

BEFORE THE
BUREAU CHIEF OF THE BUREAU OF REAL ESTATE APPRAISERS
BUREAU OF REAL ESTATE APPRAISERS
STATE OF CALIFORNIA

In the Matter of the of the
Real Estate Appraiser License of:

Case No. C20131224-01

Donald G. Risner,
12801 Monterey Beach Drive
Bakersfield, CA 93311

Real Estate Appraiser License No. 004107

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Chief of the Bureau of Real Estate Appraisers, Department of Consumer Affairs as the
Decision and Order in the above entitled matter.

This Decision shall become effective on 12-17-14.

It is so ORDERED 11-17-14.

Original Signed

JAMES MARTIN, BUREAU CHIEF,
BUREAU OF REAL ESTATE APPRAISERS
DEPARTMENT OF CONSUMER AFFAIRS

1 Bureau of Real Estate Appraisers
1102 Q Street, Suite 4100
2 Sacramento, CA 95811

3 Telephone: (916) 552-9742
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5 **BEFORE THE**
CHIEF OF THE BUREAU OF REAL ESTATE APPRAISERS
6 **STATE OF CALIFORNIA**

7 In the Matter of the Administrative Findings
8 Against:

9 **Donald G. Risner**
12801 Monterey Beach Drive
10 Bakersfield, CA 93311
Real Estate Appraiser License No. 004107

11 Respondent.

Case No. C20131224-01

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

12
13 In the interest of a prompt and speedy settlement of this matter, consistent with the public
14 interest and mission of the Bureau of Real Estate Appraisers ("Bureau"), the parties hereby agree
15 to the following Stipulated Settlement and Disciplinary Order ("Stipulated Settlement") which
16 will be submitted to the Chief of the Bureau of Real Estate Appraisers ("Bureau Chief") for
17 approval and adoption as the final disposition of this proceeding:

18 **PARTIES**

19 1. Elizabeth Seaters, acting on behalf of the Bureau of Real Estate Appraisers
20 ("Complainant"), brings this action solely in her official capacity as Chief of Enforcement for
21 Complainant.

22 2. Donald G. Risner ("Respondent") is representing himself and has chosen not to
23 exercise his right to be represented by counsel.

24 3. On or about April, 3, 1992, Complainant issued Real Estate Appraiser License No.
25 004107 to Respondent. Respondent's License was in full force and effect at all times relevant to
26 the attached Administrative Findings and, in absence of any superseding action, will expire on
27 August 19, 2016.

JURISDICTION

4. The Bureau initiated an investigation resulting in the Administrative Findings associated with Case No. C20131224-01.

5. When deemed by the Chief of the Bureau of Real Estate Appraisers ("Bureau Chief") to be in the public interest, Complainant has the authority under Business and Professions Code section 11315.5 to enter into a settlement related to administrative allegations of violations of the regulations governing the conduct of licensed appraisers.

6. A copy of the administrative allegations associated with the Complainant's Case No. C20131224-01 against Respondent are attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read and understands the charges and allegations in the Administrative Findings associated with Case No. C20131224-01. Respondent has also carefully read and understands the effects of this Stipulated Settlement.

8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the Administrative Findings developed in the Bureau of Real Estate Appraisers Case No. C20131224-01; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

10. Respondent admits the truth of each and every charge and allegation in the Administrative Findings attached as Exhibit A, and agrees that cause exists for discipline against his Real Estate Appraiser License No. 004107.

11. Respondent agrees that his Real Estate Appraiser License No. 004107 is subject to discipline and he agrees to be bound by the Bureau Chief's imposition of discipline as set forth in the following Disciplinary Order.

