

1 CONSENT AGREEMENT

2 Respondent understands and agrees that:

3 1. The Board has jurisdiction over Respondent and the subject matter pursuant
4 to A.R.S. § 32-3601 *et seq.*

5 2. Respondent has the right to consult with an attorney prior to entering into
6 this Consent Agreement.

7 3. Respondent has a right to a public hearing concerning this case. She further
8 acknowledges that at such formal hearing she could present evidence and cross-examine
9 witnesses. Respondent irrevocably waives her right to such a hearing.

10 4. Respondent irrevocably waives any right to rehearing or review or to any
11 judicial review or any other appeal of this matter.

12 5. This Consent Agreement shall be subject to the approval of the Board and
13 shall be effective only when signed by the Executive Director and accepted by the Board.
14 In the event that the Board does not approve this Consent Agreement, it is withdrawn and
15 shall be of no evidentiary value and shall not be relied upon nor introduced in any action
16 by any party, except that the parties agree that should the Board reject this Consent
17 Agreement and this case proceeds to hearing, Respondent will assert no claim that the
18 Board was prejudiced by its review and discussion of this document or any records
19 relating thereto.

20 6. The Consent Agreement, once approved by the Board and signed by the
21 Respondent, shall constitute a public record which may be disseminated as a formal
22 action of the Board.

23 FINDINGS OF FACT

24 2868

25 On or about October 13, 2009, the Board's investigation revealed the following:
26

1 1. This matter deals with an appraisal conducted and report written by
2 Respondent of a mobile home located at 170 Hacienda Drive, Bullhead City, AZ 86442
3 with an effective date of value of October 22, 2008.

4 2. The workfile did not contain a copy of "online cost information" for mobile
5 homes, or data in support of extraction for site value of \$5,000. Nor did the workfile
6 contain data in support of the \$1,023 physical depreciation on a 1965 (44 years) mobile
7 home and additions. Additionally, the workfile did not contain a copy of the original
8 report prior to the addition of sales with add-ons. Moreover, the workfile data shows
9 additional data obtained on October 23, 2008 but the signature/certification dates
10 remained the same (October 22, 2008).

11 3. The Board's investigation revealed that the Respondent did not understand
12 that the court order to provide appraisal reports under discovery rules was to be an
13 exchange by the attorneys in the matter and not the appraisers themselves.

14 4. Respondent failed to employ recognized methods and techniques for site
15 valuation, depreciation/obsolescence, accounting for costs of additions (see adjustment
16 for "2 storage additions" @ \$1,500 but not included in the Cost Approach), carport, patio
17 etc.

18 5. Respondent also determined that additions made on contribution to value,
19 but Sales 6 and 7 with additions had the highest sales prices at \$60,000 and \$53,000
20 respectively. With sales and listings No. 1 through 5 had sales and listing prices ranging
21 from \$35,000 to \$44,000. The Respondent's determination that there is no value to
22 additions is not credible.

23 6. The Cost Approach to Value states that cost is 682 square feet times \$50.
24 However, the exterior dimensions next to this state $12 \times 56 = 672$ square feet. The
25 balance of the report uses 672 square feet for the subject.
26

1 7. Respondent's failure to include physical improvements in the Cost
2 Approach (adjusted in some instances in the Market Approach), failure to support
3 depreciation and failure to reach a supportable site value affects the credibility of the
4 results.

5 8. With respect to Sale No. 1 at 604 Swan Drive, Respondent made errors of
6 omission and commission. According to the MLS, this home "needs to be refurbished,
7 roof needs repairs. Good fixer. All furnishing included in the price."

8 9. There was no adjustment on the market grid for furniture or condition but
9 there was an adjustment of -\$2,000 for age (1973) versus the subject's Cost Approach
10 depreciation of -\$1,023 for 44 years of age. Per the MLS, this Sale No. 1 had "utility
11 building/shed" with this sale adjusted for the 2 storage additions at \$1,500.

12 10. The 48 square foot difference in size between the subject and Sale No. 1
13 was adjusted at -\$720. This is not credible.

14 11. Sale No. 2 at 1838 Clearwater Drive had a site size of 4,528 square feet
15 versus the subject's site size at 7,208 square feet without adjustment or explanation.
16 There was an adjustment of -\$2,000 for the 1973 age versus the subject 1965 age and a
17 cost depreciation of \$1,043.

18 12. Sale No., 2 also had a two-car tandem carport awning but the Respondent
19 noted "none." The subject's additions were adjusted at +\$1,500.

