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BEFORE THE ARIZONA STATE BOARD OF APPRAISAL

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ARIZONA BOARD OF APPRAISAL

In the Matter of :

Case No. 2303

VINCENT M. BRENNAN
Certified Residential Appraiser
Certificate No. 20497

**CONSENT AGREEMENT AND ORDER
OF DISCIPLINE**

On April 19, 2007, the Arizona Board of Appraisal (“Board”) discussed Case No. 2303 regarding Vincent M. Brennan (“Respondent”). After reviewing the information presented, the Board voted to offer Respondent the opportunity to enter into this Consent Agreement and Order of Discipline (“Consent Agreement”).

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 is a Certified Residential Appraiser in the State of Arizona, holder of Certificate No. 20497, issued on September 8, 1992, pursuant to A.R.S. § 32-3612.

FINDINGS OF FACT

1. This case involves the appraisal of property located at 18413 West Mauna Loa Lane, Surprise, Arizona, with an effective date of September 4, 2006.

1 2. The Board received a complaint on or about November 28, 2006. The
2 complaint alleged that Respondent committed an act and/or omission involving
3 dishonesty, fraud and/or misrepresentation. Additionally, the complaint alleged that the
4 Respondent accepted an appraisal assignment for a fee contingent upon the opinion,
5 conclusion or was conditioned upon a predetermined estimate of value.
6

7 3. The complainant stated that the purchase price of the home was \$468,541,
8 however, the buyer's initial appraisal performed by a different appraiser, reported a
9 market value of \$435,000. A second appraisal was ordered and performed by
10 Respondent, which yielded a market value of \$480,000.
11

12 4. The Board's investigation revealed the following deficiencies with the
13 report prepared by Respondent:

14 a. Respondent failed to adjust the comparable data for variance in base
15 price between the date of contract and the date of the appraisal, and did not
16 accurately adjust for differences between the comparable data relative to lot
17 premiums, upgrades and other factors, if any, impacting value;
18

19 b. The adjustments made to the three model match comparable sales in
20 the immediate area included errors that impacted the final market value
21 conclusion;
22

23 c. The sales adjustment grid in the report had a number of errors in the
24 grid, based on information provided by the builder. The errors included a failure
25 to accurately adjust for differences in comparable sale base price between the date
26

1 of contract and the date of the appraisal, lot premiums, and differences in amount
2 of upgrades. These errors could potentially be misleading;

3 d. Without additional information regarding differences in comparable
4 sale base prices between the date of contract and the date of the appraisal,
5 differences in lot premiums, and differences in amount of upgrades, insufficient
6 information is present to understand the report properly;

8 e. The legal description in the appraisal report is incorrect;

9 f. The flood map panel number in the appraisal report is incorrect;

10 g. The Respondent did not have signed copies of the report given to the
11 client. As a result, the work file does not have a true copy of the report forwarded
12 to the client.
13

14 CONCLUSIONS OF LAW

15 1. Pursuant to A.R.S. § 32-3635, a certified or licensed appraiser in the State
16 of Arizona must comply with the standards of practice adopted by the Board. The
17 Standards of Practice adopted by the Board are codified in the USPAP edition applicable
18 at the time of the appraisal.
19

20 2. The conduct described above constitutes violations of the following
21 provisions of the USPAP, 2006 edition: Standards Rule 1-1(a); Standards Rule 1-1(b);
22 Standards Rule 1-1(c); Standards Rule 2-1(a); Standards Rule 2-1(b); and Ethics Rule –
23 Record Keeping Section.
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ORDER

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

4 1. Beginning on the effective date of this Consent Agreement,
5 Respondent's Certificate No. 20497 shall be placed on probation for a minimum of six
6 (6) months. During the term of probation, Respondent shall: (a) demonstrate
7 resolution of the problems that resulted in this disciplinary action; and (b) otherwise
8 comply with the terms of this Consent Agreement.

9 2. Respondent shall successfully complete the following education within
10 **six (6) months** of the effective date of this Consent Agreement: A 15 hour qualifying
11 USPAP course (with exam). Within three (3) weeks after completion of the course,
12 Respondent must submit proof of successful completion to the Board.

13 3. The education required under paragraph 2 may not be counted toward
14 the continuing education requirements for the renewal of Respondent's certificate.

15 4. Respondent shall bear all costs and expenses incurred in attending the
16 course.

17 5. Respondent's probation shall continue until: (a) Respondent petitions
18 the Board for termination as provided in paragraph 6, and (b) the Board terminates the
19 probation.

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

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

3 7. Respondent shall not act as a supervising appraiser for other appraisers or
4 trainees, nor shall he 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 8. Respondent shall comply with the Uniform Standards of Professional
7 Appraisal Practice in performing all appraisals.

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

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

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

1 12. Respondent understands that his Consent Agreement, or any part
2 thereof, may be considered in any future disciplinary action against him.

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

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

6 15. 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. Any violation of this Consent Agreement is a violation of A.R.S. §
10 32-3631(A)(8), which is willfully disregarding or violating any of the provisions of
11 the Board's statutes or the rules of the Board for the administration and enforcement
12 of its statutes.

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

21 17. 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
24 void unless mutually approved by the parties in writing.

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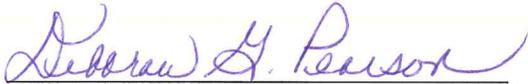
1 18. Respondent understands that this Consent Agreement is a public record
2 that may be publicly disseminated as a formal action of the Board.

3 19. Pursuant to the Board's Substantive Policy Statement #1, the Board
4 considers this violation to amount to a Level III Violation.

5 DATED this 10th day of ~~August~~ ^{September}, 2007.

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8 Vincent M. Brennan, Respondent

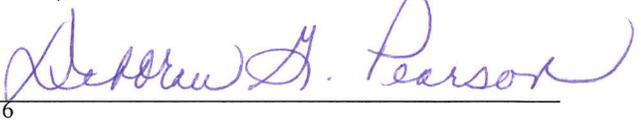


Deborah G. Pearson, Executive Director
Arizona Board of Appraisal

9
10 **ORIGINAL** of the foregoing filed
11 this 10th day of ~~August~~ ^{September}, 2007 with:
12 Arizona Board of Appraisal
13 1400 West Washington Street, Suite 360
14 Phoenix, Arizona 85007

15 **COPY** of the foregoing mailed regular and U.S.
16 Certified Mail # 7006 0100 0002 8652 4650
17 this 10th day of ~~August~~ ^{September}, 2007 to:
18 Vincent M. Brennan
19 2378 E. Virgo Place
20 Chandler, Arizona 85249
21 Respondent

22 **COPY** of the foregoing sent or delivered
23 this 10th day of ~~August~~ ^{September}, 2007 to:
24 Dawn Walton Lee
25 Assistant Attorney General
26 Arizona Attorney General's Office
1275 West Washington, CIV/LES
Phoenix, Arizona 85007

By: 
#48136