

RECEIVED

JAN 27 2015

BEFORE THE ARIZONA STATE BOARD OF APPRAISAL

Arizona State Board of Appraisal
15th Ave., Suite 103A
Phoenix, AZ 85007

IN THE MATTER OF:

BRIAN E. SCOTT
Licensed Residential Appraiser
License No. 10413

CASE No. 3728

**CONSENT AGREEMENT AND
ORDER OF DISCIPLINE**

In the interest of a prompt and judicious settlement of the above-captioned matter before the Arizona Board of Appraisal ("Board") and consistent with public interest, statutory requirements and responsibilities of the Board, and pursuant to A.R.S. § 32-3601 *et seq.* and A.R.S. § 41-1092.07(F)(5), Brian E. Scott ("Respondent"), holder of License No. 10413 and the Board enter into this Consent Agreement, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as the final disposition of this matter.

On December 19, 2014, the Board held an Informal Hearing to discuss case no. 3728. Respondent appeared personally and on his own behalf. At the conclusion of its consideration of the matter, the Board voted to offer the Respondent a Consent Agreement and Order of Discipline in lieu of further administrative proceedings.

JURISDICTION

1. The Arizona State Board of Appraisal ("Board") is the state agency authorized pursuant to A.R.S. § 32-3601 *et seq.*, and the rules promulgated thereunder, found in the Arizona Administrative Code ("A.A.C." or "rules") at R4-46-101 *et seq.*, to regulate and control the licensing and certification of real property appraisers in the State of Arizona.

2. Respondent holds a license as a Licensed Residential Appraiser in the State of Arizona, License No. 10413 issued on June 24, 1996, pursuant to A.R.S. § 32-3612.

CONSENT AGREEMENT

Respondent understands and agrees that:

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

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

5. Respondent has a right to a public hearing concerning this case. He further acknowledges that at such formal hearing he could present evidence and cross-examine witnesses. Respondent irrevocably waives his right to such a hearing.

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

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

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

...
...
...

1 FINDINGS OF FACT

2 On or about October 6, 2014, the Board's investigation revealed the following:

3 9. This complaint involves an appraisal by Respondent of a single family
4 residence located at 9465 S. Redbird Road, Safford, AZ with an effective date of value of
5 June 23, 2014.

6 10. Respondent admitted that he did not measure or inspect the interior of the
7 upper level of the subject but rather, relied upon exterior measurements from the ground
8 level. This resulted in an understatement of the GLA and does not represent an adequate
9 inspection of the subject.

10 11. Respondent's failure to measure the entire property resulted in the
11 inaccurate reporting of the subject size.

12 12. Respondent's sketch was also inaccurate in that Respondent did not reflect
13 the subject's dormers. Moreover, Respondent's workfile did not contain an MLS or
14 public records data sheets for comparables 1 through 5. The workfile does not meet the
15 minimum requirements of USPAP to reflect the data, information and documentation
16 necessary to support Respondent's opinions and conclusions.

17 13. There is no indication in the Respondent's workfile that he adequately
18 collected or verified any of the sales data.

19 14. Many features of the comparables are reported inaccurately. Specifically,
20 Comparable 1 is reported to have sold for \$155,000, but is reflected in both MLS and
21 public records as selling for \$150,000. Comparable 2 is reported to have sold for
22 \$195,000 but is reflected in both MLS and public records as selling for \$155,000.
23 Additionally, the site area of comparable 2 is reported to be 1.0 acre, but is reflected in
24 both MLS and public records as being approximately 10,000 SF. In addition, the GLA of
25 Comparable 2 is reported to be 1, 719 SF, but is reflected in both MLS and public records
26

1 as 1,616 SF. Comparable 3 is reported to have sold with a VA loan and no concessions,
2 but MLS reports \$2,250 in seller concessions.

3 15. Additionally, adjustments for differences in site size are applied at the same
4 dollar amount for comparables with 1.06 acres and 5,227 SF.

5 16. Overall, there was very little commentary on any of the adjustments applied
6 to the comparables.

7 17. These errors lead to a misleading appraisal report and the report did not
8 contain sufficient information to enable the intended user of the appraisal to understand
9 the report properly.

10 **CONCLUSIONS OF LAW**

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

15 The conduct described above constitutes violations of the following provisions of
16 the USPAP, 2014-2015 edition:

17 **Standards Rule 1-1(b) and (c); Standards Rule 1-2 (e) and (h); Standards**
18 **Rule 1-4 (a); Standards Rule 2-1(a) and (b); and Standards Rule 2-2(a)(iii) and**
19 **(viii).**

20 **ORDER**

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

23 1. Respondent shall complete the following education within six (6) months of
24 the effective date of this Consent Agreement: a **seven (7) hour course in Report**
25 **Writing and a fifteen (15) hour USPAP course (with an exam).** The education
26 required under this paragraph **may not be counted toward the continuing education**

1 requirements for the renewal of Respondent's certificate. The coursework may be
2 **completed through distance education.** Proof of completion of the required education
3 must be submitted to the Board within 3 weeks of completion of the required coursework.
4 Respondent shall be responsible for all costs associated with completing the coursework
5 as required in this paragraph.

6 2. In addition, within six months of the effective date of this Consent
7 Agreement, Respondent shall attend a minimum of **two (2) regularly scheduled in-**
8 **person Board meetings for a minimum of three hours each for a total of at least six**
9 **hours. It is recommended that Respondent attend the morning session of the Board**
10 **meetings, if possible.** Within 14 days of Respondent's attendance at a Board meeting he
11 shall submit to the Board proof of his attendance at a meeting. The proof may consist of
12 an agenda for the Board meeting signed by the Board's Executive Director or designated
13 staff member (noting sign-in and sign-out times) or other such proof as determined by the
14 Board's Executive Director.

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

20 4. Respondent understands that he has a right to a public administrative
21 hearing concerning each and every allegation set forth in the above-captioned matter, at
22 which administrative hearing he could present evidence and cross-examine witnesses. By
23 entering into this Consent Agreement, Respondent freely and voluntarily relinquishes all
24 rights to such an administrative hearing, as well as all rights of rehearing, review,
25 reconsideration, appeal, judicial review or any other administrative and/or judicial action,
26

1 concerning the matters set forth herein. Respondent affirmatively agrees that this Consent
2 Agreement shall be irrevocable.

3 5. Respondent understands that this Consent Agreement, or any part thereof,
4 may be considered in any future disciplinary action against him.

5 6. The parties agree that this Consent Agreement constitutes final resolution
6 of this disciplinary matter.

7 7. Time is of the essence with regard to this agreement.

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

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

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

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

3 12. Pursuant to the Board's Substantive Policy Statement #1, the Board
4 considers the violations in the above-referenced matter to constitute to a **Level III**
5 **Violation.**

6 DATED this ²⁷~~22~~ day of January, 2015.

7
8
9 

10 Brian E. Scott
11 Respondent



12 Debra Rudd
13 Executive Director
14 Arizona Board of Appraisal

15 **ORIGINAL** of the foregoing filed
16 this 27th day of January, 2015 with:

17 Arizona Board of Appraisal
18 1400 West Washington Street, Suite 360
19 Phoenix, Arizona 85007

20 **COPY** of the foregoing mailed regular
21 and certified mail ^{#7912 3050 0002 0740 9644}
22 this 27th day of January, 2015 to:

23 Brian E. Scott
24 P.O. Box 466
25 Safford, AZ 85548

26 **COPY** of the foregoing sent or delivered
this 27th day of January, 2015 to:

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

By: 
#4293411 Kelly Luteijn