

1 Board was prejudiced by its review and discussion of this document or any records
2 relating thereto.

3 6. The Consent Agreement, once approved by the Board and signed by the
4 Respondent, shall constitute a public record which may be disseminated as a formal
5 action of the Board.

6 **Without admitting or denying the following Findings of Fact and**
7 **Conclusions of Law, Respondent does acknowledge that the Board of Appraisal**
8 **has alleged evidence to support these Findings of Fact and Conclusions of Law.**
9

10 **FINDINGS OF FACT**

11 **Case No. 3071**

12 1. On February 5, 2010, the Board received complaint no. 3071 filed by
13 Ms. Janet L. Ferguson and against Respondent.

14 2. According to the complaint filed by Ms. Ferguson, she paid Respondent
15 \$4,000.00 to conduct an appraisal of properties in Bullhead City, AZ and in Needles,
16 CA. Ms. Ferguson paid Respondent in advance of him completing the appraisals.

17 3. According to Ms. Ferguson, the Respondent never completed the
18 appraisals, kept the \$4,000.00 he was paid by Ms. Ferguson and never responded to
19 her when she attempted to contact him via telephone, email, fax and US mail. Ms.
20 Ferguson was required to hire another appraiser to conduct the appraisals.
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22 4. On or about February 22, 2010, the Board sent Ms. Ferguson's
23 complaint to the Respondent and asked him to respond to the complaint and to
24 provide complete copy of the appraisals and his workfiles for the properties for which
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26

1 he was paid to conduct appraisals. The Respondent failed to timely respond to the
2 complaint nor did he timely provide a copy of the appraisals or the workfiles.

3 5. In accordance with A.R.S. §32-3631(C), on or about July 27, 2010 the
4 Board issued a Subpoena Duces Tecum to the Respondent requiring him to produce
5 the appraisals and workfiles for the above-referenced properties. The Subpoena
6 required the Respondent to produce the documents on or before August 9, 2010.
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8 6. The Respondent did not respond to the Subpoena dated July 27, 2010.

9 **Case No. 3185**

10 1. At its October 21, 2010 Board meeting, the Board considered
11 Respondent's non-compliance with the Subpoena Duces Tecum issued in Case No.
12 3071.
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14 2. At the conclusion of its consideration of the matter, the Board voted to
15 open complaint no. 3185 against Respondent for his failure to respond to the
16 Subpoena Duces Tecum issued to him on July 27, 2010 in case no. 3071.

17 3. On or about November 18, 2010, the Board notified the Respondent in
18 writing of complaint no. 3185 and asked him to submit a written response to the
19 complaint on or before December 18, 2010.
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21 4. Respondent did not timely respond to complaint no. 3185.

22 **Case No. 3195**

23 1. On November 29, 2010, the Board received complaint no. 3195 filed by
24 Mr. Gary Dormanen and against Respondent.
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1 only once after numerous attempts to reach him. Respondent then failed to provide the
2 appraisal as promised. Mr. Workman was required to hire another appraiser and pay a
3 fee for an expedited appraisal when Respondent failed to perform the appraisal for
4 which he was paid.

5 4. On or about December 15, 2010, the Board sent Mr. Workman's
6 complaint to the Respondent and asked him to respond to the complaint and to
7 provide a complete copy of his appraisal and workfile for the property for which
8 he was paid to conduct the appraisal. The Respondent failed to timely respond to the
9 complaint nor did he timely provide a copy of his appraisal and workfile.

11 **Case No. 3226**

12 1. On January 19, 2011, the Board received complaint no. 3226 filed by
13 Ms. Kimberly A. Lane, Esq., on behalf of Lawyers Title Insurance Corporation
14 ("Lawyers Title) and against Respondent.

15 2. According to the complaint filed by Ms. Lane, on or about July 2010,
16 Lawyers Title contacted Respondent and requested that he perform an appraisal of
17 vacant land located near Heber, AZ.

18 3. On or about July 20, 2010, Respondent submitted an Invoice to Lawyers
19 Title in the amount of \$2, 500 for "Appraisal Services on vacant land located near
20 Heber, Az."

21 4. On or about July 21, 2010, Lawyers Title issued a check to Respondent
22 in the amount of \$2, 500 for payment of Respondent's appraisal services and on July
23 27, 2010 Respondent cashed the check.
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1 4. Proof of completion of the required education must be submitted to the
2 Board within 3 weeks of completion of the required course. Respondent shall be
3 responsible for all costs associated with completing the coursework.

