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THE ARIZONA BOARD OF APPRAISAL

In the Matter of :

SHAWKAT E. HALABU,
Certified Residential Appraiser
Certificate No. 21341,

Respondent.

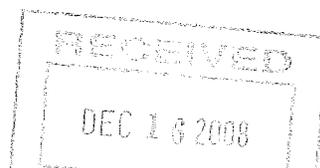
Case Nos. 08F-2462-BOA; 08F-2463-BOA;
08F-2457-BOA; 08F-2464-BOA;
08F-2465-BOA; 08F-2466-BOA;
08F-2467-BOA; 08F-2468-BOA;
08F-2469-BOA

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER OF PROBATION**

On December 11, 2008, the Arizona Board of Appraisal ("Board") met to consider the Administrative Law Judge Decision of Brian Brenden Tully in the above-captioned matter. Shawkat E. Halabu appeared. The State was represented by Jeanne M. Galvin, Assistant Attorney General. The Board received independent legal advice from Christopher Munns, Assistant Attorney General from the Solicitor General's Office.

The Board, having reviewed the administrative record and the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order in this matter, and having considered the written and/or oral arguments of the parties and fully deliberating the same, takes the following actions on the recommended decision:

1. The Board hereby accepts the Findings of Fact of the Administrative Law Judge with modifications requested by the State to correct typographical errors and to be consistent with the testimony and evidence presented at the hearing.
2. The Board hereby accepts the Conclusions of Law of the Administrative Law Judge.
3. The Board hereby accepts the Order of the Administrative Law Judge with modifications to include the Board's standard language regarding probation decisions.
4. The Findings of Fact, Conclusions of Law and Order shall read as follows:



FINDINGS OF FACT

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1. The Arizona Board of Appraisal ("Board") is the authority for licensing, certifying and regulating the practice of appraisal in the State of Arizona.

2. There are three categories of appraisers: licensed appraiser; certified residential appraiser (who can appraise all residential real estate); and, certified general appraiser (who can appraise all residential and commercial real estate).

3. Shawkat E. Halabu ("Respondent") is the holder of Certified Residential Appraiser Certificate No. 21341 issued by the Board on March 10, 2006.

4. Respondent is a civil engineer and a licensed building contractor in Arizona and Michigan.

5. The practice of appraisal in Arizona is governed by the Uniform Standards of Professional Appraisal Practice ("USPAP") promulgated by The Appraisal Foundation. The USPAP edition adopted by the Board that is applicable in these consolidated matters is the USPAP 2006 edition ("USPAP 2006").

6. On or about August 1, 2007, the Board received a Real Estate Appraiser Violation Complaint ("Complaint") from Doron Jampolsky, president of Lending House Financial Corp. The Complaint was executed on June 8, 2007. The Complaint had been resubmitted to the Board after the first filing was returned as insufficient.

7. The Complaint alleged numerous violations by Respondent, who had been retained by Lending House Financial Corp. to perform appraisal services.

8. On or about September 16, 2008, the Board through its Executive Director, Deborah G. Pearson, issued a Complaint and Notice of Hearing in the following cases against Respondent: Case No. 2462; Case No. 2463; Case No. 2464; Case No. 2465; Case No. 2466; Case No. 2467; Case No. 2468, and, Case No. 2469.

1 19. The Board's next criticism is the following: "Respondent incorrectly reports that
2 Comparable Sale #1 had not sold in the previous year."

3 20. Ms. Thoms testified that the effect on not listing the previous year's sale was to
4 possibly overstate its value.

5 21. Respondent's appraisal report states "no prior sale" for Comparable Sale #1.
6 However, an August 15, 2006 sale appears in the county records.

7 22. The Board's next criticism is the following: "All three comparable sales had some
8 level of updating but Respondent does not provide any detail on updating, if any, to the subject
9 property. Nor does Respondent discuss the condition of the subject property at the time of the
10 prior sale (1/07) and at the time of appraisal."

11 23. There was some updating of the comparable sales. Respondent's appraisal
12 report had no discussion for the subject property and the comparables. Respondent did not
13 provide enough information.

14 24. The Board's next criticism is the following: "It is reasonably clear from the
15 conclusions of the Cost Approach that the Respondent was plugging in numbers to permit the
16 Cost Approach to equal or exceed the reported conclusion of value from the Sales Comparison
17 Approach. Information in the Cost Approach Section is not supported by Marshall and Swift
18 Residential Cost Handbook."

19 25. Respondent listed a valuation for dwelling of \$120.00 per square foot. Ms.
20 Thoms was unable to arrive at the value. Using Marshall & Swift, she gave a valuation of
21 \$79.38 per square foot for reproductive costs.

22 26. Respondent's valuation of \$120.00 per square foot over values replacement
23 costs using Marshall & Swift.

24 27. Respondent used the extraction method for establishing site value. However,
25 Respondent's appraisal report does not establish support for his site value.
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1 39. Respondent's appraisal report describes the zoning classification for the subject
2 property as "Residential." It further describes the zoning description as "R-8/Residential with
3 8,000 SF Minimum (100%)."

4 40. The subject property's correct zoning is R1-8 single family residential.

