

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

RECEIVED  
2013 APR 23 PM 1:27

ARIZONA BOARD OF APPRAISAL

2  
3 **IN THE MATTER OF:**

**CASE No. 3446**

4 **SYLVESTER G. WHITMAN**  
5 Certified Residential Appraiser  
Certificate No. 21312

**CONSENT AGREEMENT and  
ORDER FOR PROBATION AND  
MENTORSHIP**

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), Sylvester G. Whitman (“Respondent”), holder of  
11 Certificate No. 21312 and the Board enter into this Consent Agreement and Order for  
12 Probation and Mentorship (“Consent Agreement”) as the final disposition of this matter.

13 On January 18, 2013, and March 15, 2013, the Board met to discuss the above-  
14 referenced matter. Respondent was present and provided testimony to the Board. At the  
15 conclusion of the Board’s consideration of the issues, the Board voted to offer the  
16 Respondent a Consent Agreement and Order for Probation and Mentorship in lieu of  
17 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. 21312 issued on December 3, 2005, pursuant to A.R.S.  
26 § 32-3612.

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.*

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

7 3. Respondent has a right to a public hearing concerning this case. He further  
8 acknowledges that at such formal hearing he could present evidence and cross-examine  
9 witnesses. Respondent irrevocably waives his right to such a hearing.

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

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14 In the event that the Board does not approve this Consent Agreement, it is withdrawn and  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

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

23 FINDINGS OF FACT

24 1. This matter concerns an appraisal and appraisal report completed by  
25 Respondent of a single family home located at 14705 W. Greystone Drive, Sun City  
26 West, Arizona 85375 with an effective date of value of November 17, 2012.



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

7           2.     Respondent shall complete the following education within six (6) months of  
8 the effective date of this Consent Agreement: **a fifteen (15) hour USPAP course (with**  
9 **an exam) and a fifteen (15) hour Basic Appraisal course. The Basic Appraisal course**  
10 **must be completed in person and not through distance learning.** The education  
11 required under this paragraph **may not be counted toward the continuing education**  
12 **requirements for the renewal of Respondent's certificate.** The same class may not be  
13 repeated to fulfill the education requirements of this Consent Agreement.  
14

15           3.     Proof of completion of the required education must be submitted to the  
16 Board within 3 weeks of completion of the required coursework. Respondent is  
17 responsible for all costs associated with completing the coursework.  
18

19           4.     During the period of probation, Respondent shall complete a minimum of  
20 **twelve (12) appraisal reports** under the supervision of an Arizona Certified Residential  
21 or Certified General Appraiser who shall serve as Respondent's mentor ("Mentor"). **The**  
22 **appraisal reports may be demonstration reports.**

23           5.     During the probationary period, the Respondent shall not issue a verbal or  
24 written appraisal, appraisal review, or consulting assignment without prior review and  
25 approval by a Mentor. Each report shall **either** be signed by the Mentor as a supervisory  
26 appraiser **or** the Mentor must complete a written Standard 3 Review of each report

1 ensuring that the report complies with USPAP and the Board's statutes and rules. The  
2 Mentor's review shall comply with the requirements of Standard 3 of the USPAP. The  
3 Mentor's Standard 3 review shall be completed before the report is issued to the client.  
4 Any changes the Mentor requires to ensure the report complies with the USPAP shall be  
5 completed by the Respondent and approved by the Mentor before the report is issued.  
6 The Mentor's written Standard 3 Review shall be maintained by the Mentor and made  
7 available to the Board upon request.  
8

9           6. The Mentor must be approved by the Board and is subject to removal by  
10 the Board for nonperformance of the terms of this Consent Agreement. The Mentor may  
11 not have a business relationship with Respondent except for the Mentor/Mentee  
12 relationship nor may the Mentor be related to Respondent. Any replacement Mentor is  
13 subject to the Board's approval and the remaining terms of this Consent Agreement. The  
14 Board's Executive Director may give temporary approval of the Mentor until the next  
15 regular meeting of the Board.  
16

17           7. Not more than **30 days** after the effective date of this Consent Agreement,  
18 Respondent shall submit to the Board the name and resume of an Arizona Certified  
19 Residential or Arizona Certified General Appraiser who is willing to serve as  
20 Respondent's Mentor together with a letter from the potential Mentor agreeing to serve as  
21 Respondent's Mentor. If requested by Board staff, Respondent shall continue to submit  
22 names, resumes, and letters agreeing to serve as Mentor until a Mentor is approved by the  
23 Board. Any Mentor must be approved in writing by the Board.  
24  
25  
26

1           8.     Respondent shall bear all costs and expenses associated with the  
2 mentorship.

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

15  
16  
17           10.    The Respondent shall file an appraisal log with the Board on a monthly  
18 basis listing every Arizona appraisal that he has completed within the prior calendar  
19 month by property address, appraisal type, valuation date, the Mentor's review date, the  
20 date the appraisal was issued, and the number of hours worked on each assignment. The  
21 report log shall be filed monthly beginning the 1<sup>st</sup> day of the first month following the  
22 start of Respondent's probationary period and continuing each month thereafter until the  
23 Board terminates the probation. If the log reporting date falls on a Saturday, Sunday, or  
24 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 mail, facsimile or electronically.

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

10  
11 12. Respondent's probation, including mentorship, shall continue until: (a)  
12 Respondent petitions the Board for termination as provided in paragraph 13 and (b) the  
13 Board terminates the probation and mentorship. Upon petition by the Respondent for  
14 termination of the probation and mentorship, the Board will select and audit 3 of  
15 Respondent's appraisal reports.

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

24  
25 14. Respondent shall not act as a supervising appraiser for other appraisers or  
26 trainees, nor shall he act as a mentor, during the term of the probation. Respondent shall

1 also not teach any course related to real estate appraisals during the term of the  
2 suspension or probation.

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

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

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

18 18. 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.  
26

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

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

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

6           22. 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           23. 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           24. 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  
24  
25  
26

1 behalf of the Board. Any modification to this original document is ineffective and void  
2 unless mutually approved by the parties in writing.

3 25. Respondent understands that this Consent Agreement is a public record that  
4 may be publicly disseminated as a formal action of the Board.  
5

6 26. Pursuant to the Board's Substantive Policy Statement #1, the Board  
7 considers the violations in the above-referenced matter to constitute to a **Level IV**  
8 **Violation.**

9 **DATED** this 23<sup>rd</sup> day of April, 2013.

10  
11   
12 Sylvester G. Whitman  
13 Respondent

11   
12 Debra Rudd  
13 Executive Director  
14 Arizona Board of Appraisal

15 **ORIGINAL** of the foregoing filed  
16 this 23<sup>rd</sup> day of April, 2013 with:

16 Arizona Board of Appraisal  
17 1400 West Washington Street, Suite 360  
18 Phoenix, Arizona 85007

18 **COPY** of the foregoing mailed regular  
19 and certified mail  
20 this 23<sup>rd</sup> day of April, 2013 to:

20 Mr. Sylvester G. Whitman  
21 7712 N. 173<sup>rd</sup> Avenue  
22 Waddell, AZ 85355

22 **COPY** of the foregoing sent or delivered  
23 this 23<sup>rd</sup> day of April, 2013 to:

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

26 By: EMAIL  
3239224