

BEFORE THE WEST VIRGINIA REAL ESTATE  
APPRAISER LICENSING AND CERTIFICATION BOARD

WEST VIRGINIA REAL ESTATE APPRAISER  
LICENSING AND CERTIFICATION BOARD,

Complainant,

v.

Complaint Number: 13-012

SAMANTHA L. LUSHER,

Respondent.

**CONSENT DECREE AND ORDER**

Now comes the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter the "Board") and Samantha L. Lusher, (hereinafter the "Respondent"), for the purpose of agreeing to disciplinary action which shall be taken against the Respondent by the Board.

WHEREAS, the Board has reviewed the complaint filed against the Respondent and the Respondent's response.

WHEREAS, the parties mutually desire to settle this issue without further prosecution and a formal hearing.

It is hereby stipulated and agreed between the undersigned parties that this matter be settled and resolved, and the parties have reached an understanding concerning the proper disposition of the matter in controversy. The Board, approving such an agreement, 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 appraisers.

2. That the Respondent is a licensee of the Board, possessing Certified Residential Appraiser license number, CR1041, and is subject to the jurisdiction of the Board.

3. That pursuant to West Virginia Code § 30-38-1 *et seq.*, the Board may revoke a license, suspend a license, reprimand a licensee or take other disciplinary action as deemed appropriate by the Board.

4. Specifically, W. Va. Code § 30-38-12(a)(11), provides the Board may suspend, revoke, . . . a license for failing or refusing without good cause to exercise reasonable diligence, or negligence or incompetence, in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

5. The Uniform Standards of Professional Appraisal Practice, (USPAP) Standards Rule 1-1(a), states that “[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. In May 2013, the Respondent performed an appraisal of residential property located in Hurricane, Putnam County, West Virginia (hereinafter referred to as the “Property”).

7. The appraisal contained numerous USPAP violations.

8. The Respondent failed to correctly employ appropriate methods and techniques necessary to produce an accurate appraisal of the subject property, in violation of W. Va. Code §§ 30-38-12(a)(7), 30-38-17, and USPAP Standards Rule 1-1(a).

### CONCLUSION OF LAW

1. That the Board has jurisdiction to take disciplinary action against the Respondent.
2. The Respondent is a licensee of the Board and is subject to jurisdiction of the Board.
3. Based on its review of the complaint and the Respondent's response, the Board finds that there is probable cause to believe that the Respondent may have violated certain acts of West Virginia Code § 30-38-1 *et seq.* and the Uniform Standards of Professional Appraisal Practice (USPAP), which acts, if proven to be true, would constitute professional negligence or a willful departure from standards of accepted of professional conduct, which would be grounds for disciplinary action.

4. The Respondent failed to correctly complete the research and analysis necessary to produce an accurate appraisal of the subject properties, in violation of W. Va. Code § 30-38-12(a)(7) and USPAP Standards Rule 1-1(a).

5. The Respondent failed to exercise due diligence in developing, preparing and communicating the appraisal in violation of W. Va. Code § 30-38-12(a)(11).

6. The Respondent failed to comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by real estate appraisers in violation of West Virginia Code § 30-38-17.

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

### CONSENT OF LICENSEE

The Respondent by affixing her signature hereto, acknowledges the following:

1. That she 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 her own expense; and the right to cross examine witnesses against her.

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

3. That she 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 her to enter into this Decree other than as set forth herein.

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

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

7. That she acknowledges that the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Consent Decree have been met to the satisfaction of the Board.

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

10. The Respondent, by affixing her 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 a majority of 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 and Order between the Board and Respondent, and hereby ORDERS as follows:

1. That the Respondent shall, within in one year of the date of this Order and Decree complete, with examination, Advanced Residential Applications and Case Studies (15 hours) or an equivalent course pre-approved by the Board.

2. The Respondent shall submit to the Board written verification of her enrollment and satisfactory completion of the same. Completion of this course does not count as credit for regular continuing education hours required by law.

3. That the Respondent shall reimburse the Board the sum of One Thousand Five-Hundred Dollars (\$1,500.00) for the costs incurred by the Board associated with the investigation

and prosecution of this matter. Such payment shall be paid to the Board in full within one year of the date of entry of this Order; and

4. Any breach of the terms of this Agreement shall constitute a violation of this Agreement, and may result in the immediate reinstatement of the charges reflecting the allegations made in this, and any new or additional charges of which the Board may be aware.

5. Should the Respondent fail to comply with any part of the Consent Decree and Order, the Board may reinstate its Statement of Charges against the Respondent.

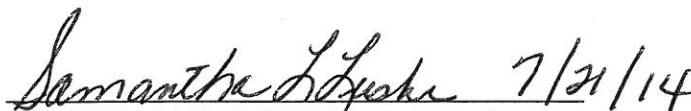
Entered this 20<sup>th</sup> day of August 2014.



R. SCOTT BARBER, CHAIR  
WEST VIRGINIA REAL ESTATE APPRAISER  
LICENSING AND CERTIFICATION BOARD

Glenn A Summers

Reviewed and Approved by:

 7/21/14

SAMANTHA L. LUSHER

Date

Respondent