

OK

**FILED**

OCT 18 2016

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Continuing Education	)	CalBRE No. H-40140 LA
Offering of:	)	
	)	OAH No. 2016031056
INTERNACHI HOME INSPECTORS,	)	
	)	
Sponsor,	)	

---

DECISION

The Proposed Decision dated September 16, 2016, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first.

This Decision shall become effective at 12 o'clock noon on NOV 08 2016.

IT IS SO ORDERED 10/12/2016.

REAL ESTATE COMMISSIONER  
WAYNE S. BELL

*[Signature]*

BEFORE THE  
BUREAU OF REAL ESTATE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Notice of Withdrawal of  
Continuing Education Offering Approval  
Against:

INTERNACHI HOME INSPECTORS,

Sponsor.

Case No. H-40140 LA

OAH No. 2016031056

**PROPOSED DECISION**

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on August 17, 2016, in Los Angeles. The record was closed and the matter submitted for decision at the conclusion of the hearing.

Cheryl D. Keily, Counsel, represented Jeffrey Mason, Chief Deputy Commissioner (complainant).

Mark Cohen, Esq., represented the International Association of Certified Home Inspectors (InterNACHI). Ben Gromicko, Director of Education, was also present.

**FACTUAL FINDINGS**

*Parties and Jurisdiction*

1. On November 13, 2014, the Bureau of Real Estate (BRE) issued course certificate number 5114-1002 to InterNACHI (respondent) approving it to be a "sponsor" offering the continuing education course entitled "Home Energy Efficiency for Real Estate Professionals," which was approved for four "clock hours." This course was approved to be taught as a correspondence course, meaning it could be taken online over the internet.

2. On February 18, 2016, complainant filed the Notice of Withdrawal of Continuing Education Offering Approval (Notice) against respondent, advising that the Real Estate Commissioner (Commissioner) determined respondent's continuing education course no longer met statutory and regulatory standards for approval, and that the Bureau's prior approval for the course would be withdrawn.

3. On March 15, 2016, respondent timely filed a Notice of Defense, which contained a request for a hearing to challenge the Notice.

4. A hearing challenging such a notice shall commence within 30 days receipt of a request for hearing, unless continued to a later date by order of the Commissioner or agreement of the parties. (Cal. Code Regs., tit. 10, § 3010, subd. (a).) Here, the hearing was initially scheduled for June 20, 2016, but was later continued to the instant date at the request of complainant, without objection by respondent.

5. Respondent is located in Boulder, Colorado, and is not otherwise licensed by the Bureau.

#### *Continuing Education Course Requirements*

6. Business and Professions Code section 10170.4<sup>1</sup> directs the Commissioner to establish a procedure for qualifying educational programs that will satisfy the 45 unit continuing education requirement applicable to licensees of the Bureau under section 10170.5. Section 10170.4, subdivision (e), directs the Commissioner to promulgate regulations to ensure that qualifying educational programs provide for “an appropriate form of testing, examination or evaluation by the sponsor of each approved correspondence or homestudy educational program, or equivalent, of the student.” The Commissioner promulgated such regulations, located at California Code of Regulations, title 10, sections (regulation or “Reg.”) 3006 through 3010.

7. Before receiving approval, respondent submitted to the Bureau an application for Continuing Education New Course Application Review, which set forth the course contents and curriculum, as well as information about respondent. The Bureau’s above-described approval of respondent’s course was predicated upon respondent’s compliance with sections 10170.4 and 10170.5, as well as regulations 3006 through 3010.

8. Regulation 3006 sets forth the criteria for approval of course offerings by the Bureau, including but not limited to the following:

A. The course must provide an appropriate form of final examination as set forth in regulation 3007.3. (Reg. 3006, subd. (d).)

B. A correspondence course offered via the internet must have a method of control in place to ensure that the course cannot be completed in less time than the approved credit hours by controlling the participant’s navigation through the course content. (Reg. 3006, subd. (o).)

//

---

<sup>1</sup> All further statutory references are to the Business and Professions Code.

