

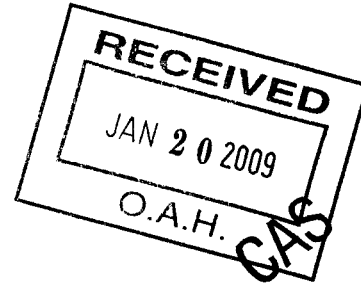


ARIZONA BOARD OF APPRAISAL

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January 20, 2009

Cliff J. Vanell, Director
Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ, 85007



Re: 07F-2311-BOA-res, Etc., Shahab A. Mehkri

Dear Mr. Vanell:

Attached please find the Findings of Fact, Conclusions of Law, and Order of Revocation entered by the Arizona Board of Appraisal.

The Board adopted the administrative law judge's recommended Findings of Fact with the following modifications to correct typographical errors and to be consistent with the evidence presented at the hearing, for the reasons set forth in the State's Memorandum Re Recommended Decision.

- Page 4, paragraph 15, line 18, replace "Substantive Policy Statement" with Substantive Policy Statement #1"
- Page 7, paragraph 34, line 22, replace "They" with "The"
- Page 17, paragraph 97, line 11, add "in preparing" between "Conduct" and "this"
- Page 20, paragraph 117, line 18, add "in" between "contained" and "the"
- Page 22, paragraph 122, line 25, replace "to" with "no"
- Page 23, paragraph 124, line 3, replace "be" with "to"
- Page 23, paragraph 124, line 4, correct the spelling of "Deal" with "Diehl" consistent with the Board records of how Gerald Diehl spells his name.
- Page 24, paragraph 132, line 7, replace "200-hour" with "2000-hour"
- Page 26, paragraph 138, line 22, replace "certificated" with "certified"
- Page 26, paragraph 1, line 27, replace "development" with "developing"
- Page 27, paragraph 4 (a), line 10, replace "date" with "data"
- Page 28, paragraph 7, line 24, delete "and Conduct" because the ALJ did not quote any language concerning the Ethics-Conduct Rule
- Page 19, add paragraph 8, starting at line 17 to include the Ethics-Conduct Rule that the ALJ did not quote:

8. The Ethics Rule—Conduct provides as follows:

An appraiser must perform assignments ethically and competently, in accordance with USPAP . . .

An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not communicate a misleading or fraudulent report . . .

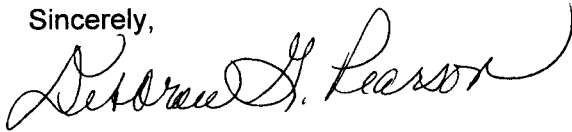
Cliff J. Vanell, Director
January 20, 2009
Page 2

The Board adopted the administrative law judge's recommended Conclusions of Law, with the following modifications to correct a typographical error, and to delete language to be consistent with the Board's conclusions and Order of Revocation for the reasons set forth in the State's Memorandum Re Recommended Decision.

Page 30, paragraph 6, line 15, replace "will" with "willful"
Page 31, paragraph 10, lines 4-7, delete sentence beginning with "At this time . . ."

The Board rejected the administrative law judge's recommended order and issued an order revoking respondent's certificate for the reasons set out in the State's Memorandum Re Recommended Decision Order of Revocation and by adding the Board's boilerplate revocation language for consistency.

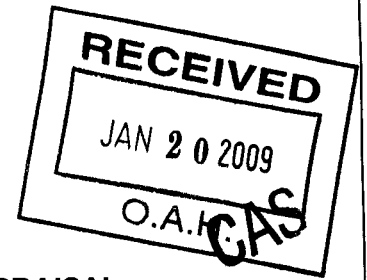
Sincerely,



Deborah G. Pearson
Executive Director

Attachment

cw/attachment: Jeanne Galvin, Assistant Attorney General
Christopher Munns, Assistant Attorney General
Shahab A. Mehkri



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BEFORE THE ARIZONA STATE BOARD OF APPRAISAL

IN THE MATTER OF:

**SHAHAB A. MEHKRI,
Certified Residential Appraiser
Certificate No. 21190**

Respondent.

Case Nos. 07F-2311-BOA-res,
07F-2312-BOA-res, 07F-2313-BOA-res,
07F-2314-BOA-res, 07F-2315-BOA-res,
08F-2583-BOA, and 08F-2584-BOA
(Consolidated)

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER OF REVOCATION**

On January 15, 2009, the Arizona Board of Appraisal met to consider the Administrative Law Judge Decision of Diane Mihalsky in the above-captioned matter. Shahab A. Mehkri appeared. The State was represented by Jeanne Galvin, Assistant Attorney General. The Board received independent legal advice from Christopher Munns, Assistant Attorney General from the Solicitor General's Office.

The Board, having reviewed the administrative record and the Administrative Law Judge's Findings of Fact, Conclusions of Law and Order in this matter, and having considered the written and oral arguments of the parties and fully deliberating the same, takes the following actions on the recommended decision:

1. The Board hereby accepts the Findings of Fact of the Administrative Law Judge with modifications to correct typographical errors and to be consistent with the evidence presented at the hearing as identified in the filings from the State and staff.

2. The Board hereby accepts the Conclusions of Law of the Administrative Law Judge with modifications to correct typographical errors; to be consistent with the evidence presented at the hearing; and to delete language inconsistent with the Board's conclusions of law and final order of revocation as requested in the filings from the State and staff.

1 3. The Board hereby rejects the Order of the Administrative Law Judge¹ and hereby
2 issues an Order of Revocation of Certified Residential Appraiser Certificate No. 21190 issued to
3 Shahab A. Mehkri based on the following:

4 At the outset of the Mehkri administrative hearing, the State sought the revocation
5 of Mr. Mehkri's certificate as a certified residential appraiser. The State's decision
6 to seek revocation was based on the number, severity and repetitive nature of the
7 charges against Mr. Mehkri. Judge Mihalsky however, recommended that the
8 Board revoke Mr. Mehkri's certificate *but* stay the revocation while Mr. Mehkri
9 serves a two year probationary period with a mentor/supervisor for a minimum of
10 six months.

11 It is the Board's position that the evidence presented at hearing justifies the
12 revocation of Mr. Mehkri's certification. Judge Mihalsky concluded that the State
13 proved each and every allegation alleged by a preponderance of the evidence.² In
14 fact, Judge Mihalsky concluded that "[T]he violations were significant and
15 repeated."³ Many of the violations sustained by Judge Mihalsky were ethics
16 violations and violations that affected the credibility of the appraisal report. Seven
17 complaints, numerous substantiated violations all found to be significant and
18 repetitive more than justifies a Level V violation and revocation of Mr. Mehkri's
19 certification. Perhaps more important than Judge Mihalsky's finding that the
20 violations were significant and repeated is her conclusion that "the record does
21 show, *at a minimum*, he acted *incompetently*."⁴ (Emphasis added.) In adopting
22 Judge Mihalsky's Recommended Order, the Board would be abrogating its
23 responsibility to promote quality real estate appraisals by allowing an appraiser to
24 continue to practice when he has been found to be, at a minimum, *incompetent*
25 and responsible for committing *significant and repeated violations* of USPAP.