20 13. With respect to Sale No. 3 at 1949 East Riverbend Circle, this site size was
21 4,050 square feet versus the subject's at 7,208 square feet. An adjustment was made for
22 48 square foot difference in the livable area. This was not credible. In addition, no
23 adjustment was made for this sale's lack of a carport versus the subject's one carport.
24 However, Sale No. 7 was adjusted for the lack of a carport +\$1,000.

25 14. Per the MLS, Sale No. 3 sold as "fully furnished" but Respondent failed to
26 address this fact in the appraisal report.

1 15. With respect to Sale No. 4 at 1939 Merced, this site size was 4,356 square
2 feet versus the subject's 7,208 square feet. The age adjustment for this 1972 home was

3 16. -\$1,750 (1973-built age adjustment at -\$2,000 or \$250 per year is not
4 supportable or credible). Respondent also failed to adjust for the lack of a carport.
5 Additionally, Respondent stated "patio" for this sale when factually it had a deck and
6 patio awning. Finally this "remodeled mobile with new carpeting and tile" did not sell per
7 the county records.

8 17. Listing No. 5 at 309 Santa Cruz had a 3,811 square foot lot and per MLS
9 sold "furnished;" had "boat-deep carport 9' high;" and "metal ramada covers the whole
10 home." Adjustments were for rooms/bath at \$3,000 and additions at +\$1,500. Per the
11 county records, this listing did not sell.

12 18. Added Sale No. 6 at 1814 Clearwater Drive is a double-lot sale of 9,040
13 square feet per records, not 8,712 square feet as Respondent reported in the appraisal
14 report. This sale also has a ramada covering the home and addition.

15 19. Respondent noted "none" for parking in the market grid. In fact, the home
16 has a detached two-car garage with guest quarters. Per the MLS, this sale also has a
17 utility building with shed. Respondent failed to adjust for the ramada, garage and guest
18 quarters. Finally, the photograph used in the report is an MLS photo. The property now
19 appears to be utilized as commercial/residential property.

20 20. Added Sale No. 7 at 2046 Havasu Cove was reported in MLS as sold at
21 \$53,000 on an asking price of \$56,000. This was not correct per the county records.
22 County assessor data reports this sale was \$51,000 on January 1, 2008, by warranty deed
23 under Book 7117, page 555, recorded February 26, 2008. Site size is reported at 4,450
24 square feet versus the subject's 7,208 square feet. MLS reports livable square footage at
25 900 square feet. This included the addition for which Respondent adjusted.

26

1 6. The report stated that there was functional obsolescence due to bathroom
2 door or access through a bedroom. Yet, there was no functional obsolescence charge in
3 the Cost Approach; the Market Approach adjustment of \$3,000 was not explained as cost
4 to cure or incurable (i.e. is it feasible to re-install a hallway door and does a door cost
5 \$3,000?).

6 7. In the Cost Approach, the report used \$30 per square foot or \$14,400 for
7 the subject's two-car garage (\$7,200 per garage bay). Yet, in the Market Approach
8 adjustment for Sale No.2, the four-car garage is adjusted -\$4,000 for \$2,000 per bay.
9 Even with the 16% physical depreciation, this does not reconcile.

10 8. The garage cost at \$30 per square foot (less 16% depreciation equals a cost
11 of \$25.50 per square foot) does not reconcile with the Market Approach to Value house
12 size adjustment at \$20 per square foot. The main gross living area should command more
13 than unfinished garage space.

14 9. Sale No. 1 at 2420 Joy Lane sold out of foreclosure at \$195,675. This sale's
15 contract date was June 13, 2008 but no time adjustment was made.

16 10. The appraisal report stated conventional financing when in fact (as
17 evidenced in the workfile), the financing was FHA with approximately 1.5% down
18 payment. There was no adjustment for time, nor was there evidence that terms and
19 conditions of sale were analyzed.

20 11. Also with respect to Sale No. 1, there was no supporting data or
21 explanation for age adjustment at \$500 per year and it was reported as having a two-car
22 garage when in fact, it has a three-car garage. There was also no supporting data for
23 functional utility adjustment.

24 12. With respect to Sale No. 2 located at 5220 Jackrabbit Drive: it was a
25 foreclosure sale at \$195,000 with a contract date of June 13, 2008. Again, Respondent
26 stated that the sale was conventional financing when factually it sold FHA with

1 approximately 1.5% down payment. Moreover, this sale was not adjusted for time nor
2 analyzed for sales and financing concessions.