C. Incremental assessments shall be required that are designed to properly measure a participant's mastery of the course content after each logical unit of instruction or chapter within a correspondence course, i.e., case studies, quizzes or other form of exercises. (Reg. 3006, subd. (p).)

9. Regulation 3007.3 provides that a final examination is required for all continuing education classes, and that sponsors shall establish final examination rules for approved offerings, including but not limited to the following:

A. Time calculations for a final examination consisting of multiple choice, true/false and/or fill-in-the-blank questions will be allowed a maximum amount of one minute per each question. (Reg. 3007.3, subd. (f).)

B. Participants taking a correspondence course must have access to the course materials for the approved number of credit hours for that correspondence course prior to completion of the final examination. (Reg. 3007.3, subd. (j).)

C. An offering may include a provision for one retaking of the final exam by a participant who failed the original exam, provided the questions in the re-examination are different questions than those asked in the original exam. A participant who fails the re-examination has failed the course and receives no credit from that course. (Reg. 3007.3, subd. (k).)

10. Regulation 3007.2, subdivision (a), provides that any proposed change to an approved course offering "that is a significant deviation, in one or more aspects," from the offering as approved by the Bureau, including a change in curriculum, course length, method of presentation, workbooks, texts, or syllabi, but not including changes designed exclusively to reflect recent changes in statutes, regulations or decisional law, "shall be deemed to be material" and shall be submitted by the sponsor to the Bureau for consideration and approval prior to use.

### *Compliance Investigation*

11. On a date not established in 2015, Bureau Special Investigator Sara Knapton was assigned to take the online continuing education course offered by respondent, i.e., Home Energy Efficiency for Real Estate Professionals. The purpose of her taking the course was to determine whether the course as presented to potential students complied with the above regulations and was consistent with the material submitted to the Bureau by respondent in the course of the Bureau's evaluation and approval of the course.

12. On July 1, 2015, Special Investigator Knapton took respondent's continuing education course over the internet. She observed what she believed were several regulatory violations described in more detail below.

13. A. The online course study materials lacked a mechanism to prevent a participant from completing the study materials in less than the approved four credit hours. Special Investigator Knapton was able to navigate through the course by advancing through every section of the study material in a total time of one-and-one-half hours, far less than the mandated minimum of four hours; and she was able to thereafter immediately access the final exam. This was a violation of regulations 3006, subdivision (o), and 3007.3, subdivision (j).

B. Respondent's Director of Education, Ben Gromicko, persuasively testified that review of the site after receiving an initial inquiry from the Bureau about this situation showed the "seat time" program had not been properly activated at the time in question. That program has since been activated and someone taking the course will have to spend at least four hours and must actively participate or else run into an "inactivity timer" set at 20-30 minutes of inactivity on the site.

14. A. Special Investigator Knapton was able to skip over the quizzes at the end of each section without attempting to answer any of the quiz questions. Her failure to take the quizzes did not stop her from being able to access and take the final exam. These failures are normally a violation of regulation 3006, subdivision (p).

B. Mr. Gromicko persuasively testified that the program was functioning properly at the time in question in this regard and that there was no way Special Investigator Knapton could have skipped over the quizzes if she had logged onto the system as a regular member or user. The only way she could have skipped over the quizzes was if she had logged onto the system as an administrator, which status allows the logged-on administrator to navigate the system free of any barriers or obstacles put in place for regulatory compliance. Special Investigator Knapton testified she was given log-in information by her supervisor, but she was not more specific. Mr. Gromicko persuasively testified a public entity such as the Bureau would be given administrator log-in information. Special Investigator Knapton did not contradict Mr. Gromicko.

C. Under these circumstances, it was not established that the course available to members of the public would have allowed users to by-pass the quizzes, and consequently, it was not established that respondent was in violation of regulation 3006, subdivision (p).

15. A. The final exam consisted of 40 questions made up of multiple choice, fill-in-the-blank and one true/false question. A participant was given 45 minutes, rather than one minute per question or 40 minutes, to complete the final exam. This was in violation of regulations 3007.3, subdivision (f), and 3007.3, subdivision (n).