26 Judge Mihalsky noted that the record did not show that Mr. Mehkri acted
fraudulently or maliciously. The Board *did not* allege that Mr. Mehkri acted
fraudulently or maliciously. Neither fraud nor malice is a required element in
determining whether a USPAP violation occurred. In addition, finding a Level V
violation requires only a determination of "significant violations" or "willful
disregard" of standards, statutes and rules. There is no requirement of malice.
Judge Mihalsky found the violations to be significant (and repetitive) and she
noted that Mr. Morris testified for the State that, in his opinion, the violations were
willful.

¹ The Board concluded that much of the evidence presented at the hearing was uncontroverted; and in fact, Mr. Mehkri "admitted numerous violations of USPAP." All of the allegations alleged against Mr. Mehkri were upheld. See Page 30, paragraph 8, lines 23-24 of the Recommended Decision.

² In footnote 5 on page 28 of the Recommended Decision, Judge Mihalsky notes that Standards Rule 2-2(b)(viii) was alleged in the Complaint and Notice of Hearing to have been violated. The State presented no evidence with respect to hypothetical conditions or extraordinary assumptions, as the allegation was improperly noticed.

³ Page 30, paragraph 5, line 11 of the Recommended Decision.

⁴ Page 31, paragraph 10, line 4 of the Recommended Decision.

1 Much of the evidence presented at hearing was uncontroverted; in fact, Mr.
2 Mehkri "admitted numerous violations of USPAP."⁵ All of the allegations alleged
3 against Mr. Mehkri were upheld. Therefore, the Board rejects Judge Mihalsky's
4 recommendation and revokes Mr. Mehkri's certification.

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4. The Findings of Fact, Conclusions of Law and Order shall read as follows:

FINDINGS OF FACT

Background and Procedure

1. The Arizona State Board of Appraisal ("the Board") is the state agency
authorized to regulate and control the licensing and certification of real property appraisers in
the State of Arizona.⁶

2. In March 2005, the Board certified Respondent Shahab ("Sam") A. Mehkri as a
general residential appraiser and issued Certificate No. 21190 to him. Mr. Mehkri renewed the
certification on March 27, 2007. The Certification will expire March 31, 2009.

3. A certified residential appraiser possesses the second highest certification and
may appraise all residential properties having up to four units without regard to value or
complexity.⁷ In contrast, a licensed residential appraiser may appraise "noncomplex one to four
residential units having a value of less than one million dollars and complex one to four
residential units having a value of less than two hundred fifty thousand dollars."⁸ Certified
general appraisers may appraise all real property, including commercial property and residential
properties having more than four units.⁹

4. On December 27, 2006, the Board received a letter from Molly Woods, an
appraiser in the Kingman, Arizona, area, to which was attached five of Mr. Mehkri's appraisal

⁵ Page 30, paragraph 8, lines 23-24 of the Recommended Decision.

⁶ See A.R.S. § 32-3601 *et seq.*, and the rules promulgated thereunder, found in the Arizona Administrative Code ("A.A.C.") at R4-46-101 *et seq.*

⁷ See A.R.S. § 32-3612(A)(2) and (B)(1).

⁸ A.R.S. § 32-3612(A)(3).

⁹ A.R.S. § 32-3612(A)(1).

1 reports. According to Ms. Woods, the reports contained "several errors . . . that resulted in a
2 report where the estimated value was not supported." Ms. Woods asked the Board "to
3 determine whether or not [there was] a pattern that could harm the general public."

4 5. The Board opened Complaint Nos. 2311, 2312, 2313, 2314, and 2315 and
5 assigned them to contract investigator Roy Edmund Morris, III to investigate. Mr. Morris has
6 been a certified general appraiser since 1970 in Arizona and teaches on the Uniform Standards
7 of Professional Appraisal Practice ("USPAP") in Arizona and world-wide, including qualifying
8 courses and continuing education.

9 6. Mr. Morris is a member of many professional appraiser organizations, including
10 the Appraisal Institute and the American Society of Appraisers. He is self-employed

11 7. Mr. Morris issued reports on Case Nos. 2311, 2312, 2313, 2314, and 2315,
12 which opined that Mr. Mehkri had violated applicable provisions of USPAP, Arizona regulations
13 and Arizona statutes. The Board issued a complaint based on Mr. Morris' opinion. The five
14 matters were referred to the Office of Administrative Hearings.

15 8. While the five matters were pending the Office of Administrative Hearings, on
16 March 17, 2008, the Board received two anonymous complaints about Mr. Mehkri's appraisal of
17 two residential properties in Peoria, Arizona. The two anonymous complaints were designated
18 Case Nos. 2583 and 2584. The Board assigned the two new complaints to Mr. Morris to
19 investigate.

20 9. Mr. Morris issued reports on Case Nos. 2583 and 2584, which opined that Mr.
21 Mehkri had violated applicable provisions of USPAP, Arizona regulations, and Arizona statutes.
22 The Board withdrew the five pending complaints from the Office of Administrative Hearings so
23 that they could be consolidated for hearing with Case Nos. 2583 and 2584. After consolidation,
24 the Board referred all seven cases to the Office of Administrative Hearings for hearing.

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1 10. On October 31, 2008, the Board issued an Amended Complaint and Notice of
2 Hearing in Case Nos. 07F-2311-BOA, 07F-2312-BOA, 07F-2313BOA, 07F-2314-BOA, 07F-
3 2314-BOA, 07F-2315-BOA, 08F-2583-BOA, 08F-2584-BOA. The Amended Complaint set forth
4 certain factual allegations and, based on these allegations, charged Mr. Mehkri with the
5 following USPAP violations, based on the USPAP provisions that Mr. Morris cited in his
6 investigative reports:

7 10.1 In Case No. 2311, USPAP, 2006 edition Standards Rule ("SR") 1-1(a), SR 1-
8 1(b), SR 1-1(c), SR 1-4, SR 1-5(a), SR 1-5(b), SR 2-2(b)(viii), and the Ethics Rule—Record
9 Keeping and Conduct;

10 10.2 In Case No. 2312, USPAP, 2006 edition SR 1-1(a), SR 1-1(b), SR 1-1(c), SR 1-
11 5, SR 2-2(b)(viii), Supplemental SR analysis of subject's prior sale analysis of current contact,
12 and the Ethics Rule—Record Keeping and Conduct;

