

**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. C20151229-04

Winfield Tuttle,
P.O. Box 21191
Riverside, CA 92516

Real Estate Appraiser License No. 006215

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 9-7-16.

It is so ORDERED 8-8-16.

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 Allegation of
8 Violation Against:

Case No. C20151229-04

9 **Winfield S. Tuttle**
Real Estate Appraiser License No. 006215

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

10 Respondent.
11

12 In the interest of a prompt and speedy settlement of this matter, consistent with the public
13 interest and mission of the Bureau of Real Estate Appraisers ("Bureau" or "BREA"), the parties
14 hereby agree to the following Stipulated Settlement and Disciplinary Order ("Stipulated
15 Settlement") which will be submitted to the Chief of the Bureau of Real Estate Appraisers
16 ("Bureau Chief" or "Chief of BREA") for approval and adoption as the final disposition of this
17 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. Winfield S. Tuttle ("Respondent") is representing himself and has chosen not to
23 exercise his right to be represented by counsel.

24 3. On or about September 17, 1992, the Bureau issued Real Estate Appraiser License
25 Number 006215 to Respondent. Respondent's License was in full force and effect at all times
26 relevant to the attached administrative allegation of violation and unless renewed will expire on
27 September 28, 2016.
28

JURISDICTION

4. The Bureau initiated an investigation resulting in administrative allegation of violation.

5. When deemed by the Bureau Chief to be in the public interest, the Bureau Chief has the authority under Business and Professions Code section 11315.5 to enter into a settlement related to administrative allegation of violation of the Real Estate Appraisers' Licensing and Certification Law or regulations promulgated pursuant thereto, upon any terms and conditions as the Bureau Chief deems appropriate.

6. The administrative allegation of violation against Respondent is 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 allegation of violation. Respondent has also carefully read and understands the effects of this Stipulated Settlement.

8. Respondent is fully aware of his or her legal rights in this matter, including the right to a hearing on the administrative allegation of violation; the right to be represented by counsel at his or her own expense; the right to confront and cross-examine the witnesses against him or her; the right to present evidence and to testify on his or her 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.

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1 CULPABILITY

2 10. Respondent admits the truth of each and every administrative allegation of violation
3 attached as Exhibit "A", and agrees that cause exists for discipline against his or her Real Estate
4 Appraiser License.

5 11. Respondent agrees that his or her Real Estate Appraiser License is subject to
6 discipline and he or she agrees to be bound by the Bureau Chief's imposition of discipline as set
7 forth in the following Disciplinary Order.

8 CONTINGENCY

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

19 13. The parties understand and agree that Portable Document Format ("PDF") or
20 facsimile copies of this Stipulated Settlement, including PDF or facsimile signatures thereto, shall
21 have the same force and effect as the originals.

22 14. This Stipulated Settlement is intended by the parties to be an integrated writing
23 representing the complete, final, and exclusive embodiment of their agreement. It supersedes any
24 and all prior or contemporaneous agreements, understandings, discussions, negotiations, and
25 commitments (written or oral). This Stipulated Settlement may not be altered, amended,
26 modified, supplemented, or otherwise changed except by a writing executed by an authorized
27 representative of each of the parties.
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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. 006215 is revoked. However, the revocation shall be stayed and Respondent's license shall be suspended for thirty (30) days from the effective date of the Decision and Order. During the period of suspension, Respondent shall not engage in any activities for which licensure as a real estate appraiser is required or hold himself out as a licensed appraiser. Additionally, Respondent's license shall be publically reprovved and monitored on probation for three (3) years from the effective date of the Decision and Order. The terms and conditions of Respondent's probation are as follows.

1. Payment of Fine. Respondent shall pay a fine in the sum of Six Thousand Dollars (\$6,000.00). Payment of this fine shall be made in quarterly installments with payments of not less than Five Hundred Dollars (\$500.00), with the first payment due thirty (30) days from the effective date of the Decision and Order as signed by the Bureau Chief. Payments shall be made to the Real Estate Appraisers Regulation Fund, c/o Bureau of Real Estate Appraisers, 1102 Q Street, Suite 4100, Sacramento, California 95811, by check or money order and shall indicate on its face the notation: "BREA Case No. C20151229-04." If any of the payments are not received by the due date, pursuant to the payment plan set forth above, a ten (10) percent late penalty shall be added to the unpaid balance and interest will accrue on the unpaid balance at the pooled money investment rate in effect at that time, until the amount is paid. Respondent shall not be eligible to renew his or her license until such time as all payments then due, pursuant to the payment plan set forth above, have been paid. Failure to make timely payment on the fine shall constitute a violation of the probationary order.