5 41. The Board's next criticism is the following: "With respect to Comparable Sale #1,
6 the Respondent noted the incorrect sale price and recording date; Respondent notes the
7 considerable updating and remodeling but does not discuss such detail on the property."

8 42. Respondent's appraisal report states that there had been no prior sales of
9 Comparable Sale #1. However, that property had actually been sold on March 23, 2007.

10 43. Respondent failed to support his conclusion that considerable updating and
11 remodeling of that property had taken place.

12 44. The Board's next criticism is the following: "The Respondent incorrectly notes
13 the number of bedrooms and bathrooms for Comparable Sale #3.

14 45. Respondent's appraisal report lists Comparable Sale #3 with four bedrooms and
15 2.5 bathrooms. The Multiple Listing Service ("MLS") listed the property as having three
16 bedrooms with two bathrooms.

17 46. The Board's next criticism is the following: "None of the comparable sales
18 appear to have sold within one year prior to the date of sale used in the appraisal report." The
19 Board withdrew this criticism at the hearing.

20 47. The Board's next criticism is the following: "An adjustment was not made to the
21 three comparable sales for what is believed to be superior quality relating to the concrete roof."

22 48. Ms. Thoms testified that the concrete tile roof is more expensive to install, and
23 has a higher value than an asphalt roof; and if not, it should be discussed.¹

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25 ¹Transcript, p. 88, lines 11-17. The Board makes this modification to be consistent with the evidence presented at
26 the hearing.

1 49. Respondent's appraisal report states that the subject property has an asphalt
2 shingle roof in good condition. However, the MLS described the subject property as having a
3 concrete tile roof. Respondent failed to discuss this issued in his appraisal report.

4 50. The Board's next criticism of Respondent's appraisal report is the following: "It is
5 reasonable to expect the Respondent should have considered other comparable sales from the
6 immediate Book and Map as a result of the fact it appears the overall price level of the subject
7 Book and Map is lower than the price level of homes from other nearby subdivisions. Other
8 comparable data would be considered highly comparable date, relative to immediate location,
9 for comparison to the subject property."

10 51. Respondent did go outside the Book and Map for the subject property.
11 Respondent contends that he still was within a one mile radius of the subject property.

12 52. Ms. Thoms testified that she found comparables within the subject property's
13 Book and Map that should have been considered by Respondent. She opined that by going
14 outside the subject property's Book and Map, Respondent used higher value comparables that
15 could be misleading.

16 53. The Board's next criticism of Respondent's work is the following: "It is
17 reasonably clear from the conclusion of the Cost approach that the Respondent was plugging in
18 numbers to permit the Cost Approach conclusion to equal or exceed the reported conclusion of
19 value from the Sales Comparison approach."

20 54. Respondent contends that he used Marshall & Swift to arrive at a value of
21 \$120.00 per square foot.

22 55. Ms. Thoms reviewed Respondent's work file and opined that there is no basis for
23 Respondent's \$120.00 per square foot valuation.

24 56. The Board's next criticism is the following: "The appraisal report does not contain
25 an estimate of exposure period."
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1 65. Maricopa County records show that the subject property has an improvement
2 size of 945 square feet. Respondent's appraisal report contains an improvement size of 1,346
3 square feet.

4 66. Respondent should have explained the variance between the improvement size
5 shown in the Maricopa County records and his appraisal report. It appears that the variance is
6 due to an addition to the house located on the subject property. Respondent failed to explain
7 the addition in his appraisal report.

8 67. Respondent's failure to explain the variance in the improvement size of the
9 subject property was an error affecting the credibility of the appraisal report.

10 68. The Board's next criticism is the following: "The Respondent incorrectly states
11 the subject property zoning in the appraisal report."

12 69. Respondent did not properly list the zoning for the subject property.

13 70. The Board's next criticism is the following: "Regarding the description of the
14 property, the Respondent states that the home has an effective age of five years but this is in
15 contrast to the actual physical age of the property of 23 years. The Respondent provides no
16 information or detail in the appraisal explaining why the effective age is that of a near new
17 home."

18 71. The house on the subject property was built in 1983.

19 72. Respondent gave an effective age of the home as five years.

20 73. Respondent gave no explanation or analysis for his assessing the effective age
21 of the home as five years.

22 74. The Board's next criticism is the following: "The Respondent used a depreciation
23 factor of 8% in the Cost Approach which would be in line with an effective age of five years;
24 however, the report is lacking in providing an understanding for the basis for the stated effective
25 age." See Finding No. 73 above.

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1 75. The Board's next criticism is the following: "With respect to Comparable Sale #1,
2 the address was noted incorrectly on the report, there was no adjustment for the Arizona
3 Room/Lanai, nor was there an adjustment for the evaporative cooling system in addition to the
4 central air conditioning."

5 76. Respondent did list the wrong street address for Comparable Sale #1 in his
6 appraisal report.

7 77. Respondent failed to discuss the Arizona Room/Lanai, the evaporative cooling
8 system and the central air conditioning in his appraisal report.

9 78. Respondent testified that if an evaporative cooling system is calcified, then he
10 does not include it in his appraisal report. However, he could not recall if the subject property's
11 evaporative cooling system was calcified. In any case, Respondent should have addressed the
12 evaporative cooling system in his appraisal report.

