

**BEFORE THE  
DIRECTOR 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:

Gene Smith,

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Director of the Bureau of Real Estate Appraisers, as its Decision in this matter.

This Decision shall become effective on 10-3-14

It is so ORDERED 9-2-14

**Original Signed**

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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  
4 Facsimile: (916) 440-7406

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

8 In the Matter of the Administrative Findings  
9 Against:

10 **Gene N. Smith**  
11 **9107 Wilshire Blvd., Ste. 450**  
12 **Beverly Hills, CA 90210**  
13 **Real Estate Appraiser License No. 032514**

14 Respondent.

15 Case Nos. C20130311-04; and  
16 C20140130-01

17 **STIPULATED SETTLEMENT AND**  
18 **DISCIPLINARY ORDER**

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

24 PARTIES

- 25 1. Elizabeth Seaters, acting on behalf of the Bureau of Real Estate Appraisers  
26 ("Complainant"), brings this action solely in her official capacity as Chief of Enforcement for  
27 Complainant.
- 28 2. Gene N. Smith (Respondent) is representing himself and has chosen not to exercise  
his right to be represented by counsel.
3. On or about November 26, 2003, Complainant issued Real Estate Appraiser License  
No. 032514 to Respondent. Respondent's License was in full force and effect at all times  
relevant to the attached Administrative Findings and, in absence of any superseding action, will  
expire on November 25, 2015.







1           7.     **Appraisal Log/Work Samples.** Commencing on the effective date of the Decision  
2 and Order and continuing through the period of probation, Respondent shall maintain a log of all  
3 appraisals and appraisal reviews Respondent performs on a Log of Appraisal Experience form  
4 provided by the Bureau. Respondent shall submit a complete and accurate copy of the log of all  
5 appraisals, and appraisal reviews, completed each six months. Each six month log shall be  
6 submitted to the Bureau within 30 days following the end of each six month period. Respondent  
7 understands that the Bureau may (has the option to) select work samples for review from each  
8 submitted six month log. Failure to submit the log or any selected work samples in compliance  
9 with these terms shall extend probation for a period equivalent to the period of noncompliance.  
10 Respondent shall complete a minimum of twelve appraisals per each year of probation,  
11 commencing on the effective date of the Decision and Order. If respondent fails to complete  
12 twelve appraisals per year, probation shall be tolled pursuant to condition entitled Tolling of  
13 Probation for Out-of State Residence/Practice below.

14           8.     **Monitoring Costs.** Respondent shall pay costs associated with monitoring each and  
15 every year of probation. Respondent shall comply with the Bureau's probation compliance  
16 monitoring program. Failure to pay costs or comply with probation monitoring shall be  
17 considered a violation of probation. Said costs shall be in a sum sufficient to cover the costs  
18 incurred by the Bureau in reviewing appraisals, and other monitoring , in an amount not to exceed  
19 \$250.00 per six (6) months.

20           9.     **Cost Reimbursement.** Respondent acknowledges that the Bureau has incurred  
21 enforcement costs associated with the investigation and prosecution of the violations identified in  
22 the Administrative Findings as attached in Exhibit A. Respondent understands that failure to  
23 comply with the Stipulated Settlement will subject him to additional disciplinary sanctions, which  
24 may include reimbursement for some or all of these enforcement costs.

25           10.    **Payment of Fine.** Respondent shall pay a fine pursuant to Business and Professions  
26 Code section 11316(a) and California Code of Regulations, Title 10, section 3721(a), in the sum  
27 of Three Thousand Dollars (\$3,000). Payment of this fine shall be made in quarterly installments  
28 with payments of not less than Three Hundred and Seventy Five Dollars (\$375.00), with the first

1 payment due within 30 days of the effective date of the final Decision and Order as signed by the  
2 Bureau Chief. Payment shall be made to the Real Estate Appraisers Regulation Fund c/o Bureau  
3 of Real Estate Appraisers, 1102 Q Street, Suite 4100, Sacramento, California 95811, by check or  
4 money order and shall indicate on its face the notation: "BREA Case Nos. C20130311-04; and  
5 C20040130-01." Respondent shall also submit a copy of the invoice with payment, which will be  
6 provided by the Bureau. If full payment is not received by the Bureau by the date due as noted in  
7 the invoice, a 10 percent penalty shall be added to the unpaid balance and interest will accrue on  
8 the unpaid balance at the pooled money investment rate in effect at that time, until full amount is  
9 paid. Respondent shall not be eligible to renew his or her license until such time as full payment  
10 of the outstanding fine has been made. Failure to make payment on the fine shall constitute a  
11 violation of the probationary order.