B. Mr. Gromicko persuasively testified the final exam was initially supposed to have 45 questions, but it was changed to 40 questions without changing the requisite time from 45 to 40 minutes. Mr. Gromicko persuasively testified this was an inadvertent oversight that has since been corrected, so now there are only 40 minutes to take the 40 questions.

C. In mitigation, it is acknowledged that the five extra minutes spread over 40 questions breaks down to only a few additional seconds per question.

16. A. The number of times a participant could retake the final exam after failing the first time was not limited to only once. Special Investigator Knapton purposely failed the final exam on three occasions, and was nevertheless permitted to retake the exam each time until on the third retaking of the exam she received a passing score. Special Investigator Knapton was not required to re-register in order to retake the exam on those multiple occasions. This was a violation of regulation 3007.3, subdivision (k).

B. Mr. Gromicko persuasively testified the program should have been set for California users to allow only one re-take, but that it was not set that way on the date in question. The program has been reconfigured so that California users can only re-take the exam once after failing. The only way they can now take the final exam a third time is if they re-register and take the course all over again.

C. Special Investigator Knapton wrote in a declaration that a number of questions in the re-taken exams were duplicated from the original exam. (Ex. 5, ex. 1, p. 1.) However, that declaration was admitted only as administrative hearsay; standing alone it cannot support a factual finding. (Gov. Code, § 11513, subd. (d).) While she did not discuss this situation on direct examination, Special Investigator Knapton conceded on cross-examination that "each exam I took was different." In an e-mail to the Bureau while it was investigating this situation, respondent's Director of Student Services, Michelle Thakur, wrote that the online exam system randomly draws from a much larger pool of questions and that because of this randomized selection process, the student will never take the same exam twice. (Ex. 4, p. 1.) Under these circumstances, it was not established that respondent violated regulation 3007.3, subdivision (k).

17. A. Special Investigator Knapton noted that some exam questions were reworded, contained additional answer choices and/or exhibited changed sentence construction than the questions that had been submitted to the Bureau in respondent's application for course approval. Respondent had not submitted any change request to the Bureau after receiving initial course approval. All the questions seen by Special Investigator Knapton on the date in question had been previously submitted to the Bureau when respondent applied for course approval. In most cases, the answers to the subject multiple-choice questions had a third option added, where the answers before had only two options. In some cases, the questions were slightly reworded by the addition or replacement of one word that was not contained in the original question submitted to the Bureau.

B. Mr. Gromicko persuasively testified the changes were slight and made with the intent to make the questions and answers more accurate and consistent with the course curriculum and study materials. The changes were not made to make the test easier or to allow students to manipulate or evade the process. A third option was added to some questions to make them slightly harder. No changes have been made to the curriculum, course materials, workbooks, texts or syllabi.

C. The word "material" is defined as, "Being both relevant and consequential; crucial." (www.thefreedictionary.com/material.) "Significant" is defined as, "Having or likely to have a major effect; important." (www.thefreedictionary.com/significant.) These words are not otherwise defined in the Business and Professions Code or the regulations pertaining to the Bureau. In light of the above, the addition of a third multiple choice option or slight rewording of what were essentially the same exam questions previously submitted to the Bureau were not consequential, crucial, important or likely to have a major effect. Thus, the slight changes to some of the exam questions is not deemed to be a significant deviation or a material change in the course materials previously submitted to the Bureau.

D. Under these circumstances, it was not established that the changes in some of the exam questions without seeking prior approval of the Bureau was a violation of regulation 3007.2, subdivision (a).

### *Respondent's Evidence*

18. Respondent is a non-profit trade organization. Its mission is to train and certify home inspectors throughout the world. It currently has 16,500 members world-wide, with 1,128 in California. Respondent is currently the only international home inspection trade group.

19. Respondent does not charge those who take its online continuing education courses, including the one approved by the Bureau. They are free to its members, who pay a monthly membership fee. Respondent offers inspection courses and exams in most, if not all, states in this country, which are reviewed and approved by relevant government agencies. However, the criteria for such courses are different in each state.

