

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

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3 **IN THE MATTER OF:**

ARIZONA BOARD OF APPRAISAL  
**CASE Nos. 2912 and 3136**

4 **FLO C. LEHNUS**  
5 Certified Residential Appraiser  
Certificate No. 20545

**CONSENT AGREEMENT AND  
ORDER OF DISCIPLINE**

6  
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), Flo C. Lehnus ("Respondent"), holder of  
11 Certificate No. 20545 and the Board enter into this Consent Agreement, Findings of Fact,  
12 Conclusions of Law and Order ("Consent Agreement") as the final disposition of this  
13 matter.

14 On January 27, 2012, the Board held an Informal Hearing in case nos. 2912 and  
15 3136. Respondent appeared personally and on her own behalf. At the conclusion of the  
16 Informal Hearing the Board voted to offer the Respondent a Consent Agreement and  
17 Order of Discipline in lieu of further 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. 20545 issued on July 1, 1993, pursuant to A.R.S. § 32-  
26 3612.

CONSENT AGREEMENT

Respondent understands and agrees that:

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

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

3. Respondent has a right to a public hearing concerning this case. She further acknowledges that at such formal hearing she could present evidence and cross-examine witnesses. Respondent irrevocably waives her right to such a hearing.

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

5. 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.

6. 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.

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**FINDINGS OF FACT**

**2912**

On or about June 8, 2011, the Board’s investigation revealed the following:

1. This complaint involves an appraisal conducted and report written by Respondent of real property located at 3030 W. Calle Paulo, Tucson, AZ 85745 with an effective date of value of January 12, 2009.

2. In the Neighborhood Section of the appraisal report, Respondent characterized property values as “stable” with no supporting evidence or explanation in the report or the workfile. Numerous readily available data sources indicate the market was generally declining at the time. The lack of explanation or support for the reported “stable” property values in the face of widely available conflicting data resulted in a misleading description of the market conditions.

3. In the sales Comparison Approach, Respondent did use sales that were among the best available.

4. Comparable Sales 2, 4, and 5 had significantly superior features such as remodeled kitchens with upgraded countertops that were described in the Sales Comparison Approach as “similar” to the subject. The subject was 30 years old and had not been remodeled and with very limited updating. The features were not similar. No adjustments were made. The adjusted sale prices of these three sales were higher than they would have been if the features had been accurately presented. The effect of the superior features was not considered in the analysis of these comparable sales.

5. In addition, there were factual errors regarding price range and lot sizes in the Neighborhood description and an error in the reported living area for Sale 3 in the Sales Comparison Approach.



1 bedroom/2 bath units but no bath count adjustments were made and the differences were  
2 not discussed in the original report. The subject has attached units with shared walls  
3 while the comparables were all detached unit with no shared walls but Respondent did  
4 not disclose this fact in the report. Additionally, the subject had no covered parking and  
5 all of the comparables did but this fact was not disclosed in the report. The subject units  
6 had evaporative cooling and the comparable units had air conditioned (refrigerated) units.  
7 Respondent incorrectly stated that he comparables units had evaporative cooling. These  
8 errors and omissions led to an indicated value by the Sales Comparison Approach that  
9 was significantly higher than was actually warranted.

10         4.       None of the sales used in the report was an independent sale of a single,  
11 four unit income property. All of the sales used were part of multi-parcel transactions,  
12 where the sales of the individual parcels recorded separately but the actual transactions  
13 involved multiple contiguous income properties purchased by the same buyer from the  
14 same seller on the same day. The Respondent failed to disclose in the report, the  
15 circumstances of these transactions and the impact on the value conclusion.

16         5.       Sales of more similar properties were available but were not used in the  
17 report. Failure to include more similar sales resulted in an upward directional bias in the  
18 Sales Comparison analysis.

19         6.       The rental analysis was flawed. All of the comparable rentals were larger,  
20 detached 2 bedroom/2 bath units that were superior to the subject's attached 2 bedroom/1  
21 bath units. Units with two bathrooms rent higher than units with one bathroom I the  
22 subject's market segment. No adjustments were reported. The opinion of market rents  
23 was below the lowest rent of any of the compared unit, with no explanation of the  
24 reconciliation process.

25         7.       There was no analysis of operating expense in the appraisal report or in the  
26 workfile.

1           8.     The income Approach was based on a Gross Monthly Rent Multiplier that  
2 was not supported by the data. The Gross Monthly Rent Multiplier applied to the subject  
3 was significantly higher than the highest multiplier for the comparable sales. As a result,  
4 the indicted value by the Income Approach that was significantly higher than it should  
5 have been.

6           9.     The dwelling cost data in the Cost Approach was not supported by the cited  
7 data source. The reported cost of improvements was approximately twice the cost  
8 actually indicated by the cited data source. As a result, the indicated value by the Cost  
9 Approach was significantly higher than it should have been.

10          10.    Respondent's value conclusion of \$500,000 was exactly the number the  
11 client needed to accomplish the loan condition stated on the appraisal request.  
12 Respondent allowed the loan information in the appraisal request to influence the  
13 appraisal process in a direction that facilitated her client's ability to make the requested  
14 loan. The appraisal was not performed in an impartial, independent manner. There was a  
15 strong directional bias throughout the appraisal.

16          11.    There were several additional errors or omission and commission that  
17 affected the credibility of the report including that the site is undersized for the existing  
18 use. The current zoning allows two units on a lot the size of the subject but the subject  
19 has four units on the site; Respondent did not disclose the undersized parcel in the  
20 appraisal report. Additionally, the report indicates that property has a gravel driveway  
21 and off-street parking for eight cars. However, Respondent does not disclose that the  
22 driveway and parking are located on an adjacent parcel and are not located on the site  
23 itself. The subject has no driveway, no off-street parking and no street frontage.  
24 Moreover, Sale 2 and Rental 2 are the same property but Sale 2 was incorrectly reported  
25 as being 3500 square feet when it was factually 3807 square feet.

