

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. C20170202-02,
C20160225-01

Kenneth Bryan,
1361 Easy Ln
El Dorado Hills, CA 95762

Real Estate Appraiser License No. 035160

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 9-22-17.

It is so ORDERED 8-23-17.

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
Facsimile: (916) 440-7406

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

7 In the Matter of the Administrative Allegation of
Violation Against:

Case No. C20160225-01, C20170202-02

9 Kenneth L. Bryan
Real Estate Appraiser License No. 035160

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER

Respondent.

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:

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. Kenneth L. Bryan ("Respondent") is representing himself and has chosen not to
23 exercise his right to be represented by counsel at this time.

24 3. On or about September 17, 2004, the Bureau issued Real Estate Appraiser License
25 Number 035160 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 16, 2018.

JURISDICTION

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

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

9 6. The administrative allegation of violation against Respondent is attached as Exhibit
10 “A” and incorporated herein by reference.

ADVISEMENT AND WAIVERS

12 7. Respondent has carefully read and understands the charges and allegations in the
13 administrative allegation of violation. Respondent has also carefully read and understands the
14 effects of this Stipulated Settlement.

15 8. Respondent is fully aware of his or her legal rights in this matter, including the right
16 to a hearing on the administrative allegation of violation; the right to be represented by counsel at
17 his or her own expense; the right to confront and cross-examine the witnesses against him or her;
18 the right to present evidence and to testify on his or her own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

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

24 VIII

25 | VII

26 III

37 | W

28 | 111

CULPABILITY

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

11. Respondent agrees that his or her Real Estate Appraiser License is subject to discipline and he or she 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 or her counsel. By signing this Stipulated Settlement, Respondent understands and agrees that he or she may not withdraw his or her 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, 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 Portable Document Format ("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. 035160 is suspended for thirty (30) days. However, the suspension shall be stayed and Respondent's license shall be publically reproved and monitored on probation for three (3) years from the effective date of the Decision and Order on the terms and conditions described below.

1. Payment of Fine. Respondent shall pay a fine in the sum of Three Thousand Dollars (\$3,000.00). Payment of this fine shall be made in quarterly installments with payments of not less than Two Hundred and Fifty Dollars (\$250.00), 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. C20160225-01, C20170202-02." 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 BREA approved 15-hour basic education course on the Uniform Standards of Professional Appraisal Practice within six (6) months of the effective date the Decision and Order. The course must be The Appraisal Foundation's National USPAP Course (or its equivalent as determined solely by the Appraiser Qualifications Board (AQB) Course Approval Program), and must be taught by an AQB Certified USPAP Instructor who is also a Certified Residential or Certified General appraiser in good standing. The course must administer

1 a closed-book final examination. Respondent must submit proof of successful completion of the
2 course and final examination within six (6) months following the effective date of the Decision
3 and Order. Respondent understands that it is his or her responsibility to ensure that the course
4 meets all of the requirements listed above and to make all necessary and preparatory
5 arrangements to take the course. Educational courses imposed as a term or condition of probation
6 by the Chief of BREA may not be credited toward Respondent's continuing education
7 requirements required for renewal of Respondent's real estate appraiser license. Failure to comply
8 with the education requirements as contained in this Disciplinary Order shall result in an
9 automatic suspension of Respondent's real estate appraiser license. In order to reinstate
10 Respondent's license if it is automatically suspended for failure to comply with the education
11 requirement, Respondent must provide BREA with the following: (i) satisfactory verification of
12 the completion of the education course or courses imposed; (ii) completion and filing of a
13 reinstatement application; and (iii) payment of all applicable fees, fines, or penalties.

14 **3. Basic Appraisal Procedures Course/Examination.** Respondent shall take and pass
15 a BREA approved 30-hour basic education course on the Basic Appraisal Procedures prior to
16 renewing his license. Respondent must submit proof of successful completion of the course and
17 final examination. The course must administer a closed-book final examination. Respondent
18 understands that it is his or her responsibility to ensure that the course meets all of the
19 requirements listed above and to make all necessary and preparatory arrangements to take the
20 course. Educational courses imposed as a term or condition of probation by the Chief of BREA
21 may not be credited toward Respondent's continuing education requirements required for renewal
22 of Respondent's real estate appraiser license. Failure to comply with the education requirements
23 as contained in this Disciplinary Order shall result in an automatic suspension of Respondent's
24 real estate appraiser license. In order to reinstate Respondent's license if it is automatically
25 suspended for failure to comply with the education requirement, Respondent must provide BREA
26 with the following: (i) satisfactory verification of the completion of the education course or
27 courses imposed; (ii) completion and filing of a reinstatement application; and (iii) payment of all
28 applicable fees, fines, or penalties.

1 **4. Appraisal Log/Work Assignments.** Commencing on the effective date of the
2 Decision and Order and continuing for eight (8) months, Respondent shall maintain a log of all
3 appraisals and appraisal reviews Respondent performs on an Enforcement Log of Appraisal
4 Assignments form REA 4020 provided by BREA. Respondent shall submit a complete and
5 accurate copy of the log of all appraisals and appraisal reviews completed each four (4) months.
6 Each four (4) month log shall be submitted to BREA within thirty (30) days following the end of
7 each four (4) month period. Respondent understands BREA may select work assignments for
8 review from each submitted four (4) month log. Failure to submit the log, or any selected work
9 assignments, in compliance with these terms shall extend the probation for a period equivalent to
10 the period of noncompliance.