12 **11. Uniform Standards of Professional Appraisal Practice Course/Examination.**

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

25 **12. Basic Education Courses/Examination.** Respondent shall take and pass a Bureau

26 approved 30 hour basic education courses covering the following module: Residential Sales  
27 Comparison and Income Approaches. The course may be taken on-line or in a classroom setting  
28 and must include an administered closed book final examination. Respondent must submit proof

1 of successful completion of the course and final examination within twelve (12) months of the  
2 effective date of the Decision and Order as signed by the Bureau Chief. Respondent understands  
3 that it is his or her responsibility to ensure that the course meets all the requirements listed above  
4 and to apply for, schedule and make all arrangements to take the course.

5       13. **Minimum Education Requirements.** Educational courses imposed as a term or  
6 condition of probation may not be credited towards Respondent's continuing education  
7 requirements required for renewal of Respondent's real estate appraiser license.

8       14. **Automatic Suspension.** Failure to comply with the education requirements as  
9 contained in this Stipulated Settlement and Disciplinary Order shall result in an automatic  
10 suspension of Respondent's real estate appraiser license.

11       15. **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
12 Respondent should leave California to reside or practice outside this state, Respondent must  
13 notify Complainant, in writing, of the dates of departure and return. Periods of non-California  
14 residency or practice outside the state shall extend the running of the probationary period, or of  
15 any suspension, for an equivalent period. No obligation imposed herein, including requirements  
16 to file written reports, reimburse Complainant costs, shall be suspended or otherwise affected by  
17 such periods of out-of-state residency or practice except at the written direction of Complainant.

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

23       17. **License Surrender.** During Respondent's term of probation, if he or she ceases  
24 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions  
25 of probation, Respondent may surrender his or her license to the Bureau. The Bureau reserves the  
26 right to evaluate Respondent's request and to exercise its discretion whether to grant the request,  
27 or to take any other action deemed appropriate and reasonable under the circumstances, without  
28 further hearing. Upon formal acceptance of the tendered license, Respondent will no longer be

1 subject to the conditions of probation. Surrender of Respondent's license shall be considered a  
2 disciplinary action and shall become a part of Respondent's license history with the Bureau.  
3 Respondent may petition the Bureau for reinstatement pursuant to the provisions set forth in  
4 Government Code Section 11522. If, following a surrender of his or her license, Respondent ever  
5 applies for licensure or any certification of registration to the Bureau and/or petitions for  
6 reinstatement in the State of California, the Bureau Chief shall treat it as a new application for  
7 licensure or certification. Respondent must comply with all the laws, regulations and procedures  
8 for licensure or certification in effect at the time the application or petition is filed, and all of the  
9 charges and allegations contained in the attached Administrative Findings will be deemed true  
10 when the Bureau Chief determines whether to grant or deny the application, certification or  
11 petition. Further, Respondent shall pay the enforcement costs, fine and complete the education,  
12 as specified in this Stipulated Settlement prior to filing any application for reinstatement or  
13 issuance of a new license or certificate of registration.

14 ACCEPTANCE

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

19  
20  
21 Dated:

21 21 August 2014

**Original Signed**

22 Gene N. Smith  
23 Respondent

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ENDORSEMENT

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

**Original Signed**

Dated: 8/28/14

~~Elizabeth Seaters~~  
Chief of Enforcement

## **Exhibit A**

### **Administrative Findings - Case Nos. C20130311-04; and C20140130-01**

**Case No.:** C20130311-04

#### **Alhambra Property**

On or about December 12, 2012, Respondent completed an appraisal of the property located at 1601 S. El Molino Street, Alhambra, 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 disclose and analyze the subject's family room addition and status of permits (S.R. 1-2(e)(i) and 2-2(b)(iii));
- b) Respondent falsely certified he inspected the interior of the subject property in order to determine if conditions or requirements in his original appraisal had been satisfied when he did not. Respondent also falsely certified he inspected the exteriors of the comparable sales used when he did not (S.R. 1-2(h), 2-2(b)(vii), 2-3 and the Scope of Work Rule);
- c) Respondent failed to appropriately disclose and summarize the extent of significant real property appraisal assistance that was provided by an unlicensed trainee appraiser, including an interior inspection of the subject property (S.R. 1-2(h), 2-2(b)(vii), 2-3 and the Scope of Work Rule);
- d) 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 applied across the board upward gross living area adjustments to the closed comparable sales used while failing to disclose the inclusion of an unpermitted family room addition in the subject's gross living area. Respondent also failed to discuss and analyze Comparable Sale Two's detached office/recreation room and Comparable Sale Three's work shop and studio. Additionally, Respondent failed to utilize any comparable sales or listings within the subject's immediate neighborhood area (S.R. 1-4(a) and 2-2(b)(viii));
- e) Based upon the findings noted in above items a, b, c and d, Respondent failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal (S.R. 1-1(a));
- f) Based upon the findings noted in above items a, b, c and d, Respondent committed substantial errors of omission or commission that significantly affected the appraisal (S.R. 1-1(b));
- g) Based on the findings noted in above items a, b, c and d, in addition to removing the MLS trademarks from the photographs of the comparable sales used in his report,