20. The goal in offering the course in question is for real estate professionals to become more knowledgeable with home inspections, which is a critical part of any home real estate transaction. Mr. Gromicko testified he is unaware of anyone else offering such a course. Respondent's records indicate a total of 933 people have taken the course in question, but only five registered in California. Because the final exam passing rate is 80 percent, but the average score on the final exam is 74 percent, most people who take the final exam fail.

21. As described above, after being contacted by the Bureau and then receiving the Notice, corrections have been made to address the deficiencies noted by Special Investigator Knapton. Mr. Gromicko persuasively testified all the problems noted were inadvertent, took just a few minutes to resolve, and now a person taking the test from California would no longer experience any of those problems. Special Investigator Knapton did not testify whether she subsequently retested respondent's online course offering and did not otherwise contradict Mr. Gromicko.

///

## LEGAL CONCLUSIONS

1. In a hearing on an order of withdrawal issued by the Commissioner, the burden of proving that the course “does not meet the prescribed statutory and regulatory standards for approval shall be on the Commissioner.” (Reg. 3010, subd. (a).) Because this case does not involve discipline of an existing professional license, the burden is on complainant to establish cause to withdraw approval of respondent’s continuing education course by a preponderance of the evidence. (*Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1039-1040.)

2. Regulation 3007.3, subdivision (n), provides that a violation of a final examination rule by the sponsor “shall constitute grounds for denial or withdrawal of approval of the offering.”

3. A. The results of Special Investigator Knapton’s investigation, in several respects, demonstrated respondent’s failure to perform in accordance with the conditions of the Bureau’s approval of respondent’s continuing education course, which is grounds for the withdrawal of approval pursuant to section 10170.4 and regulation 3010, subdivision (a). (Factual Findings 1-13, 15, & 16A & 16B, Legal Conclusion 2.)

B. At the time Special Investigator Knapton tested respondent’s course online, it did not meet the prescribed statutory and regulatory standards for approval. However, respondent’s violations were inadvertent and since have been corrected. The evidence tends to indicate that the inadvertent violations were the result of respondent offering so many online courses in so many different states, each with its own criteria, as well as respondent’s failure to periodically review internally for regulatory compliance. (Factual Findings 1-21.)

4. A. Regulation 3010, subdivision (a), authorizes the Commissioner to withdraw approval for a continuing education course when it “no longer meets the prescribed statutory and regulatory standards for approval.” In fact, this regulation states that when such occurs, “the Commissioner shall give written notice of withdrawal of approval.” (*Ibid.*) In this case, complainant argues this regulatory language dictates that withdrawal of the Bureau’s prior approval is the only outcome available. However, there are two flaws in complainant’s reasoning.

B. First, regulation 3010 states withdrawal “shall” occur only when the course in question “no longer meets the prescribed statutory and regulatory standards for approval.” If this regulation is given the technical meaning complainant asserts by virtue of the word “shall,” the rest of the sentence should also be given the same technical meaning, i.e., withdrawal is only available when the course “no longer” complies. In this case, although the course did not comply in several respects on one day when Special Investigator Knapton tested it, the deficiencies have since been corrected and the only evidence presented indicates the course currently meets all statutory and regulatory standards.



C. Second, it cannot be that withdrawal of such approval is the only remedy for such violations, regardless of the number or severity of the violations, the reasons they happened or the involved sponsor's response to them. For example, it is hard to conclude withdrawal would be appropriate if a course had, on one occasion, allowed a student one extra minute to take the final exam, due to an inadvertent program setting that had since been resolved. In resolving such a situation, there would have to be room for reason and discretion. "The phrase 'arbitrary or capricious' has no precise meaning. . . . However, conduct not supported by a fair or substantial reason may be categorized as arbitrary and capricious." (*Madonna v. County of San Luis Obispo* (1974) 39 Cal.App.3d 57, 61-62.) In this case, simply entering an order of withdrawal without engaging in any reason or discretion would seem to be an arbitrary and capricious exercise.