CONTINGENCY

12. This Stipulated Settlement shall be subject to approval by the Bureau Chief. Respondent understands and agrees that counsel for Complainant and Complainant's staff may communicate directly with the Bureau Chief regarding this Stipulated Settlement, without notice to or participation by Respondent or his counsel. By signing this Stipulated Settlement, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind this Stipulated Settlement prior to the time the Bureau Chief considers and acts upon it. If the Bureau Chief fails to adopt this Stipulated Settlement as Complainant's Decision and Order, the Stipulated Settlement shall be of no force or effect, and, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Bureau Chief shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that PDF or facsimile copies of this Stipulated Settlement, including PDF or facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Bureau Chief may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent's Real Estate Appraisers License No. 004107 is revoked and issued a published reproof. However, the revocation shall be stayed, and Respondent shall be monitored on probation for two (2) years from the effective date of the Decision and Order on the terms and conditions described below. The published reproof will not be stayed.

1. **Obey All Laws.** Respondent shall comply with all federal, state and local laws, and conform to the minimum guidelines set forth under the Uniform Standards of Professional Appraisal Practice (USPAP), and all other laws and regulations pertaining to real estate appraisers.

2. **Active License Status.** Respondent shall at all times maintain an active license status with the Bureau, including during any periods of suspension. If the license is expired at the time the Decision and Order of the Bureau Chief becomes effective, the license must be renewed within 30 days of the effective date of the Decision and Order.

3. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the Bureau Chief and shall cooperate fully with representatives of the Bureau in its monitoring and investigation of Respondent's compliance with the terms and conditions of probation.

4. **Monitoring.** Respondent shall be subject to, and shall permit and cooperate with, monitoring and investigation of Respondent's professional practice. Such monitoring and investigation shall be conducted by representatives of the Bureau.

5. **Appraisal Log/Work Samples.** Commencing on the effective date of the Decision and Order and continuing through the period of probation, Respondent shall maintain a log of all appraisals and appraisal reviews Respondent performs on a Log of Appraisal Experience form provided by the Bureau. Respondent shall submit a complete and accurate copy of the log of all appraisals, and appraisal reviews, completed each six months. Each six month log shall be submitted to the Bureau within 30 days following the end of each six month period. Respondent understands that the Bureau may (has the option to) select work samples for review from each

1 submitted six month log. Failure to submit the log or any selected work samples in compliance
2 with these terms shall extend probation for a period equivalent to the period of noncompliance.
3 Respondent shall complete a minimum of twelve appraisals per each year of probation,
4 commencing on the effective date of the Decision and Order. If respondent fails to complete
5 twelve appraisals per year, probation shall be tolled pursuant to condition entitled Tolling of
6 Probation for Out-of State Residence/Practice below.

7 **6. Monitoring Costs.** Respondent shall pay costs associated with monitoring each and
8 every year of probation. Respondent shall comply with the Bureau's probation compliance
9 monitoring program. Failure to pay costs or comply with probation monitoring shall be
10 considered a violation of probation. Said costs shall be in a sum sufficient to cover the costs
11 incurred by the Bureau in reviewing appraisals, and other monitoring, in an amount not to exceed
12 \$250.00 per six (6) months.

13 **7. Payment of Fine.** Respondent shall pay a fine pursuant to Business and Professions
14 Code section 11316(a) and California Code of Regulations, Title 10, section 3721(a), in the sum
15 of Four Thousand Dollars (\$4,000). Payment of this fine shall be made in quarterly installments
16 with payments of not less than Five Hundred Dollars (\$500.00), with the first payment due within
17 30 days of the effective date of the final Decision and Order as signed by the Bureau Chief.
18 Payment shall be made to the Real Estate Appraisers Regulation Fund c/o Bureau of Real Estate
19 Appraisers, 1102 Q Street, Suite 4100, Sacramento, California 95811, by check or money order
20 and shall indicate on its face the notation: "BREA Case No. C20131224-01." Respondent shall
21 also submit a copy of the invoice with payment, which will be provided by the Bureau. If full
22 payment is not received by the Bureau by the date due as noted in the invoice, a 10 percent
23 penalty shall be added to the unpaid balance and interest will accrue on the unpaid balance at the
24 pooled money investment rate in effect at that time, until full amount is paid. Respondent shall
25 not be eligible to renew his or her license until such time as full payment of the outstanding fine
26 has been made. Failure to make payment on the fine shall constitute a violation of the
27 probationary order.

