionally, the Committee found that the HUD requirements for individuals to be placed on the agency's FHA 203(k) Consultant Roster corroborates the Committee's conclusion. In its Mortgage Letter

2000-25, published July 26, 2000, HUD specifically states that home inspector licensure is required for 203(k) consultants in those states where this profession is regulated by the State, as in New Jersey. Hence, the Committee finds that in order to perform the HUD responsibilities in New Jersey, Mr. Grace is required by HUD to be licensed as a home inspector. His failure to be so licensed prior to performing a 203(k) inspection in New Jersey constitutes not only the unlicensed practice of home inspection in this State but a violation of the HUD guidelines for participation in the 203(k) program.<sup>1</sup>

Finally, the Committee concluded that Mr. Grace erroneously contended, in his May 2014 letter, that HUD rescinded its requirement that consultants obtain licensure in states which license home inspectors in or about November 2011. Rather, the Committee relies on HUD's Mortgagee Letter 2000-25 which mandates that 203(k) consultants have to be licensed in states where licensure of home inspectors is required in order to be eligible to perform inspections for its mortgage program.

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<sup>1</sup> The documents referenced in this Final Order were attached as exhibits to the POD issued in this matter on December 11, 2014. These documents include: 1) Correspondence from Mr. Grace to the Committee dated May 18, 2014, attached to the POD as Exhibit A; 2) HUD Mortgagee Letter 2000-25, dated July 26, 2000, attached as Exhibit B; and 3) Correspondence from Andrew Cianci, HUD Director, Processing and Underwriting, to the Committee, received on January 23, 2014, attached as Exhibit B.

The Committee further rejected Mr. Grace's contention and found that HUD continues to require 203(k) consultants to obtain licensure in states where such licensure is required. This conclusion was confirmed in a letter, received by the Committee on January 27, 2014, in which HUD verified to the Committee that the requirements for an individual to be placed on the consultant roster remain in effect, including the criterion that consultants must be licensed as home inspectors in states that mandate licensure.

Following its consideration of the submitted materials in this matter, the Committee voted to finalize the Provisional Order without any modifications.

IT IS, THEREFORE, on this <sup>28<sup>th</sup></sup> OF JULY 2015 ORDERED that:

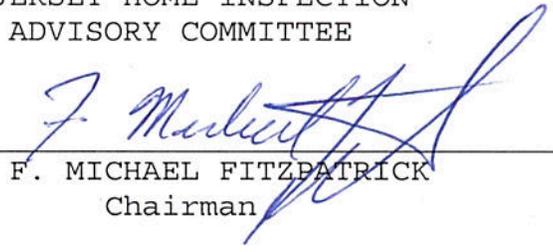
1. Respondent Michael Grace shall immediately cease and desist from engaging in the practice of home inspection in the State of New Jersey until and unless he is licensed as a home inspector by the Committee.

2. Mr. Grace shall pay a civil penalty, pursuant to N.J.S.A. 45:1-22(b), in the amount of \$1,000.00 for his violation of N.J.S.A. 45:8-67. The civil penalty shall be submitted, by certified check or money order, contemporaneously with the signing of this Order and made payable to the State of New Jersey and forwarded to the Home Inspection Advisory Committee, to the attention of Karl Reidel, Executive Director of the Committee, at 124 Haley Street, Sixth Floor, Post Office Box

45043, Newark, New Jersey 07101.

NEW JERSEY HOME INSPECTION  
ADVISORY COMMITTEE

By:

  
\_\_\_\_\_  
F. MICHAEL FITZPATRICK  
Chairman