D. As respondent points out, there are several provisions in the California Administrative Procedure Act (Gov. Code, § 11400 et seq.) allowing government agencies discretion to modulate and balance the discipline or penalty they initially request. For example, Government Code section 11503 allows a right or privilege to be "suspended, limited or conditioned." Government Code section 11517, subdivision (b)(2), allows an agency to reduce or otherwise mitigate the remedy set forth in a proposed decision. Government Code section 11519, subdivision (b), allows an agency to impose discipline or a penalty, but to stay execution of such upon express condition(s) that respondent comply with specified terms of probation. Complicating things here is the lack of any other remedy described in regulation 3010, other than withdrawal of approval. But the lack of such other relief should not require abandoning reason and discretion that due process requires.

5. Based on the above, while cause was established for withdrawing the Bureau's prior approval of respondent's course, the facts and circumstances here warrant a moderate approach, given that the violations were inadvertent, isolated to one occasion, quickly resolved, and respondent demonstrated a reasonable response to the situation. Moreover, since respondent is the only sponsor providing the course in question, keeping it off-line would appear to deprive the public of a beneficial service. There has been no evidence of injury or harm to the public. Under these circumstances, and because there is a lack of any other regulatory measure apparently available, the fairest course is to order withdrawal of the prior approval, stay execution of such for two years in order to allow the Bureau (and respondent) time to review and confirm the course continues to meet statutory and regulatory requirements, and to permanently stay the execution of withdrawal upon the expiration of two years if no further violations are determined. (Factual Findings 1-21, Legal Conclusions 1-4.)


## ORDER

Approval of respondent's continuing education course entitled "Home Energy Efficiency for Real Estate Professionals" is withdrawn. However, the withdrawal of approval for that course is stayed, provided respondent continues to maintain and comply with all statutory and regulatory requirements for the course.

Should respondent fail to maintain and comply with all statutory and regulatory requirements for the course, the Commissioner may lift the stayed withdrawal of approval, and thereafter impose the withdrawal of approval. Said action shall only occur after the Bureau files and serves on respondent a pleading requesting such relief and provides a hearing for respondent to contest said action upon due notice.

Provided that the Commissioner does not determine that respondent has violated any applicable statutory or regulatory requirement for a period of two years from the effective date of this order, the stay of the withdrawal of approval shall become permanent.

DATED: September 16, 2016

DocuSigned by:  
  
E08381E7779D4F0...

---

ERIC SAWYER,  
Administrative Law Judge  
Office of Administrative Hearings

RECEIVED  
BUREAU OF REAL ESTATE  
SEP 20 2016  
1:00 PM

1 Bureau of Real Estate  
2 320 W. 4<sup>th</sup> St., # 350  
3 Los Angeles, CA 90013

4 (213) 576-6982

**FILED**

FEB 16 2016

BUREAU OF REAL ESTATE

By 

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11  
12 In the Matter of the Continuing ) H- 40140 LA  
13 Education Offering of )  
14 INTERNACHI HOME INSPECTORS, )  
15 Sponsor. )

16 NOTICE OF WITHDRAWAL OF CONTINUING  
17 EDUCATION OFFERING APPROVAL

18 TO: InterNACHI Home Inspectors  
19 1750-30<sup>TH</sup> Street, Suite 301  
20 Boulder, Colorado 80301

21 RE: Home Energy Efficiency for Real Estate Professionals Course No. 5114-1002

22 NOTICE IS HEREBY GIVEN pursuant to the provisions of Section 3010 of  
23 Title 10, Chapter 6, California Code of Regulations ("Regulations") that the Real Estate  
24 Commissioner ("Commissioner") has caused an investigation to be made into the presentation  
25 of the continuing education course offering identified in Paragraph 2, below, sponsored by  
26 InterNACHI Home Inspectors ("InterNACHI"), and previously approved by the California  
27 Bureau of Real Estate ("Bureau"). On the basis of that investigation the Commissioner has  
determined that said course no longer meets the statutory and regulatory standards for approval

1 for continuing education course offerings, and that approval of said course should be and  
2 hereby is withdrawn for the reasons set forth below:

3  
4 1. InterNACHI is the sponsor of the continuing education course offering  
5 identified in Paragraph 2, below. InterNACHI is owned by the International Association of  
6 Certified Home Inspectors, 1750-30<sup>th</sup> Street, Suite 301, Boulder, Colorado 80301.