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

7 6. Within thirty (30) days of the effective date of this Consent Agreement (the
8 effective date is the date this Consent Agreement is signed by the Executive Director on
9 behalf of the Board) Respondent shall provide to the Board proof of his establishment of
10 an account with United Parcel Service to (1) ensure delivery of each and every appraisal
11 with no additional cost to the client and (2) ensure receipt of written communication from
12 the Board.

13 7. In addition, within thirty (30) days of the effective date of this Consent
14 Agreement, Respondent shall provide to the Board written confirmation of the
15 establishment of a new email account with Google.

16 8. The Respondent shall file an appraisal log with the Board on a monthly
17 basis listing every Arizona appraisal that he has completed within the prior calendar
18 month by property address, appraisal type, valuation date, the date the appraisal was
19 issued, and the number of hours worked on each assignment. The report log shall be filed
20 monthly beginning the 15th day of the first month following the start of Respondent's
21 probationary period and continuing each month thereafter until the Board terminates the
22 probation. **The log shall also set forth the method of delivery Respondent used to**
23 **ensure delivery of each completed appraisal.** If the log reporting date falls on a
24 Saturday, Sunday, or holiday, the report log is due on the next business day. **Even if**
25 **Respondent performs no appraisals within a given month, he must still file an**
26 **appraisal log with the Board showing that no appraisals were performed as well as**

1 **the information regarding restitution set forth in paragraph 10.** The monthly log
2 report may be filed by mail or facsimile.

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

8 10. During the probationary period, Respondent shall make restitution to the
9 complainants in complaint nos. 3071, 3195, 3199 and 3226 for the full amount the
10 complainants paid to Respondent for the appraisals ordered. Specifically, Respondent
11 shall make restitution to the complainants in the following sums: Ms. Janet Ferguson
12 \$4,000; Mr. Gary Dormanen \$750.00; Mr. Don A. Workman \$3,000; and Lawyers Title
13 Insurance Corporation \$2,500. **In addition to the information contained in**
14 **Respondent's monthly logs as set forth in paragraph 8 above, Respondent shall**
15 **include as part of his monthly logs an update to the Board documenting his efforts**
16 **in satisfying the restitution. Respondent's term of probation shall continue until**
17 **Respondent satisfies his restitution obligation to each complainant.**

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

22 12. At the end of **twelve (12) months** from the effective date of this Consent
23 Agreement, the Respondent may petition the Board for termination of his probation. If
24 the Board determines that Respondent has not complied with **all** the requirements of this
25 Consent Agreement, the Board, at its sole discretion, may either: (a) continue the
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1 probation or (b) institute proceedings for noncompliance with this Consent Agreement,
2 which may result in suspension, revocation, or other disciplinary and/or remedial action.

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

6 14. Respondent shall comply with the Uniform Standards of Professional
7 Appraisal Practice in performing all appraisals and all Board statutes and rules.

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

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

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

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

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

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

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

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

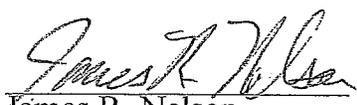
21 23. Respondent understands that the foregoing Consent Agreement shall not
22 become effective unless and until adopted by the Board of Appraisal and executed on
23 behalf of the Board. Any modification to this original document is ineffective and void
24 unless mutually approved by the parties in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

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

1 25. Pursuant to the Board's Substantive Policy Statement #1, the Board
2 considers the violations in the above-referenced matter to constitute to a **Level IV**
3 **Violation.**

4 DATED this ^{13th}~~12th~~ day of May, 2011.

6 ARIZONA STATE BOARD OF
7 APPRAISAL

8 
9 James R. Nelson
Respondent


Dan Pietropaulo
Executive Director, Arizona State Board of
Appraisal

10 **ORIGINAL** filed

11 this ~~12th~~¹³ day of May, 2011 to:

12 Arizona State Board of
13 Appraisal
14 1400 W. Washington, Suite 360
Phoenix, Arizona 85007

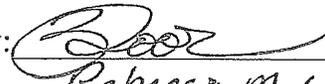
15 **COPY** of the foregoing mailed
Via regular mail this ~~12th~~¹³ day of May, 2011 to:

16 Mr. Michael Orcutt
17 MACK DRUCKER & WATSON
3200 North Central Avenue
Suite 1200
18 Phoenix, AZ 85012

19 James R. Nelson
P. O. Box 246 *via certified 7009 1680 0000 7387 5786*
20 Heber, AZ 85928

21 **COPY** of the foregoing mailed this
~~12th~~¹³ day of May, 2011 to:

22 Jeanne M. Galvin
Assistant Attorney General
23 1275 W. Washington Street CIV/LES
Phoenix, Arizona 85007
24 Attorney for the State of Arizona

25 By: 
Rebecca M. Loar

26 Doc # 1852080