

1 2. On or about June 21, 2007, the Board received a complaint alleging that
2 Respondent compared three comparable sales to the subject property from a subdivision
3 approximately 12 miles to the north of the subject property, however, there were other
4 comparable sales available in the immediate subject subdivision that would have
5 provided a lower indication of market value for the subject property.
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7 3. The Board's investigation revealed a number of concerns with the report
8 prepared by Respondent:

9 a. Respondent used what is believed to be an incorrect improvement
10 size for the subject property.

11 b. The report did not include an opinion of reasonable exposure time.

12 c. In the investigator's opinion, other comparable data from the
13 immediate subject subdivision would have been available to the Respondent for
14 consideration in arriving at an opinion of market value for the subject property.
15 These comparable sales from within the immediate subdivision would logically
16 have been considered by a potential buyer.
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18 d. The report failed to provide an analysis of additional comparable
19 sales from within the immediate market area that would arguably suggest a
20 different market value.
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22 e. The report can not be fully understood without consideration,
23 discussion, and analysis of other recent comparable sales from within the
24 immediate subject market area.
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1 f. Based on a consideration of the information available, it appeared to
2 the Board that Respondent did not analyze other seemingly more similar recent
3 comparable sales data from the immediate subject subdivision.

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5 4. In response, Respondent has advised the Board of the following:

6 a. The Property was located in a new home subdivision development,
7 and as of the time of the preparation of the appraisal report, the homes and lots in the
8 development were being offered for sale by the subdivision developer, utilizing an on-site
9 sales staff. Prior sales of record within the subdivision and immediate vicinity of the
10 Property had not occurred recently, but instead approximately a year prior.

11 b. Considering the rising market at the time, Respondent found it
12 appropriate to review more recent comparable sales outside the subdivision in which the
13 Property is located. Comparable sales were not available within the immediate vicinity
14 of the subdivision, because the immediately surrounding neighborhood was sparsely
15 developed and consisted of manufactured homes, and mostly older smaller custom homes
16 not comparable to the subject property. Additional immediate surroundings consisted of
17 undeveloped mountain land, farmland, vacant land, highway and commercial property.

18 c. While it was later discovered that certain other sales of nearby lots
19 had been pending as of the time of the report, those sales were neither listed on a local
20 MLS, nor were they a matter of public record, and had not closed. Respondent
21 affirmatively represents that he specifically inquired with the on-site sales representative
22 of the seller/developer, and was expressly advised by that individual that there were no
23 other sales pending. Respondent reviewed the developer's written advertisements
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1 containing the official sales prices for the lots and homes available, and found the listed
2 prices to be consistent with the sales price of the subject Property.

3 d. The investigator advised in his observations and conclusions that in
4 his opinion "it is possible that Pinal county was tardy in the recording of some of the
5 comparable sales, however, there is no reason to believe that the builder's sales office
6 would not have provided comparable pending and sold data to the appraiser, particularly
7 in view of the fact that the appraisal was being completed on one of the builder's homes."
8 To the contrary, however, there were no pending or closed sales to support the sales price
9 of the Property. In addition, the builder's sales office did have an incentive not to
10 provide such information to Respondent; had it disclosed the pending closings with
11 special "discounts," it would reasonably have been concerned that such comparable sales
12 information would not have supported the contract price of the subject Property.
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17 CONCLUSIONS OF LAW

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

22 2. The conduct described above constitutes violations of the following
23 provisions of the USPAP, 2005 edition: Standards Rule 1-1(b); Standards Rule 1-1(c);
24 Standards Rule 1-2(c)(i)(ii)(iii)(iv); Standards Rule 1-4(a); Standards Rule 1-6(a);
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26

1 Standards Rule 2-1(a); Standards Rule 2-1(b); Standards Rule 2-2(b)(v), and SMT-6;
2 Standards Rule 2-2(b)(ix), and Ethics Rule – Conduct.
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5 **ORDER**

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

8 1. Beginning on the effective date of this Consent Agreement,
9 Respondent's Certificate No. 20423 shall be on probation for a period of six (6)
10 months. During the term of probation, Respondent shall: (a) demonstrate resolution
11 of the problems that resulted in this disciplinary action; and (b) otherwise comply with
12 the terms of this Consent Agreement. Respondent's license shall also be subject to a
13 suspension period of **thirty (30) days**, which shall be stayed pending successful
14 completion of the terms of probation, and Respondent shall be entitled to continue
15 appraisal practice subject to the probation terms. Upon completion of the probation
16 term, such completion shall be deemed satisfaction of (and in lieu) of the suspension
17 period.