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1 **minimum period of six (6) months.** During probation, Respondent shall comply with  
2 USPAP, Arizona Revised Statutes and Appraisal Board rules. The effective date of this  
3 Consent Agreement and Order is the date the Order is signed by the Executive Director  
4 on behalf of the Board.

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

8 3. Respondent shall complete the following education within six (6) months of  
9 the effective date of this Consent Agreement: **a seven (7) hour course in Basic**  
10 **Appraisal (to include market trends); a four (4) hour course in Cost Approach; a**  
11 **seven (7) hour course in Small Residential Income Producing Properties and the**  
12 **seven (7) hour 2012-2013 USPAP Update course.** The education required under this  
13 paragraph may not be counted toward the continuing education requirements for the  
14 renewal of Respondent's certificate except that the seven (7) hour USPAP Update  
15 course may be counted for continuing education requirements. The same class may  
16 not be repeated to fulfill the education requirements of this Consent Agreement.

17 4. Proof of completion of the required education must be submitted to the  
18 Board within 3 weeks of completion of the required coursework. Respondent shall be  
19 responsible for all costs associated with completing the coursework required in paragraph  
20 3.

21 5. During the period of probation, Respondent shall complete a minimum of  
22 **twelve (12) appraisal reports.** The Respondent shall file an appraisal log with the Board  
23 on a monthly basis listing every Arizona appraisal that she has completed within the prior  
24 calendar month by property address, appraisal type, valuation date, the date the appraisal  
25 was issued, and the number of hours worked on each assignment. The log shall be filed  
26 monthly beginning the 1<sup>st</sup> day of the first month following the start of Respondent's

1 probationary period and continuing each month thereafter until the Board terminates the  
2 probation. If the log reporting date falls on a Saturday, Sunday, or holiday, the report log  
3 is due on the next business day. **Even if Respondent performs no appraisals within a**  
4 **given month, she must still file an appraisal log with the Board showing that no**  
5 **appraisals were performed.** The monthly log report may be filed by mail or facsimile.

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

11         7. Respondent's probation, including mentorship, shall continue until: (a)  
12 Respondent petitions the Board for termination as provided in paragraph 8 and (b) the  
13 Board terminates the probation. Upon petition by the Respondent for termination of the  
14 probation, the Board will select and audit 3 of Respondent's appraisal reports.

15         8. At the end of **six (6) months** from the effective date of this Consent  
16 Agreement, the Respondent may petition the Board for termination of her probation. If  
17 the Board determines that Respondent has not complied with **all** the requirements of this  
18 Consent Agreement, the Board, at its sole discretion, may either: (a) continue the  
19 probation or (b) institute proceedings for noncompliance with this Consent Agreement,  
20 which may result in suspension, revocation, or other disciplinary and/or remedial action.

21         9. Respondent shall not act as a supervising appraiser for other appraisers or  
22 trainees, nor shall she act as a mentor, during the term of the probation. Respondent shall  
23 also not teach any course related to real estate appraisals during the term of the probation.

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

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1           11. If, between the effective date of this Consent Agreement and the  
2 termination of Respondent's probation by the Board, Respondent fails to renew her  
3 certificate while under this Consent Agreement and subsequently applies for a license or  
4 certificate, the remaining terms of this Consent Agreement, including probation shall be  
5 imposed if the application for license or certificate is granted.

6           12. Respondent has read and understands this Consent Agreement as set forth  
7 herein, and has had the opportunity to discuss this Consent Agreement with an attorney  
8 or has waived the opportunity to discuss this Consent Agreement with an attorney.  
9 Respondent voluntarily enters into this Consent Agreement for the purpose of avoiding  
10 the expense and uncertainty of an administrative hearing.

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

19           14. Respondent understands that this Consent Agreement, or any part thereof,  
20 may be considered in any future disciplinary action against her.

21           15. The parties agree that this Consent Agreement constitutes final resolution  
22 of this disciplinary matter.

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

24           17. If Respondent fails to comply with the terms of this Consent Agreement,  
25 the Board shall properly institute proceedings for noncompliance with this Consent  
26 Agreement, which may result in suspension, revocation, or other disciplinary and/or

1 remedial actions. Respondent agrees that any violation of this Consent Agreement is a  
2 violation of A.R.S. § 32-3631(A)(8), which is willfully disregarding or violating any of  
3 the provisions of the Board's statutes or the rules of the Board for the administration and  
4 enforcement of its statutes.

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

13       19. Respondent understands that the foregoing Consent Agreement shall not  
14 become effective unless and until adopted by the Board of Appraisal and executed on  
15 behalf of the Board. Any modification to this original document is ineffective and void  
16 unless mutually approved by the parties in writing.

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

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

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DATED this 21<sup>st</sup> day of March, 2012.



Flo C. Lehnus  
Respondent



Dan Pietropaulo  
Executive Director  
Arizona Board of Appraisal

**ORIGINAL** of the foregoing filed  
this 21 day of March, 2012 with:

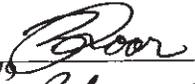
Arizona Board of Appraisal  
1400 West Washington Street, Suite 360  
Phoenix, Arizona 85007

**COPY** of the foregoing mailed regular  
and certified mail 7009 1680 0000 4387 1450  
this 21 day of March, 2012 to:

Flo C. Lehnus  
P.O. Box 36852  
Tucson, AZ 85740

**COPY** of the foregoing sent or delivered  
this 21 day of March, 2012 to:

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

By:   
2604479 Rebecca M. Loar  
Regulatory Compliance Officer