

1 **BEFORE THE ARIZONA STATE BOARD OF APPRAISAL**

2 In the Matter of:

3 **CAROLYN A. FOX**
4 Certified Residential Appraiser
5 Certificate No. 21878
 21787

Case No. 3112

**CONSENT AGREEMENT AND
ORDER FOR VOLUNTARY
SURRENDER**

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7 In the interest of a prompt and judicious settlement of the above-captioned matter
8 before the Arizona Board of Appraisal (“Board”) and consistent with public interest,
9 statutory requirements and responsibilities of the Board, and pursuant to A.R.S. § 32-3601
10 *et seq.* and A.R.S. § 41-1092.07(F)(5), Carolyn A. Fox (“Respondent”), holder of
11 Certificate No. 3112 and the Board enter into this Consent Agreement, Factual
12 Allegations, and Order (“Consent Agreement”) as the final disposition of this matter.

13 On December 16, 2010 the Board met to discuss Case No. 3112. Respondent did
14 not appear personally but was represented by counsel, Craighton T. Boates. At the
15 conclusion of the Board’s discussion of this matter, the Board voted to offer the
16 Respondent a Consent Agreement and Order For Voluntary Surrender in lieu of further
17 administrative proceedings.

18 **JURISDICTION**

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

24 2. Respondent holds a certificate as a Certified Residential Appraiser in the
25 State of Arizona, Certificate No. 21787 issued on December 19, 2007, pursuant to A.R.S.
26 § 32-3612.

1 FACTUAL ALLEGATIONS

2 On or about December 16, 2010, the Board's investigation revealed the following:

3 1. On or about October 1997, Respondent was appointed as the Trustee of The
4 Sophie Melnychuk Irrevocable Trust ("Trust"). Respondent was a one-third beneficiary
5 of the Trust, as were each of her two sisters, Joan DeCosa and Phyllis A. Doherty ("Ms.
6 Doherty").

7 2. With respect to the Trust, on about February 2008, Ms. Doherty filed in the
8 Maricopa County Superior Court a Petition to Compel Trustee to Submit Financial
9 Account to Beneficiary; Petition to Terminate Trustee and Appointment of New Trustee;
10 Breach of Fiduciary Duty; Petition to Compel Distribution (Case No. PB2008-070028).

11 3. On March 12, 2009, Superior Court Commissioner Stephen Kupiszewski
12 issued a signed minute entry Ruling in which he determined that Respondent "ha[d]
13 breached her fiduciary duty as Trustee, taking unnecessary and unreasonable risks with
14 the Trust assets," which included lending herself money to purchase a home and failing
15 to record the associated promissory note until after Ms. Doherty initiated the litigation
16 regarding her trusteeship. The Commissioner also ruled that Respondent's use of the
17 Trust's assets as her personal bank was unacceptable and that her "self-dealing" with the
18 Trust's assets "was intolerable in that it created a substantial risk of tremendous harm to
19 the trust." The Commissioner terminated Respondent as Trustee of the Trust.

20 4. On November 9, 2009, the Board received Respondent's Biennial Renewal
21 Application for Certificate No. 21787. In response to Question No. 11 on the application
22 asking "[h]ave you ever been or are you currently a defendant in any type of civil or
23 criminal action involving fraud, misrepresentation, or deceit in this or any other
24 jurisdiction," Respondent answered "No."

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1 appeal, judicial review or any other administrative and/or judicial action, concerning
2 the matters set forth herein. Respondent affirmatively agrees that this Consent
3 Agreement and Order for Voluntary Surrender shall be irrevocable.

4 4. Respondent understands that this Consent Agreement and Order for
5 Voluntary Surrender, or any part thereof, may be considered in any future disciplinary
6 action against her or in any future decision regarding re-certification or licensure.

7 5. The parties agree that this Consent Agreement and Order for Voluntary
8 Surrender constitutes final resolution of this disciplinary matter.

9 6. Time is of the essence with regard to this agreement.

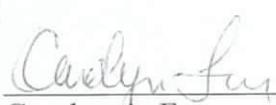
10 7. Respondent understands that this Consent Agreement and Order for
11 Voluntary Surrender does not constitute a dismissal or resolution of other matters
12 currently pending before the Board, if any, and does not constitute any waiver, express
13 or implied, of the Board's statutory authority or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

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

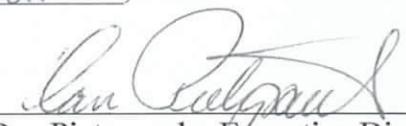
24 9. Respondent understands that this Consent Agreement and Order for
25 Voluntary Surrender is a public record that may be publicly disseminated as a formal
26 action of the Board.

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DATED this 11 day of March, 2011.



Carolyn A. Fox
Respondent



Dan Pietropaulo, Executive Director
Arizona Board of Appraisal

ORIGINAL of the foregoing filed
this 11 day of March, 2011 with:

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

COPY of the foregoing mailed regular
and certified mail 7009 1680 0000 7387 7193
this 11 day of March, 2011 to:

Ms. Carolyn A. Fox
2515 Luciernaqa Street
Carlsbad, CA 92009

COPY of the foregoing mailed regular mail
this 11 day of March, 2011 to:

Mr. Craighton T. Boates
Boates Law Firm
42104 North Venture Drive
Ste. D126
Anthem, AZ 85086
Attorney for Respondent

COPY of the foregoing sent or delivered
this 11 day of March, 2011 to:

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

By: 

1480839
Rebecca M. Loar