2. Uniform Standards of Professional Appraisal Practice Course/Examination.

Respondent shall take and pass a BRE A approved 15-hour basic education course on the Uniform Standards of Professional Appraisal Practice within six (6) months of the effective date the

1 Decision and Order. The course must be The Appraisal Foundation's National USPAP Course (or
2 its equivalent as determined solely by the Appraiser Qualifications Board (AQB) Course
3 Approval Program), and must be taught by an AQB Certified USPAP Instructor who is also a
4 Certified Residential or Certified General appraiser in good standing with BREa. The course
5 must administer a closed-book final examination. Respondent must submit proof of successful
6 completion of the course and final examination within six (6) months following the effective date
7 of the Decision and Order. Respondent understands that it is his or her responsibility to ensure
8 that the course meets all of the requirements listed above and to make all necessary and
9 preparatory arrangements to take the course. Educational courses imposed as a term or condition
10 of probation by the Chief of BREa may not be credited toward Respondent's continuing
11 education requirements required for renewal of Respondent's real estate appraiser license. Failure
12 to comply with the education requirements as contained in this Disciplinary Order shall result in
13 an automatic suspension of Respondent's real estate appraiser license. In order to reinstate
14 Respondent's license if it is automatically suspended for failure to comply with the education
15 requirement, Respondent must provide BREa with the following: (i) satisfactory verification of
16 the completion of the education course or courses imposed; (ii) completion and filing of a
17 reinstatement application; and (iii) payment of all applicable fees, fines, or penalties.

18 **3. Appraisal Log/Work Samples.** Commencing on the effective date of the Decision
19 and Order and continuing for the entire probationary period, Respondent shall maintain a log of
20 all appraisals and appraisal reviews Respondent performs on a Log of Appraisal Experience form
21 provided by BREa. Respondent shall submit a complete and accurate copy of the log of all
22 appraisals and appraisal reviews completed each six (6) months. Each six (6) month log shall be
23 submitted to BREa within thirty (30) days following the end of each six (6) month period.
24 Respondent understands BREa may select work samples for review from each submitted six (6)
25 month log. Failure to submit the log, or any selected work samples, in compliance with these
26 terms shall extend the probation for a period equivalent to the period of noncompliance.

27 Respondent shall complete a minimum of six (6) appraisals every six (6) months. If
28 Respondent fails to complete six (6) appraisals every six (6) months, probation shall be tolled.

1 Periods during which probation is tolled shall not apply to reduction of the probationary period,
2 suspension or any other disciplinary order or term.

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

6 **5. Monitoring Costs.** Respondent shall pay Four Hundred and Fifty Dollars (\$450.00)
7 every six (6) months for the entire probationary period to compensate BREa for enforcing the
8 order by examining the appraisal logs/work samples. Failure to pay monitoring costs shall be a
9 violation of probation.

10 **6. Obey All Laws.** Respondent shall comply with all federal, state and local laws, the
11 Real Estate Appraisers' Licensing and Certification Law and regulations promulgated thereto,
12 and conform to the minimum guidelines set forth under the Uniform Standards of Professional
13 Appraisal Practice ("USPAP"), and all other laws and regulations pertaining to real estate
14 appraisers. Additionally, if Respondent is subject to criminal court orders, Respondent shall
15 comply with all criminal court orders, including probation and parole.

16 **7. Comply With Probation.** Respondent shall fully comply with the terms and
17 conditions of the probation imposed by the Chief of BREa and shall cooperate fully with
18 representatives of BREa in its monitoring and investigation of Respondent's compliance with the
19 terms and conditions of probation.

20 **8. Violation of Probation.** If Respondent violates probation in any respect, the Chief of
21 BREa, after giving Respondent notice and an opportunity to be heard, may revoke probation and
22 carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation
23 is filed against Respondent during probation, the Chief shall have continuing jurisdiction until the
24 matter is final, and the period of probation shall be extended until the matter is final.

25 **9. Surrender of License.** During Respondent's term of probation, if he or she ceases
26 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
27 probation, Respondent may surrender his or her license to BREa. BREa reserves the right to
28 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to

1 take any other action deemed appropriate and reasonable under the circumstances, without further
2 hearing. Upon formal acceptance of the tendered license, Respondent will no longer be subject to
3 the conditions of probation.

4 Surrender of Respondent's license shall be considered a disciplinary action and shall
5 become a part of Respondent's license history with BREa. An appraiser whose license has been
6 surrendered may re-apply for licensure no sooner than one year from the effective date of the
7 disciplinary decision.

