

BEFORE THE WEST VIRGINIA REAL ESTATE APPRAISER LICENSING  
AND CERTIFICATION BOARD



WEST VIRGINIA REAL ESTATE APPRAISER  
LICENSING AND CERTIFICATION BOARD,

*Complainant,*

V.

**Complaint No. S22-014**

**MICHAEL SMEDY ALLIE,  
License No. CR1078**

*Respondent.*

**CONSENT DECREE**

Respondent, Michael Smedy Allie (“Respondent”) and the West Virginia Real Estate Appraiser Licensing and Certification Board (“Board”) enter into the following Consent Decree for the purpose of resolving the above-styled complaint and summary suspension. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent agrees and stipulates to the Findings of Fact, Conclusions of Law, and disposition of this matter. The Board, having approved such agreement, does hereby Find and Order as follows:

**FINDINGS OF FACT**

1. Respondent is a Certified Residential Appraiser, holding license no. CR1078.
2. On August 4, 2022, Respondent entered a home located at 631 Long Fork Road, Peeks Mill, West Virginia, 25547, for the purposes of preparing an appraisal on the property.
3. On the same day, Ms. Vance submitted a complaint, together with video footage and a screenshot of the incident, and alleges as follows:

Appraiser came to the house and was caught on camera screaming on the back porch and beating on the door. I called the police and met them at the property. When we arrived, the police and I could hear him screaming and beating on the counters from outside of the home. Appraiser admitted being under the influence

of drugs and having drugs on his person while in the home. He was then arrested and escorted off the property.

4. The police report, issued on August 26, 2022, from the Logan County Sheriff's Office (Incident No. I220826-02) indicated that on August 4, 2022, Respondent went to the property to perform an appraisal and that Respondent admitted to having heroin in his pocket at the time. Respondent was placed under arrest for possession of heroin.

5. On September 1, 2022, simultaneously with the issuance of the Summary Suspension Order, the Board initiated Complaint No. S22-014 against Respondent based on the fact that Respondent attempted to perform a real estate appraisal under the influence of drugs.

6. Respondent timely submitted a Response to the Board-Initiated Complaint and Summary Suspension Order on September 20, 2022. Respondent does not deny the allegations set forth in the Board-Initiated Complaint and asserts that since the incident, he has been committed to his rehabilitation.

7. The Board has authorized the proposal of this Consent Decree to informally resolve this matter.

#### **CONCLUSIONS OF LAW**

1. In circumstances in which the Board determines that a real estate appraiser's continuation in practice constitutes an immediate danger to the public, the Board is authorized to temporarily and summarily suspend the real estate appraiser's license, prior to a disciplinary hearing, pending institution of proceedings to determine further disciplinary action. *See* W. Va. Code § 30-1-8(e)(1).

2. Based on the seriousness of the allegations that Respondent attempted to perform a real estate appraisal while under the influence of drugs, the Board was justified in issuing the Summary Suspension Order on September 1, 2022.

3. W. Va. Code R. § 190-4-3.1 provides, “[t]he board may deny an application for license, place a licensee on probation, limit or restrict a license, suspend or revoke any license, or otherwise discipline a licensee in accordance with these rules and W. Va. Code § 30-38-1 *et seq.*, upon satisfactory proof that a licensee has been convicted of a felony or is engaged in conduct, or committed other acts, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of W. Va. Code § 30-38-1 *et seq.* or the rules of the board.” (emphasis added). *See also* W. Va. Code § 30-38-12(a)(7) (the Board is authorized to take disciplinary action against a licensee for a “violation of any section [of the Real Estate Appraiser Licensing Act] or any rule of the board.”).

4. W. Va. Code § 30-38-17 provides, “[e]ach real estate appraiser licensed or certified under this act shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice promulgated by the appraisal foundation.”

5. The USPAP Ethics Rule provides, “[a]n appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.” The Conduct Section of the USPAP Ethics Rule further provides, “[a]n appraiser must not perform an assignment in a grossly negligent manner.”

6. The USPAP Competency Rule provides, “[a]n appraiser must (1) be competent to perform the assignment; (2) acquire the necessary competency to perform the assignment; or 3) decline or withdraw from the assignment. In all cases, the appraiser must perform competently

when completing the assignment...An appraiser must not render appraisal services in a careless or negligent manner. This Rule requires an appraiser to use due diligence and due care.”

### **CONSENT**

By signing below, Respondent 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 may pursue this matter through appropriate administrative proceedings and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent acknowledges the Findings of Fact set forth above, admits that there is probable cause to conclude that the violations set forth above in the Conclusions of Law occurred, and consents to the entry of the following Order:

### **ORDER**

1. Respondent must enroll, participate in, and complete the WV Pharmacists Recovery Network Discipline Program. This program requires, at a minimum, that Respondent submit to random drug screens as part of his continued participation in the program.

2. Upon the Board’s receipt of documentation from the WV Pharmacists Recovery Network Discipline Program that Respondent has agreed to the terms and conditions of the program, the Board will immediately lift the Summary Suspension of Respondent’s Certified Residential Appraiser’s license in the State of West Virginia.

3. Respondent will remain on probation for a period of time as recommended by the WV Pharmacists Recovery Network Discipline Program.

4. During this probationary period, Respondent shall submit to random drug screens. Drug screen results showing Respondent as positive for any illegal substance or for any substance for which Respondent does not have a valid prescription may result in the immediate suspension of Respondent's license until such time as Respondent submits a negative test result.

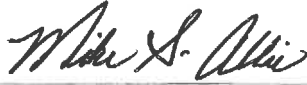
5. Respondent's period of probation before the Board will end upon successful completion of the WV Pharmacists Recovery Network Discipline Program. Respondent is required to submit to the Board certification of completion of the WV Pharmacists Recovery Network Discipline Program to end his period of probation.

6. Respondent shall bear all costs and expenses associated with his enrollment and participation in the WV Pharmacists Recovery Network Discipline Program.

7. Failure to adhere to the terms of this consent agreement will subject Respondent to further discipline. For any alleged violation of this Consent Agreement, the Board shall immediately notify Respondent of the alleged violation and the summary suspension of Respondent's license. In the event Respondent contests an alleged violation of this Consent Agreement, resulting in the suspension of Respondent's license, Respondent is entitled to a hearing to challenge the alleged violation. Any such hearing shall be scheduled and conducted in accordance with the provisions of W. Va. Code §§ 30-1-8 and 30-38-14 and the procedural rules promulgated by the Board.

8. This document is a public record as defined in W. Va. Code § 29B-1-2(5).

CONSENT DECREE AGREED TO BY:



Michael Smedy Allie

10/14/22

Date

ENTERED into the records of the Real Estate Appraiser Licensing and Certification Board  
this:

1 day of October 2022.

West Virginia Real Estate Appraiser Licensing and Certification Board



By:

Dean E. Dawson  
Chair