13 10.3 In Case No. 2313, USPAP, 2006 edition SR 1-1(a), SR 1-1(b), SR 1-1(c), SR 1-
14 5, SR 2-2(b)(viii), and the Ethics Rule—Record Keeping;

15 10.4 In Case No. 2314, USPAP, 2005 edition SR 1-1(a), SR 1-1(b), SR 1-1(c), SR 1-
16 5(a), SR 1-5(b), Supplemental Standards Rule on subject listing and sale; SR 2-2(b)(viii),
17 Supplemental Standard Rule, and the Ethics Rule—Record Keeping and Conduct;

18 10.5 In Case No. 2315, USPAP, 2005 edition SR 1-1(b), SR 1-1(c), SR1-5, and the
19 Ethics Rule—Record Keeping;

20 10.6 In Case No. 2583, USPAP, 2006 edition SR 1-1(a), 1-1(b), SR 1-1(c), SR1-5(a),
21 SR 1-5(b), SR 2-2(b)(viii), and the Ethics Rule—Record Keeping and Conduct;

22 10.7 In Case No. 2584, USPAP, 2006 edition SR 1-1(b), SR1-5(a), SR 1-5(b), SR 2-
23 2(b)(viii), and the Ethics Rule—Record Keeping and Conduct.

24 11. A hearing was held on December 16 and 17, 2008 on the factual allegations and
25 charged violations in the Amended Complaint. The Board presented the testimony of its
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1 Executive Director Deborah G. Pearson and contract investigator Mr. Morris and had admitted
2 into evidence 36 exhibits. Mr. Mehkri testified on his own behalf and had admitted into evidence
3 one exhibit.

4 12. Mr. Morris testified that the charged provisions of the 2005 and 2006 editions of
5 USPAP are identical. Therefore, these provisions are not further distinguished in this decision.

6 13. Mr. Morris testified that, to prepare his investigative report to the Board in all
7 seven cases, he reviewed the initial complaint, Mr. Mehkri's appraisal report, Mr. Mehkri's
8 response to the complaint, Mr. Mehkri's workfile, physically inspected the exterior of the subject
9 property and comparable sales, and conducted research at appropriate county offices and the
10 Multiple Listing Service ("MLS").

11 14. Mr. Morris testified that the workfile must document all the information in the
12 appraisal report. The workfile may be printouts of relevant evidence or may be kept
13 electronically and printed out on request.

14 15. The Board had admitted into evidence a copy of its Substantive Policy Statement
15 #1 regarding Guidelines for Board Complaint Resolution, which the Board adopted on July 21,
16 2005. Substantive Policy Statement #1 described five levels of violations, from lowest to
17 highest in terms of severity.

18 16. Level V of Substantive Policy Statement #1 was for errors or violations of
19 USPAP, Arizona statutes, or the Arizona Administrative Code, as follows:

20 Significant violations found. Willful disregard of USPAP, A.R.S. or A.A.C. found.
21 Possible resolutions included a consent agreement, order of probation with education,
22 mentorship and/or practice restrictions, suspension or revocation.

23 17. Ms. Pearson testified that the Board considered Mr. Mehkri's violations of
24 USPAP to rise to Level V and sought revocation of his residential appraiser certificate as a
25 result.

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1 **Additional Hearing Evidence on Consolidated Cases**

2 **Case No. 07F-2311-BOA**

3 18. Case No. 2311 involved a summary appraisal report of a single-family detached
4 residential property located in Kingman on 3035 E. Shavely Avenue. The effective date of Mr.
5 Mehkri's report was May 1, 2006.

6 19. Mr. Mehkri's appraisal report cited Marshall & Swift Residential Cost handbook
7 as the source of the cost data in the Cost Approach to Value. Marshall & Swift is a nationally
8 recognized cost service that provides data to calculate the cost to replace existing structures
9 with comparable new structures. Mr. Mehkri's workfile did not include the referenced Marshall &
10 Swift excerpts. Mr. Morris testified that the file should have contained this data.

11 20. Mr. Mehkri's appraisal report's opinion of site value in the Cost Approach was
12 \$45,000. Neither the report nor the workfile includes any support for this value. Mr. Morris
13 testified that such support should have been included in the workfile and should have come
14 from a source other than Marshall & Swift.

15 21. Mr. Morris pointed out that the workfile did include MLS information for two
16 parcels of vacant land in Kingman that had recently sold. However, the parcels were zoned C-
17 2, which is commercial, not residential. This information did not support Mr. Mehkri's opinion of
18 the subject's site value.

19 22. Mr. Mehkri testified that the county's records had shown the vacant parcels were
20 residential and that the listing agent of the comparable land had told him that the MLS stated
21 that the land was zoned commercial to inflate its value. Mr. Mehkri did not offer into evidence
22 any documents to support his testimony.

23 23. Mr. Mehkri admitted that he should have included documentation for all of the
24 factual assertions in his appraisal report. He has included such documentation since the
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1 complaints at issue were made. But, if he referred to a source or made an assertion in his
2 report, he testified that he had the source material in front of him when he prepared the report.

3 24. Mr. Morris testified that the adjustments to the comparable sales in the Sales
4 Comparison Approach of Mr. Mehkri's report should have come from a market-based analysis
5 of salient and significant differences between the subject and the comparable sales. Mr.
6 Mehkri's report made adjustments based on the date of sale/time, age of the property, size of
7 the property, number of rooms, and existence and size of garages. But there was no support
8 for any of Mr. Mehkri's adjustments in his workfile.

9 25. Mr. Morris testified that the subject had a basement, with windows approximately
10 3' above grade that were visible in the photograph that Mr. Morris took of it. Mr. Morris testified
11 that he had also observed a basement when he inspected the house. Although Mr. Mehkri's
12 drawing of the subject included two levels, he described the subject as having "no basement"
13 and being constructed on a concrete slab on the Comparable Sales Approach.

14 26. Mr. Mehkri testified that the subject only had "three steps" below grade. He did
15 not consider it to have a basement. Mr. Mehkri's testimony is not consistent with Mr. Morris'
16 photograph and testimony.

17 27. All of the comparable sales were single level structures without basements. Mr.
18 Morris testified that the market places a premium on single level structures because they are
19 more convenient. In addition, comparable square footage is significantly more costly to
20 construct in a single level home. Yet Mr. Mehkri made no downward adjustments for the fact
21 that the subject's livable square footage included a basement.