13 79. Respondent failed to make adjustments for the Arizona Room/Lanai, the
14 evaporative cooling system and the central air conditioning.

15 80. The Board's next criticism is the following: "The Respondent states that
16 Comparable Sale #2 was in 'average condition' when in fact it had been extensively remodeled
17 and updated. This Comparable had also been sold during the past year but the Respondent
18 indicated on the FNMA form that it had not."

19 81. The Comparable had been extensively remodeled and the appraisal report
20 should have noted that fact.

21 82. County records reflect that Comparable Sale #2 had sold on August 11, 2005 for
22 \$95,000.00. Since Comparable Sale #2 sold more than a year from the effective date of
23 Respondent's appraisal report, he was not required to disclose that sale. Therefore, the Board's
24 criticism that he failed to disclose the sale is not justified.

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1 83. At the hearing, the Board withdrew the following criticism: "Respondent does not
2 clearly identify the intended user on the appraisal report as required by USPAP."

3 84. The Board's next criticism is the following: "The Respondent does not discuss
4 whether in fact, the subject property was updated or remodeled but did state the subject
5 property had an effective age of five years which suggest the property underwent a very
6 significant amount of updating and modernization which would help justify Respondent's
7 conclusion of value (near the upper end). However, because Respondent was silent with
8 respect to the subject property's updating/remodeling, it is not known if it was updated."

9 85. Respondent's appraisal report should have contained an analysis for the effective
10 age of five years for the subject property's residence.

11 86. The following is the Board's next criticism: "It is clear from the conclusion of the
12 Cost Approach that the Respondent was plugging in numbers to permit the Cost Approach
13 conclusion to equal or exceed the reported conclusion of value from the Sales Comparison
14 approach."

15 87. There is no support for the valuation of \$110.00 per square foot for the dwelling
16 in either the appraisal report or Respondent's work file.

17 88. There is no support for the site valuation of \$80,000.00. Ms. Thoms testified that
18 each comparable has to be looked at individually, but Respondent failed to do that analysis.

19 89. The Board's next criticism is the following: "The appraisal report does not contain
20 an estimate of exposure period." The evidence of record supports this criticism.

21 90. The Board's next criticism is the following: "The Respondent states that the
22 appraisal is a 'Complete Appraisal' as opposed to a 'Limited Appraisal' but the terms 'Complete'
23 and 'Limited' ceased to exist with the 2006 version of USPAP." Respondent has admitted to
24 this criticism.

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1 100. The Board's next criticism is the following: "Regarding the description of the
2 property, the Respondent states that the home has an effective age of fifteen years but this is in
3 contract to the actual physical age of the property of 61 years. The Respondent provides no
4 information or detail in the appraisal explaining why the effective age is fifteen years other than
5 to state it had been remodeled. While the Respondent does use a depreciation factor of 25% in
6 the Cost Approach, this would be in general alignment with an effective age of fifteen years but
7 the report does not provide an understanding of the basis for the effective age of fifteen years."

8 101. The house located on the subject property was constructed in 1945.

9 102. Respondent's appraisal report does not adequately explain the basis for his
10 giving the property an effective age of 15 years.

11 103. The Board's next criticism is the following: "With respect to the Comparable
12 Sales, the Respondent does not adequately discuss the total improvement area of Comparable
13 Sale #3 that has both a main house and a guest house, nor is it clear what factors were
14 considered when making adjustments. It is unclear if the adjustment Respondent made to
15 Comparable Sale #1 recognized that there was no heat to the property and that the air
16 conditioning did not work."

17 104. Comparable Sale #2 consists of a main house and a guest house. Respondent's
18 appraisal report does not contain a discussion of a guest house. The appraisal report does not
19 explain if the square footage being used includes the guest house.

20 105. MLS states that Comparable Sale #1 has no heating and that the air conditioning
21 unit did not work. The grid used by Respondent has heat.

22 106. The Board's next criticism is the following: "While Respondent rates the subject
23 property and all three Comparable Sales as being in 'average' condition, there was no detail
24 regarding the fact that the subject was noted with an effective age of fifteen years compared to
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1 the actual physical age of 61 years. Nor was there any information in the workfile [sic] or MLS
2 sheets regarding condition or extent of updating/remodeling." See Finding No. 102 above.

3 107. The Board's next criticism is the following: "It is clear from the conclusion of the
4 Cost Approach that the Respondent was plugging in numbers to permit the Cost Approach
5 conclusion to equal or exceed the reported conclusion of value from the Sales Comparison
6 approach."

7 108. Respondent's valuation of \$100.00 per square foot for the dwelling is not
8 supported by Marshall & Swift, which Respondent used to establish the value.

9 109. Respondent's appraisal report does not have support for his site value of
10 \$70,000.00.

11 110. Respondent's professional opinion and experience were not discussed in the
12 Cost Approach.

13 111. The Board's next criticism is the following: "In the appraisal report, the
14 Respondent did not provide an estimate of exposure period." The evidence of record supports
15 this criticism.