Respondent failed to clearly and accurately set forth the appraisal in a manner that would not be misleading (S.R. 2-1(a));

- h) Based on the findings noted in above items a, b, c and d, Respondent failed to provide sufficient information to enable the intended users of the report to understand it properly (S.R. 2-1(b)); and
- i) Based on the findings noted in above items a, b, c and d, in addition to an appraisal report that was not credible, Respondent violated the Conduct section of the Ethics Rule.

**Case No.:** C20140130-01

### **Los Angeles Property**

On or about September 27, 2012, Respondent completed an appraisal of the property located at 2826 Dalton Avenue, Los Angeles, 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 disclose the age of the original home. Respondent also failed to appropriately discuss and analyze the two units and garage that were added 34 years after the original home was built. Additionally, Respondent failed to discuss and analyze the status of permits (S.R. 1-2(e)(i) and 2-2(b)(iii));
- b) Respondent falsely certified he had inspected the exterior of Comparable Sale Four, when he did not (S.R. 1-2(h), 2-2(b)(vii), 2-3 and the Scope of Work Rule);
- c) Respondent failed to disclose and summarize the extent of significant real property appraisal assistance that was provided by an unlicensed trainee appraiser (S.R. 1-2(h), 2-2(b)(vii), 2-3 and the Scope of Work Rule);
- d) Respondent falsely stated the subject's zoning description as Multi-Family 4-Unit, whereas it was one-family dwelling (S.R. 1-3(a) and 2-2(b)(iii));
- e) Respondent inappropriately checked the box that the subject's zoning compliance was legal, whereas the subject's three units were nonconforming to the existing one-family dwelling zoning. Respondent also failed to discuss and analyze whether the addition of the two units were legal nonconforming (grandfathered use). Additionally, Respondent also checked the box that the present use was the highest and best use without providing any analysis or support (S.R. 1-3(a), 1-3(b) and 2-2(b)(ix));
- f) 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 subject's condition in comparison to the varying conditions of the comparable sales used, such as Comparable Sale Three, which had been extensively remodeled. Respondent also failed to apply consistent bedroom and parking amenity adjustments. Additionally,

Respondent failed to appropriately discuss, analyze and verify sales concessions, such as Comparable Sale Four and Five, which were estimated (S.R. 1-4(a) and 2-2(b)(viii));

- g) Respondent failed to analyze and complete the Value Indicator calculations in a credible manner. The Value per Room and Value per GBA were unrealistic, whereas the numbers of rooms for the subject was incorrectly stated (S.R. 1-4(a) and 2-2(b)(viii));
- h) Respondent represented realtor projected rents as current monthly contract rents, resulting in an opinion of market rent that was not credible. Respondent also signed, but failed to complete the Operating Income Statement. Additionally, Respondent utilized a gross rent multiplier that was not adequately supported, resulting in an Income Approach that was not credible (S.R. 1-4(c)(i)(ii)(iii)(iv) and 2-2(b)(viii));
- i) Respondent provided a false date of report (S.R. 2-2(b)(vi));
- j) Based upon the findings noted in above items a, b, c, d, e, f, g, h and i, Respondent failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal (S.R. 1-1(a));
- k) Based upon the findings noted in above items a, b, c, d, e, f, g, h and i, Respondent committed substantial errors of omission or commission that significantly affected the appraisal (S.R. 1-1(b));
- l) Based on the findings noted in above items a, b, c, d, e, f, g, h and i, in addition to removing the MLS trademarks from Comparable Sale Four, Comparable Rentals One and Three, Respondent failed to clearly and accurately set forth the appraisal in a manner that would not be misleading (S.R. 2-1(a));
- m) Based on the findings noted in above items a, b, c, d, e, f, g, h and i, Respondent failed to provide sufficient information to enable the intended users of the report to understand it properly (S.R. 2-1(b)); and
- n) Based on the findings noted in above items a, b, c, d, e, f, g, h and i, in addition to an appraisal report that was not credible, Respondent violated the Conduct section of the Ethics Rule.

