

HEARING NO. 170829

IN THE MATTER OF  
DAVID ALLAN ARMSTRONG  
SAN ANTONIO, TEXAS

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BEFORE THE TEXAS REAL  
ESTATE COMMISSION  
(COMMISSION)

TEXAS PROFESSIONAL INSPECTOR  
LICENSE NO. 8144

SITTING IN AUSTIN  
TRAVIS COUNTY, TEXAS

**AGREED ORDER**

On August 7, 2017, David <sup>Alan</sup>~~Allan~~ Armstrong ("Respondent") was notified of allegations against him. In order to conclude this matter, Respondent admits to the truth of the following Findings of Fact and Conclusions of Law and agrees to the entry of this Order and to the assessment of an administrative penalty.

**FINDINGS OF FACT**

1. Respondent is a licensed Texas professional inspector, was a Texas licensed professional inspector at all times relevant to this matter, and performed an act in Texas constituting an act of a professional inspector as defined in Section 1102.001. Texas Occupations Code.
2. On September 6, 2016, Respondent was hired by a prospective buyer to perform an inspection of the property located at 13711 Pebble Point Dr., San Antonio, Texas ("property").
3. Respondent used the business name "D. Armstrong & Associates Home Inspection" and did not notify the Commission within 30 days after he began using that name in his business. Respondent has now properly notified the Commission of his use of the name "D. Armstrong & Associates Home Inspection."
4. As part of his inspection, Respondent inspected the electric range, cooktop and oven. Respondent set the oven at 350 degrees and reported a reading of 337 degrees. Respondent failed to turn the oven off after the inspection and it was discovered upon the seller's return.
5. Respondent has been licensed since February 28, 2005, and has no prior formal discipline.
6. Respondent understands that he must be competent when inspecting the performance of appliances. Respondent understands that when a heating source such as a range, cooktop, or oven is left on, it poses a potential risk of damage to the property and endangers the safety and welfare of the home residents. In the future, Respondent will include additional safety measures to his inspection procedures to ensure that a range, cooktop, or oven is turned off after the inspection.

**CONCLUSIONS OF LAW**

The acts and omissions on the part of Respondent set out in the Findings of Fact constitute the following violation that is cause for the suspension, revocation, or reprimand of Respondent's Texas professional inspector license pursuant to the specific statute and rule cited below or Section 1102.401(a), Texas Occupations Code, and is further cause for the assessment of an administrative penalty against Respondent pursuant to Section 1102.403, Texas Occupation Code:

7. Section 1102.301, Texas Occupations Code, by performing a real estate inspection in a negligent or incompetent manner; and
8. 22 Tex. Admin. Code §535.221(c), by failing to notify the Commission in writing within 30 days after the inspector starts or stops using a name in business other than the name in which the inspector is licensed.

**ORDER**

IT IS ORDERED that Respondent is formally reprimanded for his actions in the matter.

IT IS FURTHER ORDERED that Respondent pay an administrative penalty of \$600 in the form of cashier's checks or money order made payable to the Commission. The remitter on the cashier's check or money order must be Respondent or Respondent's attorney.

DATED: 14 Aug 17


  
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Douglas E. Oldmixon  
Executive Director  
Texas Real Estate Commission

The undersigned Respondent states and affirms that Respondent enters into this agreed order of his own free will; that Respondent admits to the above Findings of Fact and Conclusions of Law; that Respondent has been afforded all administrative remedies due him under the law by the Texas Real Estate Commission; that Respondent, having been advised of his right to a hearing and to be represented by an attorney, waives these rights; and that Respondent waives all right to judicial review of this Order.

DATED: 8/9/17

  
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David Allan Armstrong  
Respondent

DATED: 8/14/17

  
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J. Antonio Renteria  
Staff Attorney  
Texas Real Estate Commission