22 28. Mr. Morris testified that the comparable sales also had superior features to the
23 subject, which were described in the MLS and/or apparent in Mr. Morris' inspection, for which
24 Mr. Mehkri made no downward adjustment. Mr. Morris' report described these superior features
25 as follows:
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1 Sale No. 1 at 2905 East Carver Avenue, per inspection and MLS, is in superior
2 condition, had solar panels on garage roof, addition in rear, covered awning in
3 front, koi pond, remodeled kitchen, substantial landscaping, etc. See MLS 1050
square feet versus assessor's 906 square feet, which most probably is the
addition in rear.

4 Sale No. 2 at 2495 East Leroy Avenue is in superior condition and per MLS is a
5 4-bedroom home (not 3 bedrooms as reported). Per MLS, this home is
6 remodeled, has superior fencing, extra family room (see size report versus MLS
size), tile countertops, ceiling fans, and is a single-level home. . . .

7 Sale No. 3 at 2394 East McVicar Avenue is, per inspection and MLS, in superior
8 condition, was totally remodeled, has superior landscaping, carport plus
detached garage, and some ceramic tile flooring. This home is not back on the
market with \$190,000 asking price.

9 29. Mr. Mehkri testified that the owner stated that the subject had been recently
10 remodeled and that the windows had been replaced.

11 30. Mr. Morris noted that the report did not note the remodel or any upgrades.

12 31. Mr. Mehkri's report included a time adjustment of \$14,000 for the time between
13 when Comparable Sale #1 sold on 9/30/05 and the effective date of the subject's appraisal. But
14 his workfile included no support for that level of appreciation in the Kingman market.

15 32. Mr. Morris testified that there were several sources an appraiser could use to
16 support market behavior. In Phoenix, the *Arizona Republic* publishes market analysis. In
17 Kingman, such information was kept by the Chamber of Commerce and the MLS.

18 33. Mr. Mehkri testified that costs were rising in the Kingman market. In 2006,
19 appraisers were very busy. The demands of his appraisal practice may have caused him to cut
20 corners.

21 34. The report stated a three month marketing time, which Mr. Morris testified was a
22 typical time to achieve sale of a reasonably priced property. Mr. Morris testified that he had
23 interviewed professionals in Kingman, who told him that, by May 2006, the "bubble was off the
24 market." The market had experienced slowing and, at best, was stable to declining. Prices
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1 were no longer increasing. In 2006, state loans, adjustable rate loans, and other novel financing
2 were the only things that were maintaining the market.

3 35. Mr. Morris pointed out that Mr. Mehkri's report included the comment, "Real
4 Estate in the city of Kingman have [sic] increased in a range of 30% to 40% in the last six
5 months of 2005." The appraisal was done in the fifth month of 2006, when the market was
6 beginning to decline.

7 36. Mr. Mehkri testified that his report should have stated "the last six months of
8 2006," not 2005.

9 37. Some of the documents in Mr. Mehkri's workfile were dated May 2, 2006, the day
10 after the effective date of the report, or February 1, 2007, after the complaint was made. Mr.
11 Morris testified that USPAP requires documents in the workfile to be contemporaneous with the
12 report.

13 38. Mr. Mehkri testified that, if he prints MLS listings after 11:00 p.m., his printer
14 shows the next day's date.

15 39. Mr. Mehkri's report noted that the subject property had sold for \$43,000 on
16 10/21/003 and that it was under contract on 5/1/06 for \$160,000. But Mr. Mehkri did not explain
17 the price change. Mr. Morris testified that the Fannie Mae form and USPAP required an
18 analysis of the difference between the prior sales price and current value, but Mr. Mehkri's
19 report included no such analysis.

20 40. Mr. Mehkri testified that the property sold for \$43,000 in 2003 because that was
21 the amount remaining on the prior loan. He admitted that he should have stated this fact in his
22 report.

23 41. Mr. Morris testified that, when he inspected the subject, it was vacant and in
24 foreclosure. He noted numerous items of deferred maintenance, including chipped paint and
25 powered paint on the garage door, worn fascia board, dryrot on the wood, which would have
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1 been visible a year earlier. Mr. Mehkri's failure to note the items of deferred maintenance
2 diminished the credibility of the report and violated USPAP.

3 42. Mr. Mehkri testified that the subject had been rented. Tenants do not care for or
4 maintain property.

5 43. The report described the subject's neighborhood as "[t]ypical in this area are
6 Stucco, frame and brick ranch, single family homes displaying average upkeep and market
7 appeal." Mr. Morris testified that the subject's neighborhood included many single- and double-
8 wide mobile homes from the 1960's and 1970's, which were visible in the photos of the subject
9 and its streetscape that were offered into evidence. Mr. Mehkri's inaccurate description violated
10 USPAP.

11 44. Mr. Mehkri testified that the neighborhood description was boilerplate that he had
12 failed to change. The Comparable Sales were also located in neighborhoods that included
13 mobile homes.

14 45. The report described the subject as a ranch style frame structure. Mr. Morris
15 testified that the subject was not a ranch, which has 8' walls and a 4:12 pitched roof, and is long
16 and one story. In addition, the subject was constructed of concrete block.

17 46. Mr. Morris testified that the Comparable Rentals in the Income Approach were all
18 outside the subject's neighborhood and located in neighborhoods that did not include mobile
19 homes. The report did not explain why the Comparable Rentals were selected. The subject
20 rented for \$650/month, but the comparable rentals all rented for \$900+/month.

21 47. Mr. Morris testified that comparable rentals should be in the subject's or a similar
22 competing neighborhood. The appraiser also could make adjustments similar to the
23 comparable sales approach. But Mr. Mehkri had not adjusted the comparable rental properties
24 for salient features, such as having a single level, condition, quality, or size. Mr. Morris testified
25 that the adjustment made for age was inappropriate.
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1 48. Mr. Morris did not know why Mr. Mehkri included the income approach in the
2 appraisal report, since typically the subject is appraised as owner-occupied.

3 49. Mr. Mehkri pointed out that the report stated that the subject was occupied by a
4 tenant at the time of the appraisal. Whether the client requests it or not, he likes to include a
5 Comparable Sales Approach, Cost Approach, and Income Approach in all of his appraisal
6 reports.

7 50. The report included a gross rent multiplier of 250 to reach a value of the subject
8 under the income approach of \$162,500. The workfile did not include any documentation to
9 support his multiplier.

10 51. Mr. Morris testified that a gross rent multiplier must be supported by the market
11 analysis. The multiplier could be derived from the price of an income property that had recently
12 sold, divided by the monthly rent charged after the sale.

13 52. Mr. Morris opined that Mr. Mehkri had violated SR 1-1(a), SR 1-1(b), SR 1-1(c),
14 SR 1-4, SR 1-5(a), SR 1-5(b), SR 2-2(b)(viii), and the Ethics Rule—Record Keeping and
15 Conduct in preparing this appraisal report of the property of 3035 East Shavely.