3 13. As with Sale No. 1, a \$500 per year age adjustment was reported without
4 support or explanation. Size adjustment and functionality adjustments were made without
5 support or explanation.

6 14. A physical inspection revealed that this property (Sale No. 2) had an RV
7 garage. Photos and MLS, as well as physical inspection, revealed the conversion of the
8 garage into guest quarters. This was not disclosed or analyzed in the work file or the
9 appraisal report.

10 15. Sale No. 3 at 5210 LaCuadra Drive was financed via VA, not conventional
11 as stated in the report. Per data in the workfile, this sale had a sale date of April 9, 2008,
12 for time adjustment purposes. Additionally, this sale has a detached 4 car garage and not
13 a two car garage as stated in the report.

14 16. Again, age, size and functional utility adjustments were not supported or
15 explained.

16 17. Listing no. 4 at 2032 Mountain View Court is standard subdivision cul-de-
17 sac lot. This sale was not adjusted for room count, size and functional utility. Also, per
18 the MLS, this sale has a community pool which was not disclosed and no adjustment was
19 made.

20 CONCLUSIONS OF LAW

21 2868

22 1. Pursuant to A.R.S. § 32-3635, a certified or licensed appraiser in the State
23 of Arizona must comply with the standards of practice adopted by the Board. The
24 Standards of Practice adopted by the Board are codified in the USPAP edition applicable
25 at the time of the appraisal.

26

1 The conduct described above constitutes violations of the following provisions of
2 the USPAP, 2008-2009 edition:

3 Standards Rule 1-1(a), (b) and (c); Standards Rule 1-2(b); Standards Rule 1-
4 4(b)(i), (ii) and (iii); Standards Rule 2-1(a); Standards Rule 2-2(b)(viii); and Ethics Rule--
5 -Recordkeeping.

6 2869

7 2. Pursuant to A.R.S. § 32-3635, a certified or licensed appraiser in the State
8 of Arizona must comply with the standards of practice adopted by the Board. The
9 Standards of Practice adopted by the Board are codified in the USPAP edition applicable
10 at the time of the appraisal.

11 The conduct described above constitutes violations of the following provisions of
12 the USPAP, 2008-2009 edition:

13 Standards Rule 1-1(a), (b) and (c); Standards Rule 1-2(b); Standards Rule 1-4(b)(i),
14 (ii) and (iii); Standards Rule 2-1(a); Standards Rule 2-2(b)(viii); Ethics Rule--
15 Recordkeeping; and Scope of Work Rule---Acceptability.

16 ORDER

17 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties
18 agree to the following:

19 1. **Upon the effective date of this Consent Agreement, Respondent's**
20 **Certificate as a Certified Residential Appraiser shall be placed on probation for a**
21 **minimum period of six (6) months.** During probation, Respondent shall comply with
22 USPAP, Arizona Revised Statutes and Appraisal Board rules.

23 2. Respondent shall successfully complete the following education within **six**
24 **(6) months** of the effective date of this Consent Agreement: **Seven (7) hours of Cost**
25 **Approach; seven (7) hours of Manufactured Homes; seven (7) hours of Sales**
26 **Comparison Approach and seven (7) hours of USPAP Update for the 2010-2011**

1 **edition.** The education under this paragraph **may not** be counted toward the continuing
2 education requirements for the renewal of Respondent's certificate **however, the seven**
3 **(7) hour USPAP update course may be counted toward the continuing education**
4 **requirements for the renewal of Respondent's certificate.** The same class may not be
5 repeated to fulfill the education requirements of this Consent Agreement

6 3. Proof of completion of the required education must be submitted to the
7 Board within 3 weeks of completion of the required course.

8 4. During the term of probation, Respondent shall: (a) demonstrate resolution
9 of the problems that resulted in this disciplinary action; and (b) otherwise comply with
10 the terms of this Consent Agreement.

11 5. During the period of probation, Respondent shall complete a minimum of
12 **twelve (12) appraisal reports** under the supervision of an Arizona Certified Residential
13 or Certified General Appraiser who shall serve as Respondent's mentor ("Mentor").