11 Respondent shall complete a minimum of four (4) appraisals in California every four (4)
12 months. If Respondent fails to complete four (4) appraisals in California every four (4) months,
13 probation shall be tolled. Periods during which probation is tolled shall not apply to reduction of
14 the probationary period, suspension or any other disciplinary order or term.

15 **5. Monitoring.** Respondent shall be subject to, and shall permit and cooperate with,
16 monitoring and investigation of Respondent's professional practice. Such monitoring and
17 investigation shall be conducted by representatives of BREA.

18 **6. Monitoring Costs.** Respondent shall pay Four Hundred and Fifty Dollars (\$450.00)
19 every four (4) months for the first eight months to compensate BREA for enforcing the order by
20 examining the appraisal logs/work samples. Failure to pay monitoring costs shall be a violation of
21 probation.

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

28

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

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

10 **10. Surrender of License.** During Respondent's term of probation, if he or she ceases
11 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
12 probation, Respondent may surrender his or her license to BREA. BREA reserves the right to
13 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
14 take any other action deemed appropriate and reasonable under the circumstances, without further
15 hearing. Upon formal acceptance of the tendered license, Respondent will no longer be subject to
16 the conditions of probation.

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

21 Respondent may petition to BREA for reinstatement pursuant to the provisions set forth in
22 Government Code section 11522. If, following a surrender of his or her license, Respondent ever
23 applies for licensure to BREA and/or petitions for reinstatement in the State of California, the
24 Chief shall treat it as a new application for licensure. Respondent must comply with all the laws,
25 regulations and procedures for licensure in effect at the time the application or petition is filed,
26 and all of the charges and allegations contained in the Accusation or Statement of Issues will be
27 deemed true when the Chief determines whether to grant or deny the application or petition.
28 Further, Respondent shall pay the enforcement costs, fines and complete all education, as

1 specified in this Decision and Disciplinary Order prior to filing any application for reinstatement
2 or issuance of a new license.

3 ACCEPTANCE

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

8 DATED: 8/28/2017

Original Signed

9 Kenneth L. Bryan
10 Respondent

11

12 ENDORSEMENT

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

15

16 DATED: 8/30/17

17 Original Signed
18 Elizabeth Seaters
19 Chief of Enforcement

20

21

22

23

24

25

26

27

28

Exhibit A

Administrative Allegation of Violation - Case No. C20160225-01, C20170202-02

On or about February 1, 2016, Respondent completed an appraisal of the property located at 2156 Cantalier Street, Sacramento, California. The report contains certain errors and omissions in violation of the Uniform Standards of Professional Appraisal Practice (USPAP), listed as follows:

- a) Respondent failed to properly identify the neighborhood boundaries. The boundaries identified in the appraisal report do not connect. They surround a large geographic area, which includes neighborhoods with lower price ranges than in the subject neighborhood (S.R. 1-1(a)(b), 1-2(e)(i), 2-1(a)(b), 2-2(a)(iii) and Conduct section of the Ethics Rule);
- b) Respondent grossly misrepresented the neighborhood price ranges, stating prices far below that of the subject neighborhood (S.R. 1-1(a)(b), 1-2(e)(i), 2-1(a)(b), 2-2(a)(iii) and Conduct section of the Ethics Rule);
- c) Respondent failed to support his estimate for the value of the subject site and site improvements, resulting in a valuation indication from the Cost Approach that is not credible (S.R. 1-1(a)(b), 1-4(b)(i)(ii), 2-1(a)(b), 2-2(a)(viii) and Conduct section of the Ethics Rule);
- d) Respondent used inappropriate sales (outside of the Woodlake neighborhood and not within a similar neighborhood) in the Sales Comparison Approach resulting in a valuation conclusion that is not credible (S.R. 1-1(a)(b), 1-4(a), 2-1(a)(b), 2-2(a)(viii) and Conduct section of the Ethics Rule);
- e) Respondent failed to reconcile the large difference between the Sales Comparison and Cost Approaches to value (S.R. 1-6(b), 2-1(b) and 2-2(a)(viii)); and
- f) Respondent rendered services in an unprofessional and grossly negligent manner by making numerous substantial errors (Conduct section of the Ethics Rule).

On or about January 25, 2017, Respondent completed an appraisal of the property located at 8009 Grand Sierra Court, Antelope, California. The report contains certain errors and omissions in violation of the Uniform Standards of Professional Appraisal Practice (USPAP), listed as follows:

- a) Respondent failed to describe the subject property properly. The high voltage power lines across the property were not reported, the large size of the subject lot was not reported; the SMUD station behind the subject property was not reported (S.R.1-1(b), 1-2(e)(i), 2-1(a)(b), 2-2(b)(iii) and Conduct section of the Ethics Rule);
- b) Respondent reported the zoning for the subject property incorrectly (S.R. 1-2(e)(i) and 2-2(a)(iii));

- c) Respondent failed to support his estimate for the value of the subject site and site improvements and failed to consider obsolescence, resulting in a valuation indication from the Cost Approach that is not credible. Respondent included an erroneous comment in this section regarding reposessions (S.R. 1-1(a)(b), 1-4(b)(i)(ii)(iii), 2-1(a)(b), 2-2(a)(viii) and Conduct section of the Ethics Rule);
- d) Respondent failed to complete the Sales Comparison Approach correctly, making adjustments for concessions in the wrong direction (S.R. 1-1(a)(b), 1-4(a) and 2-1(b));
- e) Respondent failed to reconcile the difference between one of his listings and the final estimate of value. (S.R. 2-1(b) and 2-2(a)(viii)); and
- f) Respondent rendered services in an unprofessional and grossly negligent manner by making numerous substantial errors (Conduct section of the Ethics Rule).