16 **Case No. 07F-2312-BOA**

17 53. Case No. 2312 involved Mr. Mehkri's summary appraisal report of a single-family
18 home at 3565 North Laguna Road in Golden Valley, Arizona, which is a suburb of Kingman.
19 The date of value and effective date of the report was April 10, 2006.

20 54. The appraisal report stated that the subject was under contract for \$201,000. Mr.
21 Mehkri's workfile did not include a copy of the contract. The report contained no analysis of the
22 contract. Mr. Morris testified that the analysis that USPAP and Fannie Mae require is more than
23 simply stating the existence of a contract.
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1 55. Mr. Mehkri had admitted into evidence the first page of a contract, which was
2 attached to the order for the appraisal from Tara Plote, the Transaction Coordinator for
3 Residential Asset Management ("RAM").

4 56. The report stated that "[t]he sale prices and marketing time of the comparables is
5 typical for this area." The report also stated that the subject had sold for \$89,000 on 12/01/04,
6 which Mr. Morris testified was only a year and four months before Mr. Mehkri appraised it for
7 more than twice as much.

8 57. The workfile also did not contain data in support of the neighborhood trends, site
9 value data, depreciation data or data in support of the Comparable Sales Approach adjustments
10 (such as site size adjustments, age adjustments, and adjustments for frame versus stucco).

11 58. The workfile included documents dated May 2, 2006, several weeks after the
12 effective date of the appraisal, and March 4, 2007, nearly seven months after the effective date,
13 after the complaint had been filed.

14 59. Mr. Mehkri testified that he had the documents when he was doing the appraisal.
15 But somehow the file became "mixed up" with another file. He reprinted the documents when
16 the Board requested the file. Although the dates are different, the documents contain the same
17 information.

18 60. The report also adjusted the subject's value \$630 for having 21 square feet more
19 living space than Comparable Sale No. 1. Mr. Morris testified that adjustments in the
20 Comparable Sales Approach must be based on significant differences in the market, such as
21 the presence of a fireplace, landscaping, RV parking, or a covered patio. Because potential
22 homebuyers usually are not influenced by differences of less than 100 square feet in properties,
23 appraisers typically do not adjust for small differences.

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1 61. Mr. Mehkri testified that any square footage costs the builder more to build.
2 Therefore, it was appropriate to make adjustments for small differences in the Comparable
3 Sales Approach.

4 62. Mr. Morris testified that Comparable Sales Nos. 2 and 4 were the same property.
5 Mr. Mehkri would have realized this if he had actually inspected the properties.

6 63. Mr. Morris' report to the Board noted the following superior features in Mr.
7 Mehkri's comparable sales, for which no adjustments were made:

8 Sale No. 1 at 7091 West Juniper showed 1439 square feet in MLS with assessor
9 records showing 1475 square feet. (See unsupported size adjustment above.)
10 Inspection and MLS revealed the following errors of omission/commission: This
sale had superior condition, landscaping, fireplace, covered patio, and RV
parking.

11 Sale No. 2 and Sale No. 4 at 6622 and 6626 West Hershey Way are the same
12 property. The respondent . . . adjusted one for A/C but stated other was
13 evaporative cooler. (This demonstrates that the respondent is not inspecting the
14 comparable sales, but is relying on MLS.) Other errors of omission/commission
are fireplace, block wall fencing with double-access gates, superior condition,
superior landscaping and per MLS oversized garage with knotty cedar work area,
utility sink, radio with four speakers, RV parking, etc.

15 Sale No. 3 at 377 South Houck Road is another instance where it is obvious and
16 apparent that this sale had not been inspected. The sale had wood fencing
17 enclosing substantial improvements in the backyard, obvious fireplace, lattice-
18 covered entryway, superior landscaping with ground lights, outbuildings, etc.
19 From MLS, statements such as ceramic tile in kitchen, entry and bathrooms, tiled
patio to rear, garage workshop, mature trees and fruit trees, RV parking, RV
hook-ups, etc. The grid did show A/C for this sale, but no adjustment. Again, no
support for the adjustment is utilized such as frame construction versus stucco,
age adjustment, etc.

20 Sale No. 4 has already been discussed, as it is Sale No. 2.

21 Sale No. 5 at 5905 Mormon Flat Road is another sale where it is obvious and
22 apparent that the respondent did not inspect. This sale has corral with shaded
23 ramada, small barn, RV setup, fireplace, evap and A/C, etc. Per MLS, this home
24 had tile flooring, ample outdoor storage, fenced 2.35 acres, combo stone/stucco,
and MLS states horse corrals with three stalls, detached garage//workshop, 12-
foot by 12-foot barn with loft, 95 cactuses on property, etc.

25 Mr. Morris testified that the features in the Comparable Sales that Mr. Mehkri did not list or
26 provide adjustments for constituted willful errors of omission.

1 64. Mr. Morris pointed out that the report attached to Ms. Woods' complaint was a
2 different report than the one that Mr. Mehkri provided to the Board. The report attached to the
3 complaint did not have comparable sales 4 and 5 and had different size adjustments.

4 65. Mr. Mehkri testified that the lender had requested two additional comparable
5 sales and he had amended his original report. He does not know where Ms. Woods got a copy
6 of his report.

7 66. Mr. Mehkri admitted that he had not signed an amended report after he made the
8 changes that the lender had requested.

9 67. The workfile also did not include any data to support the report's comparable
10 rentals and gross rent multiplier. Mr. Morris testified that the omissions affected the credibility of
11 the report and were misleading, in violation of USPAP SR 1-1 and 1-2(b).

12 68. Mr. Mehkri testified that he had obtained information on comparable rentals from
13 Crestview Realty, which managed many rentals in Golden Valley. There were no documents in
14 the workfile because Crestview provided the address of the rentals and monthly rents over the
15 telephone.

16 69. Mr. Morris opined that Mr. Mehkri had violated SR 1-1(a), SR 1-1(b), SR 1-1(c),
17 SR 1-5, SR 2-2(b)(viii), Supplemental SR analysis of subject's prior sale analysis of current
18 contact, and the Ethics Rule—Record Keeping and Conduct in preparing this appraisal report in
19 his appraisal of the property at 3565 North Laguna Road.

20 **Case No. 07F-2313-BOA**

21 70. Case No. 2313 involved Mr. Mehkri's summary appraisal report of a residential
22 property located at 2825 North Prescott Street in Kingman. The date of value and effective date
23 of the report were July 14, 2006.

24 71. The appraisal report noted that the subject had a partial basement that contained
25 a family room and bath. Although none of the comparable sales had basements, no
26

1 adjustments were made under the Comparable Sales Approach. Mr. Morris testified that Mr.
2 Mehkri should have made adjustments, for the same reasons given in Case No. 2311.