14 6. During the probationary period, the Respondent shall not issue a verbal or
15 written appraisal, appraisal review, or consulting assignment without prior review and
16 approval by a Mentor. Each report shall **either** be signed by the Mentor as a supervisory
17 appraiser **or** the Mentor must complete a written review of each report ensuring that the
18 report complies with USPAP and the Board's statutes and rules. The Mentor's review
19 shall comply with the requirements of Standard 3 of the USPAP. The Mentor's Standard
20 3 review shall be completed before the report is issued to the client. Any changes the
21 Mentor requires to ensure the report complies with the USPAP shall be completed by the
22 Respondent and approved by the Mentor before the report is issued. The Mentor's written
23 Standard 3 review shall be maintained by the Mentor and made available to the Board
24 upon request.

25 7. The Mentor must be approved by the Board and is subject to removal by
26 the Board for nonperformance of the terms of this Consent Agreement. The Mentor may

1 not have a business relationship with Respondent except for the Mentor/Mentee
2 relationship nor may the Mentor be related to Respondent. Any replacement Mentor is
3 subject to the Board's approval and the remaining terms of this Consent Agreement. The
4 Board's Executive Director may give temporary approval of the Mentor until the next
5 regular meeting of the Board.

6 8. Not more than **30 days** after the effective date of this Consent Agreement,
7 Respondent shall submit to the Board the name and resume of an Arizona Certified
8 Residential or Arizona Certified General Appraiser who is willing to serve as
9 Respondent's Mentor together with a letter from the potential Mentor agreeing to serve as
10 Respondent's Mentor. If requested by Board staff, Respondent shall continue to submit
11 names, resumes, and letters agreeing to serve as Mentor until a Mentor is approved by the
12 Board. Any Mentor must be approved in writing by the Board.

13 9. Respondent shall bear all costs and expenses associated with the
14 mentorship and incurred by attending the courses.

15 10. The Mentor shall submit monthly reports to the Board for each calendar
16 month during Respondent's probationary period reflecting the quantity and quality of
17 Respondent's work, including, but not limited to, improvement in Respondent's practice
18 and resolution of those problems that prompted this action. The Mentor's report shall be
19 filed monthly beginning the 15th day of the first month following the start of
20 Respondent's probationary period and continuing each month thereafter until termination
21 of the probationary period by the Board. **Even if the Mentor reviews no appraisals**
22 **during a given month, a report stating that no appraisals were reviewed or**
23 **approved must be submitted.** It is the Respondent's responsibility to ensure that the
24 Mentor submits his/her reports monthly. If the monthly reporting date falls on a
25 Saturday, Sunday, or holiday, the report is due on the next business day. The monthly
26 report may be filed by mail or facsimile.

1 11. The Respondent shall file an appraisal log with the Board on a monthly
2 basis listing every Arizona appraisal that she has completed within the prior calendar
3 month by property address, appraisal type, valuation date, the Mentor's review date, the
4 date the appraisal was issued, and the number of hours worked on each assignment. The
5 report log shall be filed monthly beginning the 15th day of the first month following the
6 start of Respondent's probationary period and continuing each month thereafter until the
7 Board terminates the probation. If the log reporting date falls on a Saturday, Sunday, or
8 holiday, the report log is due on the next business day. **Even if Respondent performs**
9 **no appraisals within a given month, she must still file an appraisal log with the**
10 **Board showing that no appraisals were performed.** The monthly log report may be
11 filed by mail or facsimile.

12 12. The Board reserves the right to audit any of Respondent's reports and
13 conduct peer review, as deemed necessary, during the probationary period. The Board
14 may, in its discretion, seek separate disciplinary action against the Respondent for any
15 violation of the applicable statutes and rules discovered in an audit of the Respondent's
16 appraisal reports provided to the Board under the terms of this Consent Agreement.

17 13. Respondent's probation, including mentorship, shall continue until: (a)
18 Respondent petitions the Board for termination as provided in paragraph 14, and (b) the
19 Board terminates the probation and mentorship. Upon petition by the Respondent for
20 termination of the probation and mentorship, the Board will select and audit 3 of
21 Respondent's appraisal reports.

22 14. At the end of **six (6) months** from the effective date of this Consent
23 Agreement, the Respondent may petition the Board for termination of her mentorship and
24 probation. If the Board determines that Respondent has not complied with **all** the
25 requirements of this Consent Agreement, the Board, at its sole discretion, may either: (a)
26 continue the probation, including mentorship; or (b) institute proceedings for

1 noncompliance with this Consent Agreement, which may result in suspension,
2 revocation, or other disciplinary and/or remedial action.