1 **8. Uniform Standards of Professional Appraisal Practice Course/Examination.**

2 Respondent shall take and pass an Bureau approved 15-hour basic education course on the
3 Uniform Standards of Professional Appraisal Practice within 6 months of the date the Decision
4 and Order of the Bureau Chief is final. The course must be "The Appraisal Foundations National
5 USPAP Course" (or its equivalent as determined solely by the Appraisers Qualifications Board
6 ("AQB") Course Approval Program), and must be taught by an AQB Certified USPAP Instructor
7 who is also a Certified Residential or Certified General appraiser in good standing with the
8 Bureau. The course may be taken on line or in a classroom setting and must include an
9 administered closed book final examination. Respondent must submit proof of successful
10 completion of the course and final exam within 6 months following the date the Decision and
11 Order of the Bureau Chief is final. Respondent understands that it is his or her responsibility to
12 ensure that the course meets all the requirements listed above and to apply for, schedule, and
13 make all arrangements to take the course.

14 **9. Minimum Education Requirements.** Educational courses imposed as a term or

15 condition of probation may not be credited towards Respondent's continuing education
16 requirements required for renewal of Respondent's real estate appraiser license.

17 **10. Automatic Suspension.** Failure to comply with the education requirements as

18 contained in this Stipulated Settlement and Disciplinary Order shall result in an automatic
19 suspension of Respondent's real estate appraiser license.

20 **11. Tolling of Probation For Out-of-State Residence/Practice.** In the event

21 Respondent should leave California to reside or practice outside this state, Respondent must
22 notify Complainant, in writing, of the dates of departure and return. Periods of non-California
23 residency or practice outside the state shall extend the running of the probationary period, or of
24 any suspension, for an equivalent period. No obligation imposed herein, including requirements
25 to file written reports, reimburse Complainant costs, shall be suspended or otherwise affected by
26 such periods of out-of-state residency or practice except at the written direction of Complainant.

27 **12. Violation of Probation.** If Respondent violates probation in any respect, the Bureau

28 Chief, after giving Respondent notice and an opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation
2 is filed against Respondent during probation, the Bureau Chief shall have continuing jurisdiction
3 until the matter is final, and the period of probation shall be extended until the matter is final.

4 **13. License Surrender.** During Respondent's term of probation, if he or she ceases
5 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
6 probation, Respondent may surrender his or her license to the Bureau. The Bureau reserves the
7 right to evaluate Respondent's request and to exercise its discretion whether to grant the request,
8 or to take any other action deemed appropriate and reasonable under the circumstances, without
9 further hearing. Upon formal acceptance of the tendered license, Respondent will no longer be
10 subject to the conditions of probation. Surrender of Respondent's license shall be considered a
11 disciplinary action and shall become a part of Respondent's license history with the Bureau.
12 Respondent may petition the Bureau for reinstatement pursuant to the provisions set forth in
13 Government Code Section 11522. If, following a surrender of his or her license, Respondent ever
14 applies for licensure or any certification of registration to the Bureau and/or petitions for
15 reinstatement in the State of California, the Bureau Chief shall treat it as a new application for
16 licensure or certification. Respondent must comply with all the laws, regulations and procedures
17 for licensure or certification in effect at the time the application or petition is filed, and all of the
18 charges and allegations contained in the attached Administrative Findings will be deemed true
19 when the Bureau Chief determines whether to grant or deny the application, certification or
20 petition. Further, Respondent shall pay the enforcement costs, fine and complete the education,
21 as specified in this Stipulated Settlement prior to filing any application for reinstatement or
22 issuance of a new license or certificate of registration.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement. I understand the stipulation and the
3 effect it will have on my Real Estate Appraiser License. I enter into this Stipulated Settlement
4 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
5 Bureau Chief.