3 72. The workfile did not contain cost data, site data, or depreciation in support of the
4 cost approach. The cost approach did not contain data for the subject's basement.

5 73. The MLS described the subject as having a full basement. The report did not
6 explain what was meant by a partial basement.

7 74. The report noted a prior sale of the subject on 1/10/06 for \$189,000, but page 3
8 of 6 of the report stated that "The sale date on the Mohave County shows as 01/10/06, but the
9 real sale happen on 12/01/05. Appraiser has corrected the sale date." But no evidence showed
10 that the sale date had been corrected in the workfile or in a revised appraiser report.

11 75. Mr. Mehkri's report concluded that the value of the subject was \$230,000. His
12 report contains no explanation why the subject would appreciate \$50,000 over a seven-month
13 period. The report's neighborhood analysis stated that property values were stable. Mr. Morris'
14 investigation report noted that Mr. Mehkri's neighborhood analysis in Case No. 2311, 2314, and
15 2315, which involved properties in the same Greater Kingman Addition neighborhood, all stated
16 that property values were "increasing" as much as 30% to 40% annually.

17 76. Mr. Morris' report noted the Comparable Sales' superior features that Mr.
18 Mehkri's report had failed to report or make adjustments for, as follows:

19 Sale No. 1 at 2785 North Prescott Street is adjacent to the subject on the south.
20 (Report states "0.04 miles S" Did the appraiser even look at this sale?) This sale
21 is adjusted--\$6,000 for age without support or explanation; no adjustment for
22 basement (See file 2311) where appraiser does include basement in livable area
23 and adjusts for size). This sale is reported as "ranch" and is factually Santa Fe
24 Style. The report stated covered porch for the subject and this sale's covered
25 patio when factually this sale has covered (porch) entry and covered patio.

26 Sale No. 2 at 2725 North Central Street was adjusted +10,000 for 3600-square-
foot site difference or \$2.78 per square foot without support or explanation.
(Unsupported subject site value in Cost Approach \$50,000 for 10,000 square feet
or \$5 per square foot versus \$2.78 per square foot. There was an age
adjustment of -\$6,000 without support or explanation. There was no adjustment
for the basement. No disclosure or adjustment for fireplace, block wall, easy-

1 care landscaping with sprinklers, covered patio/entry versus subject's covered
2 entry, and what MLS stated as blinds to be completed.

3 Sale No. 3 at 3100 North Prescott Street was adjusted -\$6,000 without support or
4 explanation. No adjustment for basement; no adjustment for tile roof;
5 misstatements of two-car garage when report photo shows three-car garage and
6 MLS states oversized three-car garage. Other errors of omission and/or
7 commission: Full rear covered patio with ceiling fans; fireplace; interior ceiling
8 fans; ceramic tile floors, etc.

9 NOTE: this property has subsequently sold for \$269,900, recording January 1,
10 2007, while the subject remains unsold asking \$224,950 after this appraisal
11 concluded \$230,000.

12 77. Mr. Mehkri admitted that he had violated USPAP by failing to keep supporting
13 data in his workfile. He had asked builders in the area about the cost of new construction and
14 had based his adjustments of \$65 to \$90 per square foot on the information he had obtained.
15 He adjusted existing comparable sales \$50 per square for size differences.

16 78. Mr. Mehkri testified that he had completely missed the partial basement in his
17 initial inspection of the home, after which he had completed his appraisal report. When he went
18 back to the home, the owner showed him the partial basement. He added a comment to his
19 appraisal report but, since he had already determined value, he did not adjust the value of the
20 comparable sales.

21 79. Mr. Mehkri testified that the covered porch was very large and used as a covered
22 patio, so he did not adjust the comparable sales.

23 80. Mr. Mehkri admitted that he did need to analyze the prior sales.

24 81. Mr. Mehkri admitted that he did overlook some of the features on the comparable
25 sales. But, at the time, there was a huge demand for appraisals and, when he was forced to do
26 so many reports quickly, he might have missed a few things. But he did not mean to be
misleading. The subject had features he had overlooked that offset the fireplace.

1 82. Mr. Morris opined that Mr. Mehkri had violated SR 1-1(a), SR 1-1(b), SR 1-1(c),
2 SR 1-5, SR 2-2(b)(viii), and the Ethics Rule—Record Keeping in preparing this appraisal report
3 of the property at 2825 North Prescott Street.

4 **Case No. 07F-2314-BOA**

5 83. Case No. 2314 involved a summary appraisal of a property located at 3378 North
6 Yuma Street in Kingman. The date of value and effective date were May 24, 2006.

7 84. Mr. Morris noted that the subject property had been listed for sale with an asking
8 price of \$167,000 since June 15, 2005, more than a year before closing and nearly a year
9 before Mr. Mehkri's report. The property sold for \$172,165 with MLS reporting pending date or
10 contract date of July 7, 2006.

11 85. Mr. Mehkri's appraisal report did not note the prior sale. Instead, he noted that
12 "[t]he subject is under contract for \$190,000." The MLS for the subject in the workfile was dated
13 February 2, 2007 at 1:28 a.m.

14 86. Mr. Morris' investigative report concluded that Mr. Mehkri's failures to note the
15 prior listing and to analyze the sales contract "are egregious violations of [SR] 1-5(a), [SR] 2-
16 2(b)(viii), Supplemental Standards Rule, Ethics rule-conduct Section" and that Mr. Mehkri "has
17 most probably participated in a fraudulent scheme."

18 87. All of the documents in the workfile were dated after the effective date of the
19 appraisal report.

20 88. The workfile included no data on inspection of the subject, site value data, site
21 valuation data, cost data, data in support for age adjustment (Mr. Morris' report noted that "the
22 cost shows \$0 for depreciation and market shows -\$1,000 for one year; this is not consistent
23 with other appraisals investigated"), or for size adjustments.

24 89. Mr. Morris' investigative report described the deficiencies in Mr. Mehkri's
25 comparable sales analyses as follows:
26

1 Sale No. 1 at 3470 North Jewel Street is a sale located just north of Airway, an
2 access road under the railroad tracks to Andy Devine Avenue. This sale was
3 asking \$230,000 and sold \$190,000. MLS reported in addition to superior
4 location to Airway, upgraded carpet, ceiling fans, etc.

5 Sale No. 2 at 3336 North Eagle Rock listed April 6, 2006, by builder/agent C.
6 David Cooley at \$186,000. April 28, 2006, MLS by David Cooley reported this
7 property was purchased by David and Lois Cooley. This is not a market
8 transaction! Not a comparable sale!