16 112. The Board's next criticism is the following: "It does not appear that the
17 Comparable Sales were confirmed by a party to the transactions." This criticism was not
18 adequately addressed at the hearing.

19 113. The Board's next criticism is the following: "The Respondent's conclusion of
20 unsupported cost data would conceivable be misleading to a client." The evidence of record
21 would support this criticism since any unsupported data could be misleading to a client.

22 114. The Board's next criticism is the following: "Information in the Cost Approach
23 Section of the appraisal is not supported by Marshall & Swift Residential Cost Handbook." This
24 criticism is supported by the evidence of record.

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1 124. The sale of Comparable #1 never closed. Respondent relied on MLS data which
2 showed it had closed. Respondent did not further investigate the sale.

3 125. The Board's next criticism is the following: "It appears that Comparable Sale #2
4 was likely in superior condition compared to the subject property but the appraisal report lacked
5 sufficient detail on the condition of the subject property other than to say it had an effective age
6 of five years." The evidence of record supports this criticism.

7 126. The Board's next criticism is the following: "With respect to Comparable Sale #3,
8 the Respondent does not mention that it is on a golf course or that it has a sports court in the
9 backyard nor were adjustments made for these differences in comparison to the subject and
10 therefore, would result in an indication above the correctly adjusted indicated market value of
11 this comparable sale."

12 127. Respondent's appraisal report failed to mention that Comparable Sale #3 was on
13 a golf course and had a sports court.

14 128. The Board's next criticism is the following: "It is reasonable to expect the
15 Respondent should have considered other comparable sales from the immediate Book and
16 Map. Comparable Sale #2 was from the subject Book and Map; however, at least three other
17 sales were available from the subject Book and Map."

18 129. Ms. Thoms located three other Comparable Sales closer to the subject property,
19 instead of the Comparable Sales used by Respondent within a mile radius of the subject
20 property. The three Comparable Sales found by Ms. Thoms were not found in Respondent's
21 work file.

22 130. The Board's next criticism is the following: "Although the Respondent notes the
23 prior sale of the subject property on December 15, 2005, the Respondent fails to analyze this
24 sale, particularly in view of the fact the appraised market value of \$275,000 was 13.2% above
25 the previous sale price in a market that was experiencing a cooling."
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1 131. Respondent provided no analysis of the subject property's prior sale

2 132. The Board's next criticism is the following: "The Respondent's conclusion of
3 value of the subject property appears to be at the extreme upper limits of value when viewing
4 other data." The Board failed to address this criticism at the hearing.

5 133. The Board's next criticism is the following: "In the appraisal report, the
6 Respondent did not provide an estimate of exposure period." This criticism is supported by the
7 evidence of record.

8 134. Respondent agreed with the Board's criticism of his use of the term "Complete
9 Appraisal," which ceased to exist with the USPAP 2006.

10 135. The Board's further criticism that Respondent's "appraisal report is identified as
11 both a Self-Contained and a Summary appraisal report; it would be one or the other but not
12 both" is supported by the evidence of record.

13 136. The Board withdrew the criticism that Respondent failed to identify the intended
14 user of the appraisal report.

15 137. There is insufficient evidence to support Complaint items 1(k), (l) and (n), which
16 are incorporated herein by reference.

17 **Case No. 2467**

18 138. The subject property is located at 6644 W. Virginia Avenue, Phoenix, Arizona
19 85035.

20 139. The effective date of Respondent's Appraisal of Property is November 21, 2006.

21 140. The Board's first criticism is the following: "There is a discrepancy between
22 Maricopa County records and the appraisal report relating to subject improvement size. The
23 Respondent does not note or discuss the discrepancy but it appears from the photographs
24 included in the appraisal report that the subject property has a garage that was converted into
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1 living area. The Respondent does not discuss the garage conversion, the date of conversion or
2 whether a building permit was issued for the conversion.”

3 141. Maricopa County records show the subject site size as 6,813 square feet.
4 Respondent’s appraisal report lists the subject size as 6,811 square feet. The Maricopa County
5 records show the subject improvement size to be 1,064 square feet. Respondent’s appraisal
6 report shows the subject improvement size to be 1,296 square feet. Respondent failed to
7 comment on those variances.

8 142. Respondent testified that the Maricopa County records showed the subject
9 improvement to have a one car carport. He opined that one knows that there is an addition at
10 the end of the driveway and that such an addition is illegal. That is the exact type of discussion
11 Respondent should have put in his appraisal report.

12 143. Respondent listing the zoning incorrectly for the subject property. Respondent’s
13 appraisal report lists the zoning as 0131-R3 Single Family Residential. The correct zoning is
14 R1-6 Single Family Residential.

15 144. The Board’s next criticism is the following: “Regarding the description of the
16 subject property, the Respondent states that the home has an effective age of ten years but this
17 is in contract to the actual physical age of the property of 35 years. The Respondent provides
18 no information or detail in the appraisal explaining why the effective age is 10 years other than
19 to state it had been remodeled. The Respondent does use a depreciation factor of 17% in the
20 Cost Approach which would be in alignment with a property with an effective age of 10 years but
21 the Respondent does not provide an understanding of the basis for the effective age of ten
22 years.”

