

**BEFORE THE WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD**

**WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD,**

Complainant,

v.

COMPLAINT NO.: 13-017

ROCK GARTON,

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board") and Rock Garton (hereinafter "Respondent"), for the purpose of resolving the above-styled matter.

WHEREAS, the Board and the Respondent have reached an agreement as to an appropriate disposition of the complaint.

WHEREAS, the Board agrees and acknowledges that this agreement is a compromise of claims disputed by the Respondent, and that this agreement and consent to these terms do not constitute an admission of guilt or culpability on his part.

WHEREAS, the parties have reached an understanding concerning proper disposition of the matter in controversy, the Board does hereby Find and Order as follows:

FINDINGS OF FACT

1. That the Board is the State entity created by West Virginia Code § 30-38-1 *et seq.* and is empowered to regulate the practice of real estate appraising.
2. That the Respondent is a licensee of the Board, possessing a Certified Residential Appraiser Number CR0049 and is subject to the license requirements of the Board.
3. That on October 30, 2013, the Respondent prepared an appraisal for property located at 60 Peace Ln, Buckhannon, Upshur County, West Virginia (hereinafter "subject property").
4. The Board alleged that the Respondent committed certain errors in appraising the subject property.
5. As a result of the alleged errors, the Board contends the appraised value of the subject property may not be accurate or supportable.

CONCLUSION OF LAW

1. Pursuant to Article 38 of Chapter 30 of the West Virginia Code, the Board is the State entity vested with the power to regulate real estate appraisers in the State of West Virginia.

2. That the Board has jurisdiction to take disciplinary action against the Respondent.

3. Pursuant to West Virginia Code § 30-38-1 *et seq.*, the Board may revoke, suspend, refuse to renew, or otherwise discipline the license of an appraiser, or deny an application, for any violation of any section of this article, or rule of the Board.

4. The Respondent is a licensee of the West Virginia Real Estate Appraiser Licensing and Certification Board and is subject to license requirements of the Board.

5. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(a), “[i]n developing a real property appraisal, an appraiser must: be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.”

6. It is alleged that the Respondent failed to recognize the need for adjustments based on difference in size; particularly no gross living adjustments were made.

7. That the Respondent failed to consider all the characteristics, physical and legal attributes of the subject property, as well as Respondent failed to, adequately and accurately, describe the subject property.

8. That the Respondent incorrectly cited the number of bedrooms within the subject property.

9. Pursuant to the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(c), “[i]n developing a real property appraisal, an appraiser must: not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.”

10. That as a result of such errors, the appraised value of the subject property is unsupported.

11. Respondent failed, without good cause, to exercise reasonable diligence in the development of the appraisal in relation to the subject property, in violation of W. Va. Code § 30-38-12(a)(11).

12. Based upon the foregoing, it was alleged the Respondent failed to correctly employ proper methods and techniques necessary to produce a credible appraisal, in violation of W. Va. Code §§ 30-38-12(a)(7),(11), and USPAP Standards Rule 1-1(a) which Respondent denied.

13. The parties mutually agree to resolve this pending matter without further prosecution.

CONSENT OF LICENSEE

The Respondent by affixing his signature hereto acknowledges the following:

1. That he has the following rights, among others: the right to a formal

hearing before the West Virginia Real Estate Appraiser Licensing and Certification Board; the right to reasonable notice of said hearing; the right to be represented by counsel at his own expense; and the right to cross examine witnesses against him.

2. That he waives all rights to such a hearing.

3. That he has had the opportunity to consult with counsel and executes this Consent Decree and Order voluntarily, freely, without coercion or duress and is mindful that it has legal consequences.

4. That no person or entity has made any promise or given any inducement whatsoever to encourage him to enter into this Consent Decree and Order other than as set forth herein.

5. That he acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and he is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.

6. That he waives any defenses including, but not limited to, laches, statute of limitations, and estoppel, that he may have otherwise claimed as a condition of this Consent Decree and Order.

7. That he acknowledges that the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Consent Decree and Order have

been met to the satisfaction of the Board.

8. That he acknowledges that he is aware that this Consent Decree and Order is a public document, available for inspection at any time by any member of the public under Chapter 29B *et seq.*, of the West Virginia Code, Freedom of Information Act and may be reported to other governmental, professional Boards or organizations.

9. That he acknowledges that this Consent Decree and Order shall be presented to the Board as soon as practical, but no later than the next scheduled meeting of the Board, with a recommendation for approval from the Standards Committee.

10. The Respondent, by affixing his signature hereon, consents and agrees to the following terms and conditions.

ACCEPTANCE BY THE BOARD

This Consent Decree and Order will not be submitted for Board consideration until after it has been agreed to and executed by the Respondent. The Consent Decree shall not become effective until it has been approved by the Board and endorsed by a representative member of the Board.

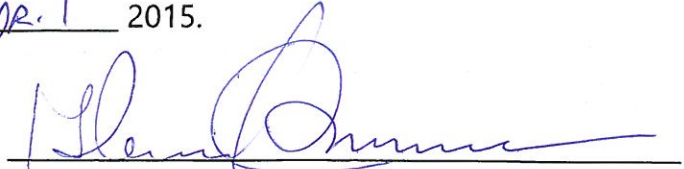
ORDER

That the Board agrees to forego further prosecution of the complaint pursuant to the Consent Decree between the Board and Respondent, and hereby ORDERS as follows:

1. That the Respondent supervisory abilities are hereby revoked.
2. The Respondent shall be prohibited from performing any appraisal until such time as he completes and provides to the Board all proper documentation reflecting that he has successfully completed, with exam, the 15-Hour National USPAP course. Completion of this course shall be over and above the regular continuing education hours required by the rules and regulations of the Board.
3. That the Respondent shall reimburse the Board the sum of Two Thousand Dollars (\$2,000.00) for the costs incurred by the Board associated with the investigation and prosecution of this matter. Such payment shall be paid to the Board upon entry of this Consent Decree and Order.
4. The Respondent shall be assessed a fine of in the amount of Two Thousand Five Hundred Dollars (\$2,500.00). Such payment shall be paid to the Board within thirty (30) days of entry of this
5. The Respondent's failure to fully comply with the terms and conditions of

this Consent Decree and Order may be deemed a violation of the same, and the Board may take immediately action to suspend the Respondent's license.

Entered this 05 day of Apr. 1 2015.



GLENN SUMMERS, CHAIR
WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

REVIEWED AND APPROVED BY:



Rock Garton (CR0049) Date
Respondent