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8 DATED: 11/08/2014 **Original Signed**

9 Donald G. Risner
Respondent

10 ENDORSEMENT

11 The foregoing Stipulated Settlement is hereby respectfully submitted for the Bureau Chief's
12 consideration.

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14 Dated: 11/17/2014 **Original Signed**
15 Elizabeth Seaters
16 Chief of Enforcement
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Exhibit A

Administrative Findings - Case No. C20131224-01

On or about September 7, 2013, Respondent completed a real estate appraisal report for the property located at 4305 Rio Viejo Drive, Bakersfield, California. The report contained errors or omissions, in violation of the provisions of the Uniform Standards of Professional Appraisal Practice (USPAP), listed as follows:

- a) Respondent failed to appropriately discuss and analyze neighborhood boundaries and median price ranges (S.R. 1-2(c)(i) and 2-2(b)(iii));
- b) Respondent inconsistently stated the home was 10 years old and under construction at the time of his inspection (S.R. 1-2(e)(i) and 2-2(b)(iii));
- c) Respondent created a misleading report by failing to collect, verify, and analyze all information necessary for credible assignment results via the Sales Comparison Approach. Specifically, Respondent failed to appropriately discuss and analyze the varying conditions of the properties such as Comparable Sale Two, which had new carpet, vinyl flooring and paint, and Comparable Sale Six which was a foreclosure property that was sold in "as is" condition. Additionally, Respondent failed to use more relevant comparable sales while utilizing less relevant comparable sales, resulting in a value conclusion that was not credible (S.R. 1-4(a) and 2-2(b)(viii));
 - i. Comparable Sale One: Respondent falsely stated this property was conventionally financed whereas it was a cash sale. Respondent also failed to discuss and analyze this property backed to an arterial. Additionally, Respondent provided a false photograph of this property.
 - ii. Comparable Sale Two: Respondent falsely stated this property was conventionally financed whereas it was FHA financed. Respondent also provided a false photograph of this property.
 - iii. Comparable Sale Three: Respondent falsely stated this property was conventionally financed whereas it was a cash sale. Respondent also failed to discuss and analyze a more recent sale of this property.
 - iv. Comparable Sale Four: Respondent falsely stated this property was conventionally financed whereas it was a cash sale.
 - v. Comparable Sale Six: Respondent provided a false photograph of this property.
- d) Based upon the findings noted in above items a, b and c, Respondent failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal (S.R. 1-1(a));
- e) Based upon the findings noted in above items a, b, c, Respondent committed substantial errors of omission or commission that significantly affected the appraisal (S.R. 1-1(b));

- f) Based on the findings noted in above items a, b and c, Respondent failed to clearly and accurately set forth the appraisal in a manner that would not be misleading (S.R. 2-1(a));
- g) Based on the findings noted in above items a, b and c, Respondent failed to provide sufficient information to enable the intended users of the report to understand it properly (S.R. 2-1(b));
- h) Based on the findings noted in above items a, b and c, in addition to an appraisal that was not credible, Respondent violated the Conduct section of the Ethics Rule; and
- i) Respondent failed to maintain and provide to BREa a complete work file, including all versions of his appraisal report, resulting in a violation of the Record Keeping section of the Ethics Rule.

On or about April 28, 2014, Respondent provided to BREa a real estate appraisal report for the property located at 4305 Rio Viejo Drive, Bakersfield, California. The report contained errors or omissions, in violation of the provisions of the Uniform Standards of Professional Appraisal Practice (USPAP), listed as follows:

- a) Respondent misrepresented an altered version of his report as a true copy of his appraisal report that was submitted to the client. Additionally, Respondent provided a false date of appraisal report (S.R. 1-1(a), (b), 2-1(a),(b), 2-2(b)(vi) and the Conduct section of the Ethics Rule).