### **Pasadena Property**

On or about October 19, 2012, Respondent completed an appraisal of the property located at 505 Wyoming Street, Pasadena, 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 appropriately discuss and analyze the subject's location across the street from a high school (S.R. 1-2(e)(i) and 2-2(b)(iii));
- b) Respondent failed to appropriately discuss and analyze the subject's guest unit and status of permits (S.R. 1-2(e)(i) and 2-2(b)(iii));

- c) Respondent falsely certified he had inspected the exteriors of all the comparable properties used when he did not (S.R. 1-2(h), 2-2(b)(vii), 2-3 and the Scope of Work Rule);
- d) Respondent failed to appropriately disclose and summarize the extent of significant real property appraisal assistance that was provided by an unlicensed trainee appraiser (S.R. 1-2(h), 2-2(b)(vii), 2-3 and the Scope of Work Rule);
- e) Respondent falsely stated the subject's zoning classification and description as Psr1: Single Family Residence-Duplex Allowed, whereas the correct zoning was RM-16: Multi-Family Residential District (S.R. 1-3(a) and 2-2(b)(iii));
- f) Respondent falsely stated the subject's zoning compliance as Legal Nonconforming (Grandfather Use), whereas a secondary unit was allowed under the subject's zoning (S.R. 1-3(a) and 2-2(b)(iii));
- g) 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 subject's location across the street from a high school in comparison to the comparable sales used. Respondent falsely stated Comparable Sale One was located on a busy road while failing to disclose it was located across the street from an elementary school. Respondent also applied a percentage location adjustment to Comparable Sale Three that was not market supported. Additionally, Respondent failed to appropriately discuss and analyze the subject's guest unit (S.R. 1-4(a) and 2-2(b)(viii));
- h) Respondent provided a false date of report (S.R. 2-2(b)(vi));
- i) Based upon the findings noted in above items a, b, c, d, e, f, g and h, Respondent failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal (S.R. 1-1(a));
- j) Based upon the findings noted in above items a, b, c, d, e, f, g and h, Respondent committed substantial errors of omission or commission that significantly affected the appraisal (S.R. 1-1(b));
- k) Based on the findings noted in above items a, b, c, d, e, f, g and h, in addition to removing the MLS trademarks from Sales Two, Three and Four, Respondent failed to clearly and accurately set forth the appraisal in a manner that would not be misleading (S.R. 2-1(a));
- l) Based on the findings noted in above items a, b, c, d, e, f, g and h, Respondent failed to provide sufficient information to enable the intended users of the report to understand it properly (S.R. 2-1(b));

- m) Based on the findings noted in above items a, b, c, d, e, f, g and h, in addition to an appraisal report that was not credible, Respondent violated the Conduct section of the Ethics Rule; and
- n) Respondent violated the Conduct section of the Ethics Rule by altering and removing relevant information at the request of his client in order for the lender to fund the loan.

### **Midway City Property**

On or about October 18, 2012, Respondent completed an appraisal of the property located at 8092 Legion Place, Midway City, 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 appropriately discuss and analyze the subject's location across the street from a commercial business (S.R. 1-2(e)(i) and 2-2(b)(iii));
- b) Respondent falsely certified he had inspected the exteriors of all the comparable properties used when he did not (S.R. 1-2(h), 2-2(b)(vii), 2-3 and the Scope of Work Rule);
- c) Respondent failed to appropriately disclose and summarize the extent of significant real property appraisal assistance that was provided by an unlicensed trainee appraiser (S.R. 1-2(h), 2-2(b)(vii), 2-3 and the Scope of Work Rule);
- d) Respondent falsely stated the subject's zoning classification as "None", whereas the subject had R1 zoning (S.R. 1-3(a) and 2-2(b)(iii));
- e) 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 subject's location across the street from a commercial business in comparison to the comparable sales used. Respondent failed to appropriately discuss and analyze the varying city locations of the comparable sales used. Respondent also failed to discuss and analyze Comparable Sale Three's detached structure and Comparable Sale Seven's built-in pool. Additionally, Respondent failed to appropriately discuss and analyze Comparable Sale Four's condition and zoning classification (S.R. 1-4(a) and 2-2(b)(viii));
- f) Respondent provided a false date of report (S.R. 2-2(b)(vi));
- 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 removing the MLS trademarks from Sales Two, Four, Six, Seven and Eight, 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));
- k) Based on the findings noted in above items a, b, c, d, e and f, in addition to an appraisal report that was not credible, Respondent violated the Conduct section of the Ethics Rule; and
- l) Respondent violated the Conduct section of the Ethics Rule by utilizing less relevant comparable sales that were provided by the lender/client in hopes of Respondent increasing his concluded value, which Respondent did.