

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
2 1102 Q Street, Suite 4100
3 Sacramento, CA 95811

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6
7 **BEFORE THE**
8 **CHIEF OF THE BUREAU OF REAL ESTATE APPRAISERS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Administrative Allegation of
11 Violation Against:

12 **Kenneth L. Bryan**
13 **Real Estate Appraiser License No. 035160**

14 Respondent.

Case No. C20160225-01, C20170202-02

15 **STIPULATED SETTLEMENT AND**
16 **DISCIPLINARY ORDER**

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and mission of the Bureau of Real Estate Appraisers ("Bureau" or "BRE"), the parties
19 hereby agree to the following Stipulated Settlement and Disciplinary Order ("Stipulated
20 Settlement") which will be submitted to the Chief of the Bureau of Real Estate Appraisers
21 ("Bureau Chief" or "Chief of BRE") for approval and adoption as the final disposition of this
22 proceeding:

23 **PARTIES**

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

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

3. On or about September 17, 2004, the Bureau issued Real Estate Appraiser License
Number 035160 to Respondent. Respondent's License was in full force and effect at all times
relevant to the attached administrative allegation of violation and unless renewed will expire on
September 16, 2018.

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.
28

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
9 DATED:

8/28/2017

Original Signed

Kenneth L. Bryan
Respondent

12 ENDORSEMENT

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

15
16
17 DATED:

8/30/17

Original Signed
Elizabeth Seaters
Chief of Enforcement

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));

- 1 c) Respondent failed to support his estimate for the value of the subject site and site
2 improvements and failed to consider obsolescence, resulting in a valuation indication
3 from the Cost Approach that is not credible. Respondent included an erroneous
4 comment in this section regarding repossessions (S.R. 1-1(a)(b), 1-4(b)(i)(ii)(iii),
5 2-1(a)(b), 2-2(a)(viii) and Conduct section of the Ethics Rule);
6
7 d) Respondent failed to complete the Sales Comparison Approach correctly, making
8 adjustments for concessions in the wrong direction (S.R. 1-1(a)(b), 1-4(a) and 2-1(b));
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10 e) Respondent failed to reconcile the difference between one of his listings and the final
11 estimate of value. (S.R. 2-1(b) and 2-2(a)(viii)); and
12
13 f) Respondent rendered services in an unprofessional and grossly negligent manner by
14 making numerous substantial errors (Conduct section of the Ethics Rule).
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