9 Sale No. 3 at 3243 North Yuma Street listed at \$195,000 and sold \$195,000.
10 MLS from respondent's file stated, "Upgrades galore . . . wood flooring in the
11 entry, dining and kitchen. Brushed nickel fixtures. Plenty of closets all through
12 the home.

13 90. The workfile included no data to support the gross rent multiplier used in the
14 Income Approach in the report.

15 91. Mr. Mehkri testified that the subject was not finished and was still under
16 construction when he prepared his appraisal report. The seller had provided much of the
17 information for the report.

18 92. Mr. Mehkri testified that he inspected the property on May 24, 2006. He did not
19 prepare his report until May 28, 2006, the date on most of the documents in the workfile. The
20 stated effective date of the report was an error.

21 93. Mr. Mehkri's inspection report stated that the property was under contract for
22 \$190,000 "per lender." He had asked the listing agent about the \$167,000 list price and she had
23 told him that it was "preconstruction, without all the amenities."

24 94. Mr. Mehkri admitted that he should have hit the "print" button for all of the
25 sources he relied upon to prepare the appraisal report. But like 90% of the appraisers at the
26 time he was overwhelmed. But he had sources to back up the facts and analysis in the
27 appraisal report.

28 95. Mr. Mehkri admitted that an MLS is produced when a property is listed, not when
29 it closes. The MLS listing for the subject was showed a listing of \$167,000 on June 15, 2005.
30 He did not explain why his report valued the property at \$192,000, despite the prior listing.

1 96. Mr. Mehkri also admitted that he did not discuss the preconstruction pricing in the
2 appraisal report.

3 97. Mr. Morris opined that Mr. Mehkri had violated SR 1-1(a), SR 1-1(b), SR 1-1(c),
4 SR 1-5(a), SR 1-5(b), Supplemental Standards Rule on subject listing and sale; SR 2-2(b)(viii),
5 Supplemental Standard Rule, and the Ethics Rule—Record Keeping and Conduct in preparing
6 this appraisal report in his appraisal of the property at 3378 North Yuma Street.

7
8 **Case No. 07F-2315-BOA**

8 98. Case No. 2315 involved a summary appraisal report of a residential property
9 located at 2744 Southern Avenue in Kingman. The date of value and date of report were May
10 16, 2006.

11 99. Mr. Mehkri's workfile did not contain cost data, site data, or depreciation data in
12 support of the Cost Approach. The workfile MLS sales data was dated February 2, 2007 at 1:40
13 a.m. There was no data in the workfile for Comparable Sale No. 4.

14 100. Mr. Morris testified that the subject was a semi-detached residence that shared a
15 garage wall with the adjacent residence. This fact was apparent on Mr. Morris' photograph of
16 the subject, which shows a tall fire wall between the semi-detached residences, but not on
17 Mehkri's photograph, which appeared to have been cropped.

18 101. Mr. Morris testified that semi-detached homes have different markets than
19 detached homes and are generally less marketable. But Mr. Mehkri's report did not disclose or
20 analyze the subject's semi-detached status. Although all of the comparable sales were
21 detached, the report did not adjust value for the subject's semi-detached status. If Mr. Mehkri's
22 report had stated that the common wall did not affect marketability, it would not have been
23 accurate.

24 102. Mr. Mehkri pointed out that he had marked "att" on the type of structure on the
25 general description of the improvements portion of the appraisal report.
26

1 103. Mr. Morris' investigative report to the Board discussed Mr. Mehkri's treatment of
2 the comparable sales in relevant part as follows:

3 All three comparable sales were detached in comparison to the attached subject.
4 The attached unit to the subject rented at \$875 per month versus Rental No. 2
5 and Rental No. 3 adjusted to \$925. Per the appraisal report, this indicated a \$50
6 per month difference in attached versus detached or GRM 230 times per \$50 per
7 month, or \$11,500 adjustment warranted to the detached comparable sales.

8 Sale No. 1 at 2732 Phoenix Avenue had, per MLS, auto garage oversized, ceiling
9 fans, new home warranty, covered entry and covered patio, landscaping with
10 bubbler system, prewired for alarm, vaulted ceiling, and this 2 x 6 constructed
11 home is detached. Contract on this sale is October 19, 2005, with selling agent
12 Susan Smith. . . .

13 Sale No. 2 next door at 2736 Phoenix Avenue, same as No. 1 above. Buyer is
14 selling agent for both. No adjustments for detached, oversized garage, covered
15 patios, landscaping, etc.

16 Sale No. 3 at 2712 Harrod Avenue per MLS had covered patio and covered
17 entry, was detached, and was new construction.

18 Sale No. 4 at 3054 Victoria Lane is a detached single-family on corner cul-de-sac
19 lot in a superior neighborhood to the southeast. This sale is detached, has
20 covered entry and three patios, auto sprinklers, 10-foot ceilings, 5 ceiling fans,
21 etc. No support found for age adjustment at \$3,500. No explanation for lack of
22 site adjustment for this sale that is 0.16 acre/6970 ± square feet on a corner cul-
23 de-sac lot.

24 All four sales had livable size differences of 26 to 40 square feet and were
25 adjusted at \$1,000 and \$2,000; i.e., Sale No. 4 at 35 square feet +\$1,000 or
26 28.57 per square foot versus Sales 1 and 2 with 40 square feet -\$2,000 or
27 -\$1000 for additional five square feet. These are not credible results.

28 Other errors of omission and/or commission: Site size; neighborhood date
29 "increasing" and "under 3 months," yet no time adjustments to Sale No. 1's
30 October 2005 sale date, and Sale No. 4's September 2005 sale date, with
31 subject's effective and report date May 16, 2006; recording dates are in error:
32 Sale No. 1 2/23/06; Sale No. 2 1/31/06; Sale No. 3 is correct; Sale No. 4 11/2/05.

33 104. Mr. Morris again testified that the market does not recognize size differences of
34 less than 100 square feet. Even if it did, Mr. Mehkri's adjustments were not consistent or
35 credible.

36 105. Mr. Morris also testified that Comparable Sales 1 and 2 were purchased by the
37 same party from the same selling agent. This factor may go to the buyer's motivation, because

1 the buyer may have obtained concessions for buying the second property. But this fact was not
2 disclosed in the appraisal report.

3 106. The report noted a prior sale of the subject for \$148,900 on December 1, 2004,
4 but did not analyze the sale in terms of the price conclusion of \$203,000.

5 107. The report also analyzed the improvements as new, when factually the subject
6 was built in 2005.

7 108. Mr. Mehkri admitted that he had missed certain things in his appraisal report. He
8 included the detached homes in his comparable sales because not many semi-detached homes
9 had sold.

10 109. Mr. Mehkri testified that, although it was not in his report, the builder had spent
11 more money on the units in the area of the subject. Although the subject had been built in 2005,
12 it was brand new because it had never been lived in. Tenants had moved in only a couple of
13 weeks before he prepared his appraisal report.