23 145. Respondent’s appraisal report and his work file contain no justification for an
24 effective age of ten years for the subject improvement.
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1 146. The Board's next criticism is the following: "The Respondent's conclusion of
2 unsupported cost data would conceivably be misleading to a client." The evidence of record
3 supports this criticism. Any unsupported data can be misleading to a client.

4 147. The evidence of record supports the criticism that Respondent's Cost Approach
5 Section of the appraisal is not supported by Marshall & Swift.

6 148. The Board's next criticism is the following: "With respect to Comparable Sale #2,
7 the Respondent does not comment or discuss the property's Arizona Room/Lanai nor is any
8 type of adjustment made for the feature."

9 149. Respondent's appraisal report failed to disclose the Comparable Sale #2 Arizona
10 Room/Lanai.

11 150. The Board's criticism that the Comparable Sales were not confirmed by a party to
12 the transaction was not addressed at the hearing.

13 151. The Board's next criticism is the following: "It is reasonably clear from the
14 conclusion of the Cost Approach that the Respondent was plugging in numbers to permit the
15 Cost Approach to equal or exceed the reported conclusion of value from the Sales Comparison
16 Approach. The Respondent falls short of leading the reader to his conclusion of market value."
17 The evidence of records supports this criticism.

18 152. Respondent conceded that he incorrectly used the term "Complete Appraisal"
19 since that term ceased with the USPAP 2006.

20 153. The evidence of record supports the Board's criticism that Respondent's
21 appraisal is identified as both a Self-Contained and a Summary appraisal report, when it can
22 only be one or the other.

23 154. There is insufficient evidence of record to support the following criticism by the
24 Board: "The fact that Comparable Sales #1 and 2 had Lanai/Arizona Rooms and Comparable
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1 Sale #1 had a sauna, yet they received no adjustment that would indicate errors were made that
2 probably would have affected the results of the appraisal.”

3 155. At the hearing the Board withdrew its criticism that Respondent did not identify
4 the intended user of his appraisal report.

5 *Case No. 2468*

6 156. The subject property is located at 11023 North 45th Drive, Glendale, Arizona
7 85304.

8 157. The effective date of Respondent's Appraisal of Property is December 27, 2006.

9 158. The Board's first criticism is the following: "The Respondent notes the zoning of
10 the subject property incorrectly."

11 159. Respondent's appraisal report states that the subject property zoning is 0132-R3
12 Single Family Residential. The correct zoning is R1-6 Single Family Residential.

13 160. The Board's next criticism is the following. "Regarding the description of the
14 subject property, the Respondent states that the home has an effective age of ten years but this
15 is in contract to the actual physical age of the property of 33 years. The Respondent provides
16 no information or detail in the appraisal explaining why the effective age is 10 years. The
17 Respondent uses a depreciation factor of 17% in the Cost Approach which would be in
18 alignment with a property with an effective age of 10 years but the Respondent does not provide
19 an understanding of the basis for the effective age of ten years."

20 161. Respondent failed to provide information or detail to support his effective age of
21 10 years in his appraisal report.

22 162. The Board's next criticism is the following: "The adjustment grid states that the
23 subject property is in 'average condition' but data suggests that the subject property has
24 apparently had considerable remodeling (tile, cabinets, etc.). Good appraisal practice would
25 normally result in a discussion of the level of updating/remodeling. An effective age of 10 years
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1 and a physical age of 33 years suggest the property, compared to other properties in the market
2 area, may merit a 'good' condition rating. In addition, the subject property backs up to a canal
3 and has a lot that is considerably larger than the typical lot in the subdivision."

4 163. Ms. Thoms opined that the subject property should have received a "good
5 condition" rating versus an "average condition" rating due to the extensive remodeling and
6 Respondent's determination of an effective age of 10 years for an improvement with a physical
7 age of 33 years. Ms. Thoms also testified that no MLS data was found in Respondent's work
8 file.

9 164. The Board's next criticism is the following: "The Respondent fails to provide any
10 detail or analysis on any of the prior sales of the subject property. For instance, the appraised
11 value of \$295,000 represents an increase of 18% over the prior sale in January 2006 for
12 \$250,000."

13 165. Respondent failed to analyze prior sales as required by USPAP 2006.

14 166. The Board's next criticism is the following: "With respect to Comparable Sale #3,
15 the Respondent noted that there were no prior sales of the property in the last year and that is
16 an incorrect statement."

17 167. Ms. Thoms' research disclosed that Comparable Sale #3 had been sold on
18 February 3, 2006 for \$200,000.00.

19 168. The Board's next criticism is the following: "The Respondent notes that the
20 subject property is framed construction while the comparables are block but the does not adjust
21 for this difference."

22 169. Each of the comparables is a block construction. Respondent failed to make any
23 adjustment or discussion.

24 170. Marshall & Swift makes a distinction between framed construction and block
25 construction.

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1 171. Respondent admitted his error concerning the quality of construction between the
2 subject property and the comparables.

3 172. Complaint item 1(g), which is incorporated herein by reference, is not supported
4 by the evidence of record.