7 2. The Bureau issued to InterNACHI approval for the following continuing  
8 education course offering pursuant to Business and Professions Code (“Code”) Sections  
9 10170.4 and 10170.5 and Sections 3006 through 3010 of the Regulations:

<u>Course No.</u>	<u>Hours</u>	<u>Date</u>	<u>Course Title</u>
<u>Issued By DRE</u> 5114-1002	4	<u>Approved</u> 11/13/14	Home Energy Efficiency for Real Estate Professionals

12 This course was applied for and approved to be taught as a correspondence course.

13  
14 3. In order to qualify for renewal of a real estate license, a licensee must prove  
15 successful completion of continuing education courses, or the equivalent, such as that identified  
16 in Paragraph 2, above, during the preceding four-year period (Code Section 10170.5).

17 4. Approval of the course identified in Paragraph 2 was predicated upon  
18 InterNACHI’s compliance with Code Sections 10170.4 and 10170.5 and Sections 3006 through  
19 3010 of the Regulations.

20 5. Section 3006 of the Regulations sets forth the criteria for approval of course  
21 offerings by the Bureau, including but not limited to the following:

22 a. The course must provide an appropriate form of final examination as  
23 set forth in Section 3007.3 (Section 3006(d) of the Regulations);

24 b. A correspondence course offered via the internet must have a method  
25 of control in place to ensure that the course cannot be completed in less time  
26 than the approved credit hours by controlling the participant’s navigation  
27 through the course content (Section 3006(o) of the Regulations); and

1  
2 c. Incremental assessments shall be required that are designed to  
3 properly measure a participant's mastery of the course content after each logical  
4 unit of instruction or chapter within a correspondence course, i.e. case studies,  
5 quizzes or other form of exercises (Section 3006(p) of the Regulations).

6 6. Section 3007.3 of the Regulations provides that a final examination is  
7 required for all continuing education classes, and that sponsors shall establish final examination  
8 rules for approved offerings, including but not limited to the following:

9 a. Section 3007.3(f) provides that time calculations for a final  
10 examination consisting of multiple choice, true/false and/or fill-in the blank  
11 questions will be allowed a maximum amount of one (1) minute per each such  
12 question.

13 b. Section 3007.3(j) provides that participants taking a correspondence  
14 course must have access to the course materials for the approved number of  
15 credit hours for that correspondence course prior to completion of the final  
16 examination.

17 c. Section 3007.3(k) provides that an offering may include a provision  
18 for one retaking of the final exam by a participant who failed the original exam  
19 provided the questions in the re-examination are different questions than those  
20 asked in the original exam. A participant who fails the re-examination has failed  
21 the course and receives no credit from that course.

22 7. Section 3007.3(n) of the Regulations provides that a violation of a final  
23 examination rule by the sponsor or the sponsor's representative administering the examination  
24 shall constitute grounds for denial or withdrawal of approval of the offering.

25 8. Section 3007.2(a) of the Regulations provides that any proposed change to an  
26 approved course offering that is a significant deviation, in one or more aspects, from the  
27 offering as approved by the Bureau including a change in curriculum, course length, method of  
presentation, workbooks, texts, or syllabi, but not including changes designed exclusively to

1 reflect recent changes in statutes, regulations or decisional law, shall be deemed to be material  
2 and shall be submitted by the sponsor to the Bureau for consideration and approval prior to use.  
3

#### 4 COMPLIANCE INVESTIGATION

5 9. On or about July 1, 2015, a Special Investigator of the Bureau took the online  
6 continuing education course titled "Home Energy Efficiency for Real Estate Professionals" to  
7 evaluate the course for compliance with the Code, the Regulations and consistency with the  
8 course offering materials of the sponsor approved by the Bureau. The Special Investigator  
9 observed the following violations:

10 a. The online course study materials lacked a mechanism to prevent a  
11 participant from completing the study materials in less than the approved four  
12 (4) credit hours. The internet site permitted the Special Investigator to navigate  
13 through the site by advancing through every section of the study material in less  
14 than 1-1/2 hours, and to then immediately access the final exam. This is in  
15 violation of Sections 3006(o) and 3007.3(j) of the Regulations.