8 Respondent may petition to BREa for reinstatement pursuant to the provisions set forth in
9 Government Code section 11522. If, following a surrender of his or her license, Respondent ever
10 applies for licensure to BREa and/or petitions for reinstatement in the State of California, the
11 Chief shall treat it as a new application for licensure. Respondent must comply with all the laws,
12 regulations and procedures for licensure in effect at the time the application or petition is filed,
13 and all of the charges and allegations contained in the Accusation or Statement of Issues will be
14 deemed true when the Chief determines whether to grant or deny the application or petition.
15 Further, Respondent shall pay the enforcement costs, fines and complete all education, as
16 specified in this Decision and Disciplinary Order prior to filing any application for reinstatement
17 or issuance of a new license.

18 ACCEPTANCE

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

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24 DATED: 8-1-2016

Original Signed

Winfield S. Tuttle
Respondent

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ENDORSEMENT

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

DATED: 8/8/16

Original Signed
Elizabeth Seaters
Chief of Enforcement

Exhibit A

Administrative Allegation of Violation - Case No. C20151229-04

On or about August 11, 2015, Respondent completed an appraisal of the property located at 8255 Baldwin Avenue, Riverside, California. The report contains certain errors and omissions in violation of the Uniform Standards of Professional Appraisal Practice, the California Code of Regulations, Title 10. Investment, Chapter 6.5. Real Estate Appraisers, Sections 3500 *et seq.*, and the California Business and Professions Code, Division 4, Part 3, Sections 11300 *et seq.*, as follows:

- a) Respondent failed to disclose and analyze the subject property was located in a golf course community and sided to the golf course (S.R. 1-2(e)(i) and 2-2(a)(iii));
- b) Respondent failed to provide a credible building sketch of the subject's floor plan, dimensions and gross living area. Additionally, Respondent falsely stated the subject had a two-car garage whereas it had a three-car garage (S.R. 1-2(e)(i) and 2-2(a)(iii));
- c) Respondent falsely certified he inspected the subject property when he did not (S.R. 1-2(h), 2-2(a)(vii), 2-3 and Scope of Work Rule);
- d) Respondent falsely certified he performed exterior inspections of the comparable sales used when he did not (S.R. 1-2(h), 2-2(a)(vii), 2-3 and Scope of Work Rule);
- e) Respondent failed to disclose and summarize the extent of assistance that was provided by two unlicensed appraiser assistants who performed the only inspection of the subject property (S.R. 1-2(h), 2-2(a)(vii), and Scope of Work Rule);
- f) Respondent failed to disclose and analyze the subject's golf course location and view in comparison to the comparable sales and listings used (S.R. 1-4(a) and 2-2(a)(viii));
- g) Based upon the findings noted in above items a, b, c, d, e and f, Respondent failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal (S.R. 1-1(a));
- h) Based upon the findings noted in above items a, b, c, d, e and f, Respondent committed substantial errors of omission or commission that significantly affected the appraisal (S.R. 1-1(b));
- i) Based on the findings noted in above items a, b, c, d, e and f, in addition to using MLS photographs of the comparable sales while cropping off the MLS trademarks, Respondent failed to clearly and accurately set forth the appraisal in a manner that would not be misleading (S.R. 2-1(a));
- j) Based on the findings noted in above items a, b, c, d, e and f, Respondent failed to provide sufficient information to enable the intended users of the report to understand it properly (S.R. 2-1(b)); and
- k) Based on the findings noted in above items a, b, c, d, e and f, in addition to appraisal that was not credible, Respondent violated the Conduct section of the Ethics Rule;

- 1 l) Respondent failed to maintain and provide his complete workfile, including all versions of
2 his appraisal reports that were submitted to the client, which is a violation of the Record
3 Keeping Rule;
- 4 m) Respondent altered the lender's version of his appraisal reports submitted to the Bureau of
5 Real Estate Appraisers, which is a violation of the California Code of Regulation
6 3702(a)(1), (3), 3721(a)(2), (6) and (7), California Business and Professions Code 11328,
7 and the Uniform Standards of Professional Appraisal Practice, Conduct section of the
8 Ethics Rule; and
- 9 n) Respondent provided false and misleading statements while under investigation by the
10 Bureau of Real Estate Appraisers, which is a violation of the California Code of
11 Regulation 3702(a)(1), (3), 3721(a)(2), and the Uniform Standards of Professional
12 Appraisal Practice, Conduct section of the Ethics Rule.