5 173. Respondent claims to have used Marshall & Swift in the Cost Approach Section
6 of the appraisal. However, Ms. Thoms credibly testified that Marshall & Swift do not justify
7 Respondent's valuation of \$120.00 per square foot for the dwelling. She further testified that
8 Respondent failed to justify that valuation.

9 174. The Board did not address Complaint items 1(i) and (j) at the hearing, the terms
10 of which are incorporated herein by reference.

11 175. Respondent's appraisal report does not provide an estimate of exposure period
12 as required by USPAP 2006.

13 176. Respondent admitted that he wrongly used the term "Complete Appraisal", which
14 is a term that ceased to be used with USPAP 2006.

15 177. Respondent's appraisal report is identified as both a Self-Contained and a
16 Summary Appraisal. It can be one or the other, but it cannot be both.

17 **Case No. 2469**

18 178. The subject property is located at 1222 North 39th Avenue, Phoenix, Arizona
19 85009.

20 179. The effective date of Respondent's Appraisal of Property is December 5, 2006.

21 180. Respondent did not accurately report the zoning of the subject property.
22 Respondent's appraisal report states the subject property zoning is 0131-R3 Single Family
23 Residential. The correct zoning is R1-6 Single Family Residential.

24 181. The Board's criticism of Respondent is as follows: "Regarding the description of
25 the subject property, the Respondent states that the home has an effective age of ten years but
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1 this is in contract to the actual physical age of the property of 42 years. The Respondent
2 provides little explanatory information in the appraisal for this effective age except to say that
3 the home has been completely remodeled.”

4 182. Respondent's appraisal report fails to provide any detail to substantiate the
5 conclusion that the subject improvement has an effective age of ten years other than to
6 comment that it has been remodeled.

7 183. The Board's next criticism is as follows: “The Respondent uses a depreciation
8 factor of 17% in the Cost Approach which would be in alignment with a property with an
9 effective age of 10 years but the Respondent does not provide an understanding of the basis for
10 the effective age of ten years.”

11 184. See Finding No. 182. In addition, Ms. Thoms' report states that an
12 “MLS sheet has apparently had considerable remodeling, including 'new interior/exterior paint,
13 new berber carpet, new ceramic tile in kitchen and bathrooms, new light fixtures, new counter
14 tops in kitchen, new bath tub/shower surround and vanity in hall bath, and newer heat pump
15 unit.”

16 185. Respondent's appraisal report states that the subject property is a “sub/average”
17 location. The subject property is in the vicinity of Interstate 10 and one lot from an industrial
18 property. Respondent's appraisal report fails to comment on the subject property's location in
19 relationship to the freeway or the industrial property.

20 186. The Board's next criticism is the following: “The subject property is located in
21 close proximity to Interstate 10 and therefore, would be subject to considerable traffic noise and
22 fumes. However, the Respondent's appraisal report does not provide any comment on the
23 subject's location in relationship to the freeway. See Finding No. 85.

24 187. The Board's next criticism is the following: “With respect to Comparable Sale #2,
25 the Respondent failed to note in the appraisal report that the property had evaporative cooling in
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1 addition to air conditioning. Additionally, Comparable Sale #2 is also in close proximity to
2 Interstate 10 and the Respondent fails to comment on this fact."

3 188. Respondent did not mention the evaporative cooling unit in the appraisal report.
4 See Finding No. 185.

5 189. The Board failed to adequately address Complaint items 1(f), (g) and (h) at the
6 hearing.

7 190. Respondent's appraisal report does not contain an estimate of exposure time.

8 191. Respondent conceded that the appraisal report was incorrectly described as a
9 'Complete Appraisal,' even though that term ceased to exist with the USPAP 2006.

10 192. Respondent's appraisal report is identified as both a Self-Contained and a
11 Summary Appraisal, although it can only be one or the other, but not both.

12 193. At the hearing, the Board withdrew the criticism that Respondent did not clearly
13 identify the intended user of the appraisal report.

14 ***Matters in Mitigation or Aggravation***

15 194. Respondent freely admitted that he was not familiar with the USPAP 2006.
16 However, he was responsible for being familiar with the USPAP 2006 as a certified real estate
17 appraiser when he performed the above-provided appraisal reports.

18 195. On February 8, 2008, the Arizona School of Real Estate & Business² issued
19 Respondent a Certificate of Education Session Completion for 7 hours of course work in 2008-
20 2009 National USPAP (#ABA 0103-262). That course work was for continuing education and
21 not a prerequisite education course requiring Respondent to complete a required examination.

22
23
24 ²See Respondent's Exhibit 37. The Certification of Educational Session Completion was issued by the Arizona
25 School of Real Estate & Business on a Board-approved form. The Board makes this modification to be consistent
26 with evidence presented at the hearing.

1 Standards Rule 1-5(b); Standards Rule 2-1(a); Standards Rule 2-2(b)(v); and Statement on
2 Appraisal Standards No. 6.

3 **Case No. 2463**

4 7. The conduct described in the above Findings for this case constitutes violations
5 of the following provisions of USPAP 2006: Standards Rule 1-1(b); Standards Rule 1-2(c)(iv);
6 Standards Rule 1-4(a); Standards Rule 1-4(b)(ii); Standards Rule 1-6(a); Standards Rule 2-
7 1(a); Standards Rule 2-1(b); Standards Rule 2-2(b)(v) and (viii); and Statement on Appraisal
8 Standards No. 6.

