



1 CONSENT AGREEMENT

2 Respondent understands and agrees that:

3 1. The Board has jurisdiction over Respondent and the subject matter pursuant  
4 to A.R.S. § 32-3601 *et seq.* The parties to this Consent Agreement are the Board and the  
5 Respondent.

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

8 3. Respondent has a right to a public hearing concerning this case. He further  
9 acknowledges that at such formal hearing he could present evidence and cross-examine  
10 witnesses. Respondent irrevocably waives his right to such a hearing, and the issues  
11 addressed herein have not been actually litigated.

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

14 5. This Consent Agreement shall be subject to the approval of the Board and  
15 shall be effective only when signed by the Executive Director and accepted by the Board.  
16 In the event that the Board does not approve this Consent Agreement, it is withdrawn and  
17 shall be of no evidentiary value and shall not be relied upon nor introduced in any action  
18 by any party, except that the parties agree that should the Board reject this Consent  
19 Agreement and this case proceeds to hearing, Respondent will assert no claim that the  
20 Board was prejudiced by its review and discussion of this document or any records  
21 relating thereto.

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

1 **FINDINGS OF FACT**

2 On or about February 20, 2013, the Board’s investigation revealed the following:

3 1. This matter deals with an appraisal conducted and report written by  
4 Respondent of a single family residence located at 34531 S. Albins Street, Black Canyon  
5 City, AZ with an effective date of value of July 29, 2012, with a report date of September  
6 11, 2012.

7 2. The subject is identified as being zoned SFR but according to Yavapai  
8 County, the subject is zoned R1-12. The subject is also identified as owner occupied,  
9 when it is tenant occupied and the Respondent completed an income approach as an  
10 investment property.

11 3. The Respondent based the site value on the Assessor’s full cash value of  
12 the land due to a lack of land sales but the Assessor’s value does not represent market  
13 value.

14 4. Moreover, livable area adjustments are reported to be \$40/SF but are  
15 applied at \$35/SF. Adjustments for C4 condition are applied to Comparables 1, 5, and 6  
16 at \$8,000 but Comparable No. 3 is adjusted at \$10,000. Comparables 1 and 2 are adjusted  
17 at \$10,000 for a single patio, Comparable 3 is reported to have a single patio, but not  
18 adjusted. Garage stalls are adjusted at \$3,000 per stall, except Comparable 5 is adjusted at  
19 \$2,500. Prior sales of Comparables 3 and 4 are not reported.

20 5. Finally, Respondent signed the certification that he conducted an interior  
21 inspection of the subject property, but in fact, he did not inspect the interior of the  
22 property.

23 **CONCLUSIONS OF LAW**

24 Pursuant to A.R.S. § 32-3635, a certified or licensed appraiser in the State of  
25 Arizona must comply with the standards of practice adopted by the Board. The  
26

1 Standards of Practice adopted by the Board are codified in the USPAP edition applicable  
2 at the time of the appraisal.

3 The conduct described above constitutes violations of the following provisions of  
4 the USPAP, 2012-2013 edition:

5 **Standards Rule 1-1 (a) and (c); Standards Rule 1-2(e)(i); Standards Rule 1-**  
6 **4(a) and (b)(i); Standards Rule 2-1(a); Standards Rule 2-2(iii) and (viii); and**  
7 **Standard Ethics Rule---Scope of Work.**

8 **ORDER**

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

11 1. **Upon the effective date of this Consent Agreement, Respondent's**  
12 **Certificate as a Certified Residential Appraiser shall be placed on probation for six**  
13 **(6) months.** During probation, Respondent shall comply with USPAP, Arizona Revised  
14 Statutes and Appraisal Board rules. The effective date of this Consent Agreement and  
15 Order is the date the Order is signed by the Executive Director on behalf of the Board.

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

19 3. Respondent shall complete the following education within six (6) months of  
20 the effective date of this Consent Agreement: **a three (3) hour course in Ethics.** The  
21 education required under this paragraph **MAY NOT be counted toward the continuing**  
22 **education requirements for the renewal of Respondent's certificate.** Proof of  
23 completion of the required education must be submitted to the Board within 3 weeks of  
24 completion of the required coursework.

25 4. During the period of probation, Respondent shall complete a minimum of  
26 **twelve (12) appraisal reports** under the supervision of an Arizona Certified Residential

1 or Certified General Appraiser who shall serve as Respondent's mentor ("Mentor"). **The**  
2 **appraisal reports may be demonstration reports. All appraisal reports and**  
3 **appraisal reviews completed by Respondent during the probationary period must**  
4 **be completed under the supervision of a mentor but Respondent must complete at**  
5 **least 12 reports.**

6 5. During the term of probation, the Respondent shall not issue a verbal or  
7 written appraisal, appraisal review, or consulting assignment without prior review and  
8 approval by a Mentor. Each report shall **either** be signed by the Mentor as a supervisory  
9 appraiser **or** the Mentor must complete a written review of each report ensuring that the  
10 report complies with USPAP and the Board's statutes and rules. The Mentor's review  
11 shall comply with the requirements of Standard 3 of the USPAP. The Mentor's Standard  
12 3 review shall be completed before the report is issued to the client. Any changes the  
13 Mentor requires to ensure the report complies with the USPAP shall be completed by the  
14 Respondent and approved by the Mentor before the report is issued. The Mentor's written  
15 Standard 3 review shall be maintained by the Mentor and **provided to the Board at the**  
16 **end of the probationary period.**

17 6. The Mentor must be approved by the Board and is subject to removal by  
18 the Board for nonperformance of the terms of this Consent Agreement. The Mentor shall  
19 not have a business relationship with Respondent except for the Mentor/Mentee  
20 relationship nor may the Mentor be related to Respondent. Any replacement Mentor is  
21 subject to the Board's approval and the remaining terms of this Consent Agreement. The  
22 Board's Executive Director may give temporary approval of the Mentor until the next  
23 regular meeting of the Board.

