

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

**IN THE MATTER OF:**

**JOSEPH W. SMITH, Jr.,  
Certified General Appraiser No. 292**

**CONSENT DECREE**

Now comes Respondent, Joseph W. Smith, Jr. (hereinafter "Respondent"), and the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board"), by Sharron L. Knotts, its Executive Director, for the purpose of resolving Board Complaint Number 05-003, against Respondent. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent hereby agrees and stipulates to the Findings of Fact and Conclusions of Law set forth in the instant Consent Decree concerning the proper disposition of this matter, and the Board, having approved such agreement, does hereby find and Order as follows:

**FINDINGS OF FACT**

1. The Board is a state entity created by W. Va. Code § 30-38-1, *et seq.*, and is empowered to regulate, among other things, the conduct of licensed residential appraisers.
2. Respondent is a state licensed certified general real estate appraiser licensed by the Board, holding license number 292.
3. During all times relevant herein, Respondent was responsible for and supervised real estate apprentice Doug Persinger.

4. During all times relevant herein, Persinger had not been released by the Board to allow Persinger to perform appraisals without the direct supervision of Respondent.

5. On or around December 20, 2004, Persinger performed an appraisal of property located at HC 71, Box 51, Asbury, West Virginia, 24915 (hereinafter "Property").

6. Respondent did not accompany Persinger on the inspection of the Property or assist Persinger with the appraisal of the Property performed by Persinger.

7. Respondent's signature is on the appraisal, and the appraisal reflects that Respondent did inspect the Property.

8. Respondent neither inspected the Property, nor provided direct supervision to Persinger in regard to the appraisal of the Property.

#### **CONCLUSIONS 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. "The apprentice shall work under the direct supervision of a state licensed or state certified real estate appraiser." W. Va. Code R. § 190-2-11.6(a).

3. Pursuant to W. Va. Code R. § 190-2-11.6(a), when engaged in the capacity of a real estate appraiser apprentice, Persinger was required to perform assignments under the direct supervision of Respondent.

4. In pertinent part, W. Va. Code R. § 190-2-11.7(a) provides that "[t]he supervisor is at all times responsible for and shall provide direct supervision of the work

performed by the apprentice in accordance with the Uniform Standards of Professional Appraisal Practice . . . .”

5. Pursuant to W. Va. Code R. § 190-2-11.7(a), Respondent was responsible for any acts performed by Persinger in regard to the practice of real estate appraising, and was required to provide direct supervision over Persinger.

6. Pursuant to W. Va. Code §§ 30-38-12(a)(7) and 30-38-13(b), 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.

7. Respondent failed to provide direct supervision to Persinger in regard to the appraisal of the Property, in violation of W. Va. Code §§ 30-38-12(a)(7) and 30-38-13(b).

8. Pursuant to W. Va. Code § 30-38-12(a)(3), the Board may revoke, suspend, refuse to renew, or otherwise discipline the license of an appraiser, or deny an application, for committing “[a]n act . . . in the practice of real estate appraising which constitutes dishonesty, fraud or misrepresentation . . . .”

9. By and through Respondent’s signature and indication that he inspected the Property on the appraisal, where Respondent neither directly supervised Persinger nor inspected the Property, Respondent committed an act that constitutes dishonesty, fraud, and/or misrepresentation in violation of W. Va. Code § 30-38-12(a)(3).

#### CONSENT

Respondent, both in his individual capacity and as a licensed certified general appraiser, by the execution hereof, agrees to the following:

1. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent consents to the entry of the following Order affecting his conduct as a state certified general real estate appraiser.

**ORDER**

On the basis of the foregoing, the Board hereby ORDERS as follows:

1. The real estate appraiser license of Respondent, Certified General License No. 292, is hereby REPRIMANDED.

2. Respondent shall pay to the Board the amount of three hundred and twenty-five dollars (\$325.00). Such payment by Respondent shall represent the costs incurred by the Board associated with the investigation and prosecution of Complaint Number 05-003, and the subsequent reimbursement to the Board thereof. Respondent shall additionally pay to the State of West Virginia a fine in the amount of five hundred dollars (\$500.00). Such payments shall be paid to the Board in full within thirty (30) days of the date of entry of the instant Consent Decree.

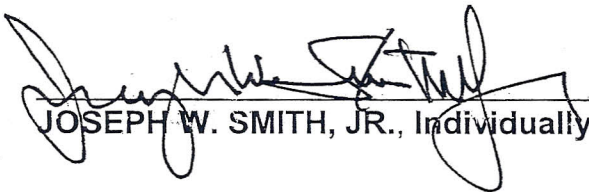
3. Any deviation from the requirements of the instant Consent Decree, without the prior written consent of the Board, shall constitute a violation of this Order, and result in the immediate suspension of Respondent's license. The Board shall immediately notify

Respondent via certified mail of the specific nature of the charges, and the suspension of Respondent's license. Respondent may request reinstatement of his license through renewal of this agreement, or execution of a new agreement, which may contain different or additional terms. The Board is not bound to comply with Respondent's request.

In the event Respondent contests any such allegations of violation of the Consent Decree, if any, which results in the suspension of Respondent's license, Respondent may request a hearing to seek reinstatement of his license. Any such hearing shall be scheduled and conducted in accordance with the provisions of West Virginia Code § 30-1-8 and § 30-38-1, *et seq.*

Further, in the discretion of the Board and in the event Respondent violates the provisions of the instant Consent Decree, the Board may schedule a hearing on its own initiative for the purpose of allowing the Board the opportunity to consider further discipline against Respondent's license.

**AGREED TO BY:**

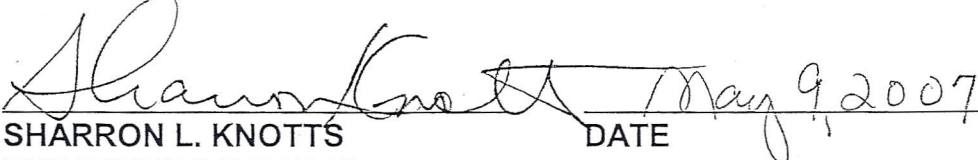
  
JOSEPH W. SMITH, JR., Individually

April 25, 2007  
DATE

ENTERED into the records of the Board this:

9th day of May, 2007.

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

By:   
SHARRON L. KNOTTS  
EXECUTIVE DIRECTOR

May 9, 2007  
DATE