9 **Case No. 2464**

10 8. The conduct described in the above Findings for this case constitutes violations
11 of the following provisions of USPAP 2006: Standards Rule 1-2(c)(iv); Standards Rule 2-
12 2(b)(v); and Statement on Appraisal Standards No. 6.

13 **Case No. 2465**

14 9. The conduct described in the above Findings for this case constitutes violations
15 of the following provisions of USPAP 2006: Standards Rule 1-2(c)(iv); Standards Rule 1-
16 4(b)(ii); Standards Rule 2-2(b)(v); and Statement on Appraisal Standards No. 6.

17 **Case No. 2466**

18 10. The conduct described in the above Findings for this case constitutes violations
19 of the following provisions of USPAP 2006: Standards Rule 1-1(b) and (c); Standards Rule 1-
20 2(c)(iv); Standards Rule 1-5(b); Standards Rule 1-6(a); Standards Rule 2-1(a) and (b);
21 Standards Rule 2-2(b)(v) and (viii); and Statement on Appraisal Standards No. 6.

22 **Case No. 2467**

23 11. The conduct described in the above Findings for this case constitutes violations
24 of the following provisions of USPAP 2006: Standards Rule 1-2(c)(iv); Standards Rule 1-
25

1 4(b)(ii); Standards Rule 2-1(a); Standards Rule 2-2(b)(v); and Statement on Appraisal
2 Standards No. 6.

3 *Case No. 2468*

4 12. The conduct described in the above Findings for this case constitutes violations
5 of the following provisions of USPAP 2006: Standards Rule 1-1(b); Standards Rule 1-1(c);
6 Standards Rule 1-2(c)(iv); Standards Rule 1-4(b)(ii); Standards Rule 2-1(a); Standards Rule 2-
7 1(b); Standards Rule 2-2(b)(v); and Statement on Appraisal Standards No. 6.

8 *Case No. 2469*

9 13. The conduct described in the above Findings for this case constitutes violations
10 of the following provisions of USPAP 2006: Standards Rule 1-2(c)(iv); Standards Rule 2-
11 2(b)(v); and Statement on Appraisal Standards No. 6.

12 **ORDER OF PROBATION**

13 In issuing this order of discipline, the Board considers its obligations to fairly and
14 consistently administer discipline, its burden to protect the public welfare and safety, as well as
15 all aggravating and mitigating factors presented in the case. Based on the foregoing Findings of
16 Fact and Conclusions of Law, **IT IS HEREBY ORDERED:**

17 1. **Upon the effective date of this Order, Respondent's Certificate as a**
18 **Certified Residential Appraiser shall be placed on probation for a period of twelve (12)**
19 **months commencing on the effective date of the Order.** During probation, Respondent shall
20 comply with USPAP, Arizona Revised Statutes and Appraisal Board rules.

21 2. Respondent shall successfully complete the following education prior to the
22 termination of probation: **a fifteen (15) hour USPAP qualifying course with an examination⁴;**
23 **a minimum of six (6) hours in Mortgage Fraud; a minimum of seven (7) hours in Cost**
24

25 ⁴See Respondent's Exhibit 37. The Board accepts the 15-hour USPAP qualifying course with examination taken by
26 Respondent on 3/25-27/08 (examination 4/4/08) in satisfaction of the USPAP course requirement.

1 **Approach; and a minimum of seven (7) hours in Sales Approach.** The education required
2 above may not be counted toward the continuing education requirements for the renewal of
3 Respondent's certificate and shall be completed within six (6) months of the effective date of
4 this Order. Proof of completion of the required education must be submitted to the Board within
5 3 weeks of completion of the required courses.

6 3. During the term of probation, Respondent shall: (a) demonstrate resolution of the
7 problems that resulted in this disciplinary action; and (b) otherwise comply with the terms of this
8 Order.

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

13 5. **During the probationary period, the Respondent shall not issue a verbal or**
14 **written appraisal, appraisal review, or consulting assignment without prior review and**
15 **approval by a Mentor.** Each report shall be signed by the Mentor as a supervisory appraiser.
16 In the event that Respondent's client will not accept the signature of the Mentor affixed to an
17 assignment as a supervisory appraiser, the Mentor need not co-sign the report, but must
18 complete a written review of each report ensuring that the report complies with USPAP and the
19 Board's statutes and rules. The Mentor's review shall comply with the requirements of Standard
20 3 of the USPAP. The Mentor's Standard 3 review shall be completed before the report is issued
21 to the client. Any changes the Mentor requires to ensure the report complies with the USPAP
22 shall be completed by the Respondent and approved by the Mentor before the report is issued.
23 The Mentor's written Standard 3 review shall be maintained by the Mentor and made available
24 to the Board upon request. In order to invoke these provisions, the Respondent must submit
25 proof to the Board with his monthly log showing that his client's policies prevent co-signature by
26

1 the Mentor. After twelve months, the requirement of pre-approval of appraisals by a Mentor
2 may be terminated upon approval by the Board if Respondent has complied with the conditions
3 set out in this Order.