16 b. There was no mechanism in place to ensure that the participant took  
17 the quizzes at the end of each section of the online study materials. The Special  
18 Investigator was able to skip over the quizzes without attempting to answer any  
19 of the quiz questions. The Special Investigator's failure to take the quizzes did  
20 not interfere with her ability to access the final exam. This is in violation of  
21 Sections 3006(p) of the Regulations.

22 c. The final exam consisted of 40 questions made up of multiple choice,  
23 fill-in the blank and one true/false question. A participant was given 45 minutes,  
24 rather than one minute per question or 40 minutes, within which to complete the  
25 exam. This is in violation of Sections 3007.3(f) and 3007.3(n) of the  
26 Regulations.

27 d. The number of times a participant could retake the final exam was not  
limited to once. The Special Investigator purposely failed the final exam on

1 three occasions, and was nevertheless permitted to retake the exam each time  
2 until on the third retaking of the exam the Special Investigator received a  
3 passing score. The Special Investigator was not required to re-register in order to  
4 retake the exam on multiple occasions. Additionally, multiple questions in the  
5 re-taken exams were duplicated from the original exam. This is in violation of  
6 Sections 3007.3(k) and 3007.3(n) of the Regulations.  
7

8 e. Some final exam questions significantly deviated from the exam  
9 questions approved by the Bureau. The Special Investigator noted that some  
10 exam questions were reworded, contained additional answer choices and/or  
11 exhibited changed sentence construction. The sponsor failed to submit the  
12 changes to the Bureau for approval. This is in violation of Section 3007.2(a) of  
13 the Regulations.

14 10. The results of the Special Investigator's investigation, described in  
15 Paragraph 9, above, demonstrate a failure by InterNACHI to perform in accordance with the  
16 conditions to the approval of the continuing education courses offered by InterNACHI, and is  
17 grounds for the withdrawal of approval of the continuing education course offering of  
18 InterNACHI pursuant to Code Section 3010(a) of the Regulations.

19 11. Based on the foregoing, the Commissioner has determined that the course  
20 identified in Paragraph 2, above, no longer meets the prescribed statutory and regulatory  
21 standards for approval, and therefore, approval of said course should be and hereby is  
22 withdrawn pursuant to the provisions of Section 3010 of the Regulations.

23 ///

24 ///

25 ///

26 ///

27 ///

///

1  
2 12. The withdrawal of approval of the course offering identified in Paragraph 2  
3 above will be effective thirty (30) days after the notice of withdrawal is received by the sponsor  
4 unless the sponsor earlier files a written request for hearing on the withdrawal action. If the  
5 request for hearing is received by the Commissioner before 30 days after the date of receipt of  
6 notice of withdrawal by the sponsor, the withdrawal of approval shall not be effective unless  
7 and until ordered by the Commissioner pursuant to findings and conclusions reached after  
8 hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
9 Title 2 of the Government Code. The hearing shall be commenced within 30 days after receipt  
10 of the request for hearing unless continued to a later day by order of the Commissioner, or by  
11 agreement of the parties as provided in Section 3010(a) of the Regulations.

12 DATED: February 8, 2016

13 Real Estate Commissioner

14 

15 \_\_\_\_\_  
16 By: JEFFREY MASON  
17 Chief Deputy Commissioner

18  
19  
20  
21  
22  
23  
24  
25 cc: INTERNACHI HOME INSPECTORS  
26 International Association of Certified Home Inspectors  
27 1750-30<sup>th</sup> Street, Suite 301  
Boulder, Colorado 80301  
Shelly Wilson  
Sacto, FLAG  
Sacto, Education