18 2. Information received by the Board that Respondent is in non-compliance
19 with this Order and/or the terms of probation such as, but not limited to, issuing a
20 verbal or written appraisal without the benefit of a Mentor as set forth below or failing
21 to file the required monthly logs shall be investigated by Board staff and reviewed and
22 substantiated by the Board's Executive Director. If so investigated, reviewed and
23 substantiated, such information and evidence shall be considered as non-compliance
24 with the terms of this Order and the Board staff shall provide Respondent written
25 notification via certified mail of the alleged non-compliance and issue an Intention to
26 Lift Stay of Thirty-Day Suspension. The Intention to Lift Stay of Thirty-Day

1 Suspension shall be heard by the Board at its next regularly scheduled meeting, after
2 complying with all notice requirements, to determine if lifting of the stay is supported
3 by substantial evidence. The Board's decision to lift the stay of the thirty-day
4 suspension shall not be subject to further review.

5 3. During the period of probation, Respondent shall complete a minimum
6 of **twenty-four (24) appraisal reports** under the supervision of an Arizona Certified
7 Residential or Certified General Appraiser who shall serve as Respondent's mentor
8 ("Mentor");

9 4. Respondent shall successfully complete the following education within
10 **six (6) months** of the effective date of this Consent Agreement: A minimum of six
11 (6) hours in mortgage fraud and a minimum of six (6) hours in Sales Comparison
12 Approach/Market Analysis. Proof of completion of the required education must be
13 submitted to the Board within 3 weeks of completion of the required course(s).

14 5. The education required under paragraph 3 may not be counted toward
15 the continuing education requirements for the renewal of Respondent's certificate.
16 The same class may not be repeated to fulfill the education requirements of this
17 Consent Agreement.

18 6. **During the probationary period, the Respondent shall not issue a**
19 **verbal or written appraisal, appraisal review, or consulting assignment without**
20 **prior review and approval by a Mentor.** Each report shall be signed by the Mentor
21 as a supervisory appraiser.

22 7. The Mentor must be approved by the Board and is subject to removal by
23 the Board for nonperformance of the terms of this Consent Agreement. The Mentor
24 may not have a business relationship with Respondent or be related to respondent.
25 Any replacement Mentor is subject to the Board's approval and the remaining terms

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1 of this Consent Agreement. The Board's Executive Director may give temporary
2 approval of the Mentor until the next regular meeting of the Board.

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

10 9. Respondent shall bear all costs and expenses associated with the
11 mentorship and incurred in attended the courses.

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

24 11. The Respondent shall file an appraisal log with the Board on a monthly
25 basis listing every Arizona appraisal that she has completed within the prior calendar
26 month by property address, appraisal type, valuation date, the Mentor's review date,

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

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

15 13. Respondent's probation, including mentorship, shall continue until: (a)
16 Respondent petitions the Board for termination as provided in paragraph 14, and (b)
17 the Board terminates the probation and mentorship. Upon petition by the Respondent
18 for termination of the probation and mentorship, the Board will select and audit 4 of
19 Respondent's appraisal reports.

20 14. 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 mentorship
22 and probation. If the Board determines that Respondent has not complied with **all** the
23 requirements of this Consent Agreement, the Board, at its sole discretion, may either:
24 (a) continue the probation, including mentorship; or (b) institute proceedings for
25 noncompliance with this Consent Agreement, which may result in suspension,
26 revocation, or other disciplinary and/or remedial action.

1 15. Respondent shall not act as a supervising appraiser for other appraisers or
2 trainees, nor shall he act as a mentor, during the term of the probation. Respondent shall
3 also not teach any course related to real estate appraisals during the term of the probation.
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5 16. Respondent shall comply with the Uniform Standards of Professional
6 Appraisal Practice in performing all appraisals and all Board statutes and rules.

7 17. Respondent understands and agrees that a suspension is a disciplinary
8 action and is a matter of public record in your Board file, and may be used in any
9 future disciplinary proceeding.

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

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

20 20. 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,
22 at which administrative hearing he could present evidence and cross-examine
23 witnesses. By entering into this Consent Agreement, Respondent freely and
24 voluntarily relinquishes all rights to such an administrative hearing, as well as all
25 rights of rehearing, review, reconsideration, appeal, judicial review or any other
26 administrative and/or judicial action, concerning the matters set forth herein.
Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

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

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

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

6 24. 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
11 of the provisions of the Board's statutes or the rules of the Board for the
12 administration and enforcement of its statutes.

13 25. 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 26. 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.

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

1 **COPY** of the foregoing sent
Interagency mail this ~~15th~~ day of ~~December, 2008.~~
2 *January 2009*

3 Jeanne M. Galvin
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6 By *Andrew G. Pearson*
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