4 6. The Mentor must be approved by the Board and is subject to removal by the
5 Board for nonperformance of the terms of this Order. The Mentor may not have a business
6 relationship with Respondent except for the Mentor/Mentee relationship nor may the Mentor be
7 related to Respondent. Any replacement Mentor is subject to the Board's approval and the
8 remaining terms of this Order. The Board's Executive Director may give temporary approval of
9 the Mentor until the next regular meeting of the Board.

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

17 8. Respondent shall bear all costs and expenses associated with the mentorship
18 and incurred in attending the required courses.

19 9. The Mentor shall submit monthly reports to the Board for each calendar month
20 during Respondent's probationary period reflecting the quantity and quality of Respondent's
21 work, including, but not limited to, improvement in Respondent's practice and resolution of those
22 problems that prompted this action. The Mentor's report shall be filed monthly beginning the
23 15th day of the first month following the start of Respondent's probationary period and continuing
24 each month thereafter until termination of the probationary period by the Board. **Even if the**
25 **Mentor reviews no appraisals during a given month, a report stating that no appraisals**
26

1 were reviewed or approved must be submitted. It is the Respondent's responsibility to
2 ensure that the Mentor submits his/her reports monthly. If the monthly reporting date falls on a
3 Saturday, Sunday, or holiday, the report is due on the next business day. The monthly report
4 may be filed by mail or facsimile.

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

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

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

1 13. At the end of twelve (12) months from the effective date of this Order, the
2 Respondent must petition the Board for termination of his mentorship and probation. If the
3 Board determines that Respondent has not complied with all the requirements of this Order, the
4 Board, at its sole discretion, may institute proceedings for noncompliance with this Order, which
5 may result in suspension, revocation, or other disciplinary and/or remedial action.

6 14. Respondent shall not act as a supervising appraiser for other appraisers or
7 trainees, nor shall he act as a mentor, during the term of the probation. Respondent shall also
8 not teach any course related to real estate appraisals during the term of the probation.

9 15. Respondent shall comply with the Uniform Standards of Professional Appraisal
10 Practice in performing all appraisals and all Board statutes and rules.

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

15 17. Respondent understands that this Order, or any part thereof, may be considered
16 in any future disciplinary action against him.

17 18. If Respondent fails to comply with the terms of this Order, the Board shall
18 properly institute proceedings for noncompliance with this Order, which may result in
19 suspension, revocation, or other disciplinary and/or remedial actions. Respondent understands
20 that any violation of this Order is a violation of A.R.S. § 32-3631(A)(8), which is willfully
21 disregarding or violating any of the provisions of the Board's statutes or the rules of the Board
22 for the administration and enforcement of its statutes.

23 19. Respondent understands that this Order does not constitute a dismissal or
24 resolution of other matters currently pending before the Board, if any, and does not constitute

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26

1 any waiver, express or implied, of the Board's statutory authority or jurisdiction regard any other
2 pending or future investigation, action or proceeding

3 20. Respondent understands that this Order is a public record that may be publicly
4 disseminated as a formal action of the Board.

5 21. Pursuant to the Board's Substantive Policy Statement #1, the Board considers
6 the violations in the above-mentioned matter to constitute to a **Level III Violation**.

7 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

8 Respondent is hereby notified that he has the right to petition for a rehearing or review.
9 Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or review must be filed
10 with the Board's Executive Director within 30 days after service of this Order and pursuant to
11 A.A.C. R4-46-303, it must set forth legally sufficient reasons for granting a rehearing or review.
12 Service of this order is effective five days after mailing. If a motion for rehearing or review is not
13 filed, the Board's Order becomes effective 35 days after it is mailed to Respondent.

14 Respondent is further notified that the filing of a motion for rehearing or review is
15 required to preserve any rights of appeal to the Superior Court.

16 DATED this 11th day of December, 2008.

17 ARIZONA STATE BOARD OF APPRAISAL

18 By: Deborah G. Pearson
Deborah G. Pearson, Executive Director

19 Copy of the foregoing personally served
20 this 10th day of December, 2008, on:

21 Office of Administrative Hearings
22 1400 West Washington, Suite 101
Phoenix, AZ 85007

23 Copy of the foregoing mailed via regular U.S.
& Certified Mail #7007 2560 0001 3358 8720
24 this 10th day of December, 2008, to:

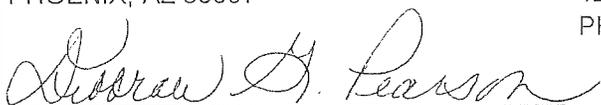
25 SHAWKAT E. HALABU
4301 N. 75TH ST., STE 203
26 SCOTTSDALE, AZ 85251

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Copies of the foregoing sent by interagency
this 10th day of December, 2008, to:

JEANNE M. GALVIN
ASSISTANT ATTORNEY GENERAL
1275 W. WASHINGTON
PHOENIX, AZ 85007

CHRISTOPER MUNNS
ASSISTANT ATTORNEYS GENERAL
SOLICITOR GENERAL'S OFFICE
1275 W. WASHINGTON
PHOENIX, AZ 85007


Deborah G. Pearson