24 7. Not more than **30 days** after the effective date of this Consent Agreement,  
25 Respondent shall submit to the Board the name and resume of an Arizona Certified  
26 Residential or Arizona Certified General Appraiser who is willing to serve as

1 Respondent's Mentor together with a letter from the potential Mentor agreeing to serve as  
2 Respondent's Mentor. If requested by Board staff, Respondent shall continue to submit  
3 names, resumes, and letters agreeing to serve as Mentor until a Mentor is approved by the  
4 Board. Any Mentor must be approved in writing by the Board.

5 8. Respondent shall bear all costs and expenses associated with the  
6 mentorship and incurred by attending the course(s).

7 9. The Mentor shall submit monthly reports to the Board for each calendar  
8 month during Respondent's probationary period reflecting the quantity and quality of  
9 Respondent's work, including, but not limited to, improvement in Respondent's practice  
10 and resolution of those problems that prompted this action. The Mentor's report shall be  
11 filed monthly beginning the 1<sup>st</sup> day of the first month following the start of Respondent's  
12 probationary period and continuing each month thereafter until termination of the  
13 probationary period by the Board. **Even if the Mentor reviews no appraisals during a  
14 given month, a report stating that no appraisals were reviewed or approved must be  
15 submitted.** It is the Respondent's responsibility to ensure that the Mentor submits  
16 his/her reports monthly. If the monthly reporting date falls on a Saturday, Sunday, or  
17 holiday, the report is due on the next business day. The monthly report may be filed by  
18 regular mail, email or facsimile.

19 10. The Respondent shall file an appraisal log with the Board on a monthly  
20 basis listing every Arizona appraisal that he has completed within the prior calendar  
21 month by property address, appraisal type, valuation date, the Mentor's review date, the  
22 date the appraisal was issued, and the number of hours worked on each assignment. The  
23 report log shall be filed monthly beginning the 1<sup>st</sup> day of the first month following the  
24 start of Respondent's probationary period and continuing each month thereafter until the  
25 Board terminates the probation. If the log reporting date falls on a Saturday, Sunday, or  
26 holiday, the report log is due on the next business day. **Even if Respondent performs**

1 **no appraisals within a given month, he must still file an appraisal log with the Board**  
2 **showing that no appraisals were performed.** The monthly log report may be filed by  
3 regular mail, email or facsimile.

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

9 12. Respondent's probation, including mentorship, shall continue until: (a)  
10 Respondent petitions the Board for termination as provided in paragraph 13 and (b) the  
11 Board terminates the probation and mentorship. **The probation with mentorship shall**  
12 **continue until such time Respondent requests in writing that the Board terminate**  
13 **his probation and mentorship.** Upon petition by the Respondent for termination of the  
14 probation and mentorship, the Board will select and audit 3 of Respondent's appraisal  
15 reports.

16 13. At the end of **six (6) months** from the effective date of this Consent  
17 Agreement, the Respondent may petition the Board for termination of his probation and  
18 mentorship. If the Board determines that Respondent has not complied with **all** the  
19 requirements of this Consent Agreement, the Board, at its sole discretion, may either: (a)  
20 continue the probation, including mentorship; or (b) institute proceedings for  
21 noncompliance with this Consent Agreement, which may result in suspension,  
22 revocation, or other disciplinary and/or remedial action. If the Board determines  
23 Respondent has complied with all the requirements of this Consent Agreement and has  
24 no other pending disciplinary actions, the Respondent's mentorship and probation will be  
25 terminated.

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1           14.    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.

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

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

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

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

24           19.    Respondent understands that this Consent Agreement, or any part thereof,  
25 may be considered in any future disciplinary action against him.

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1           20.    The parties agree that this Consent Agreement constitutes final resolution  
2 of this disciplinary matter.

3           21.    Time is of the essence with regard to this agreement.

4           22.    If Respondent fails to comply with the terms of this Consent Agreement,  
5 the Board shall properly institute proceedings for noncompliance with this Consent  
6 Agreement, which may result in suspension, revocation, or other disciplinary and/or  
7 remedial actions. Respondent agrees that any violation of this Consent Agreement is a  
8 violation of A.R.S. § 32-3631(A)(8), which is willfully disregarding or violating any of  
9 the provisions of the Board's statutes or the rules of the Board for the administration and  
10 enforcement of its statutes.

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

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

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

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

4           DATED this 1 day of August, 2013.

5  
6 Robert B. Nixon  
7 Robert B. Nixon  
8 Respondent

Debra Rudd  
Debra Rudd  
Executive Director  
Arizona Board of Appraisal

9  
10 **ORIGINAL** of the foregoing filed  
11 this 1 day of August, 2013 with:

12 Arizona Board of Appraisal  
13 15 S. 15<sup>th</sup> Ave.  
14 Suite 103A  
15 Phoenix, Arizona 85007

16 **COPY** of the foregoing mailed regular  
17 and certified mail 7012 3050 0002 0740 5097  
18 this 1 day of August, 2013 to:

19 Robert B. Nixon  
20 1394 E. Laguna Drive  
21 Tempe, AZ 85282

22 **COPY** of the foregoing sent or delivered  
23 this 1 day of August, 2013 to:

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

By: Nancy A. Juseva  
3414692