3 15. Respondent shall not act as a supervising appraiser for other appraisers or
4 trainees, nor shall she act as a mentor, during the term of the probation. Respondent shall
5 also not teach any course related to real estate appraisals during the term of the probation.

6 16. Respondent shall comply with the Uniform Standards of Professional
7 Appraisal Practice in performing all appraisals and all Board statutes and rules.

8 17. If, between the effective date of this Consent Agreement and the
9 termination of Respondent's probation by the Board, Respondent fails to renew her
10 license while under this Consent Agreement and subsequently applies for a license or
11 certificate, the remaining terms of this Consent Agreement, including probation and
12 mentorship, shall be imposed if the application for license or certificate is granted.

13 18. Respondent has read and understands this Consent Agreement as set forth
14 herein, and has had the opportunity to discuss this Consent Agreement with an attorney
15 or has waived the opportunity to discuss this Consent Agreement with an attorney.
16 Respondent voluntarily enters into this Consent Agreement for the purpose of avoiding
17 the expense and uncertainty of an administrative hearing.

18 19. Respondent understands that she has a right to a public administrative
19 hearing concerning each and every allegation set forth in the above-captioned matter, at
20 which administrative hearing she could present evidence and cross-examine witnesses.
21 By entering into this Consent Agreement, Respondent freely and voluntarily relinquishes
22 all rights to such an administrative hearing, as well as all rights of rehearing, review,
23 reconsideration, appeal, judicial review or any other administrative and/or judicial action,
24 concerning the matters set forth herein. Respondent affirmatively agrees that this Consent
25 Agreement shall be irrevocable.

26

1 20. Respondent understands that this Consent Agreement, or any part thereof,
2 may be considered in any future disciplinary action against her.

3 21. The parties agree that this Consent Agreement constitutes final resolution
4 of this disciplinary matter.

5 22. Time is of the essence with regard to this agreement.

6 23. If Respondent fails to comply with the terms of this Consent Agreement,
7 the Board shall properly institute proceedings for noncompliance with this Consent
8 Agreement, which may result in suspension, revocation, or other disciplinary and/or
9 remedial actions. Respondent agrees that any violation of this Consent Agreement is a
10 violation of A.R.S. § 32-3631(A)(8), which is willfully disregarding or violating any of
11 the provisions of the Board's statutes or the rules of the Board for the administration and
12 enforcement of its statutes.

13 24. Respondent understands that this Consent Agreement does not constitute a
14 dismissal or resolution of other matters currently pending before the Board, if any, and
15 does not constitute any waiver, express or implied, of the Board's statutory authority or
16 jurisdiction regard any other pending or future investigation, action or proceeding.
17 Respondent also understands that acceptance of this Consent Agreement does not
18 preclude any other agency, subdivision or officer of this state from instituting other civil
19 or criminal proceedings with respect to the conduct that is the subject of this Consent
20 Agreement.

21 25. Respondent understands that the foregoing Consent Agreement shall not
22 become effective unless and until adopted by the Board of Appraisal and executed on
23 behalf of the Board. Any modification to this original document is ineffective and void
24 unless mutually approved by the parties in writing.

25 26. Respondent understands that this Consent Agreement is a public record that
26 may be publicly disseminated as a formal action of the Board.

RECEIVED
2010 JUL 22 PM 12:31
ARIZONA BOARD OF APPRAISAL

1 27. Pursuant to the Board's Substantive Policy Statement #1, the Board
2 considers the violations in the above-referenced matters to constitute to a **Level III**

3 **Violation.**

4 DATED this 28 day of July, 2010.

5
6 Lydia A. Mireles
7 Lydia A. Mireles
8 Respondent

Daniel Pietropaulo
Daniel Pietropaulo
Executive Director
Arizona Board of Appraisal

9
10 ORIGINAL of the foregoing filed
11 this 28 day of July, 2010 with:

12 Arizona Board of Appraisal
13 1400 West Washington Street, Suite 360
14 Phoenix, Arizona 85007

15 COPY of the foregoing mailed regular
16 and certified mail 7009 1680 0000 7387 6332
17 this 28 day of July, 2010 to:

18 Ms. Lydia A. Mireles
19 449 Chablis Court
20 Bullhead City, AZ 86249

21 COPY of the foregoing sent or delivered
22 this 28 day of July, 2010 to:

23 Jeanne M. Galvin
24 Assistant Attorney General
25 Arizona Attorney General's Office
26 1275 West Washington, CIV/LES
Phoenix, Arizona 85007

By: Rebecca M. Loar
846684