14 110. Mr. Mehkri testified that he adjusted for small differences in square footage in the
15 comparable sales approach because it had cost the builder to build that square footage. But he
16 is learning a lot from Mr. Morris.

17 111. Mr. Mehkri admitted he had violated USPAP in failing to have a complete
18 workfile. But he had the sources in front of him when he prepared the appraisal report.
19 Somehow the documents had been misplaced. But at the time Kingman was in a boom. He
20 has learned that he might have to turn down work if he cannot keep track of his file.

21 112. Mr. Mehkri testified that he was not taught to analyze pending sales contracts.
22 But he has learned over the past year and a quarter. If someone says that they don't have a
23 contract, he tells them he cannot do an appraisal.
24
25
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1 Sale No. 1 at 9345 West Clara Lane was reported in MLS as “. . . a corner lot
2 with front decorative stone; 18-inch ceramic tile in kitchen, family room, halls, and
3 baths; RV parking, etc. Master bath has raised-height double sinks, glass block,
4 and secondary bedrooms have phone, cable, and ceiling fans. Security system,
5 pre-wired for surround sound, and 3-car garage insulated with extra electrical.”
The report adjusted this sale upward +\$10,000 for “Upgrades/Ave.” These are
errors of omission of information that was available with the report’s cited sources
of “Temp” and “Agent.” Per the subject’s subsequent MLS in 2007, the subject
had been re-painted and re-carpeted.

6 Sale No. 2 at 20527 North 94th Drive again had “Upgrades/Ave” adjustment of
7 +\$10,000, while MLS for this sale stated , “Spectacular—shows like a model.
8 Cul-de-sac oversized lot with east patio, 2.5 extended garage with door to back
9 yard. Built-in entertainment center, extensive ceramic tile, wood blinds, and
10 honeycomb shades, additional upgraded oak cabinets, desk and island in
11 kitchen. Built-in outdoor barbecue and fireplace. Too many upgrades to list.
12 Also security system, surround sound, 3+ telephone lines.” Again, errors of
13 omission that were disclosed by the sources cited in the report.

14 Sale No. 3’s reported address was 9187 West Alex Drive, when it is factually
15 9201 West Alex Avenue. 9187 does not exist! This demonstrates that the
16 respondent did not inspect the exterior of the sales, or he would have discovered
17 this address error. Per MLS, the sale is “. . . model sharp. . . ceramic tile
18 throughout on the diagonal, upgraded neutral carpet, hickory raised-panel
19 cabinets, upgraded plumbing (satin nickel finish) fixtures throughout, soft water
20 and RO system, second sink in kitchen island, upgraded toilets, master bath
21 jetted tub, glass block, bay window in master bedroom, 8-foot RV gate and slab,
22 gas-plumbed to firepit and ready for BBQ.” Pool was PebbleTec salt water with
23 in-ground cleaning system. Again, substantial errors of omission with the report
24 stating that this sale’s “Upgrades/Avg+” equal to the subject. This sale did sell in
25 30 days as a relocation company sale with relo addenda.

26 Based on rental comparables and Operating Income Statement, subject appears
to have been a rental. Following is a list of alternative sales found in this
investigator’s research:

•9443 W[.] Ross Ave[.]	Sold @ \$299,500 COE 5/22/06
•9454 W[.] Ross Ave[.]	Sold @ \$280,000 COE 5/26/06
•9464 W[.] Potter Dr[.]	Sold @ \$305,000 COE 3/20/06
•20854 N[.] 94 th Lane	Sold @ \$305,000 COE 11/26/06
•9449 W[.] Potter Ave[.]	Sold @ \$325,000 COE 5/9/06
•20827 N[.] 89 th Drive	Sold @ \$330,000 COE 4/27/06 (Pool)
•9441 W[.] Tonopah Dr[.]	Sold @ \$333,000 COE 6/12/06 (Pool)
•20476 N[.] 93 rd Drive	Sold @ \$365,000 COE 2/16/06 (Pool/Greenbelt)

The abundance of sales available for contrast and comparison demonstrates a
probable advocacy by the respondent.

1 Mr. Morris testified at the hearing from his report and pointed out specific referenced portions of
2 Mr. Mehkri's report, which had been admitted into evidence.

3 119. Mr. Morris explained at the hearing that "functional obsolescence" refers to a
4 characteristic of the property that will adversely affect the value that might otherwise be given,
5 for example, a single bathroom for a large number of bedrooms or a tennis court or swimming
6 pool that cost more than likely purchasers in the neighborhood would be willing to pay.

7 120. Mr. Morris also explained that Tempo is an MLS brand name.

8 121. Mr. Morris testified that Mr. Mehkri should not have used Comparable Sale #3
9 because the fact of relocation impacts the seller's motivation. A relocated seller cannot enjoy
10 the property without a sale. The appraisal report did not even note the relocation.

11 122. The appraisal report contained no explanation or support for the gross rent
12 multiplier.

13 123. Mr. Morris pointed out that all of the sales he cited in his investigation report had
14 sold for significantly less than Mr. Mehkri's conclusion of value of \$400,000, which indicates
15 probable advocacy by the appraiser. It is a violation of the ethics rule for an appraiser to
16 facilitate a client's objective. The analysis required in and the object of the appraisal report were
17 to protect the intended use and user.

18 124. Mr. Mehkri testified that Case Nos. 2583 and 2584 started after Ms. Hanke, who
19 lives in Phoenix, contacted him in April of 2006 and asked him to become her supervisor. She
20 had been working under another appraiser, Jerry Diehl.¹⁰ Mr. Mehkri had said it was too far
21 away, but asked if she was registered with the Board. Ms. Hanke had said she was registered
22 under Jerry Diehl.

23
24
25 _____
26 ¹⁰ The spelling of the last name was corrected to be consistent with Board records indicating how Jerry Diehl spells his last name.

1 125. Mr. Mehkri testified that Ms. Hanke used to work for her mother, who was an
2 appraiser and passed away. Ms. Hanke did most of the work. Altogether, he did six appraisals
3 with Ms. Hanke, on the request of loan officers.

4 126. Mr. Mehkri testified that he had all the paperwork, but somehow Ms. Hanke had
5 taken the files with her. He had been unable to contact Ms. Hanke after the complaints had
6 been filed. It was his error. He should have kept the paperwork.

7 127. Mr. Mehkri testified that, when he looked at the subject property, it had granite
8 countertops and was "way above average." He admitted that he had failed to mention the
9 additional features in his appraisal report. Instead, he had just said "average +."

10 128. With respect to the functional obsolescence of the pool, Mr. Mehkri testified that
11 the seller had told him that the pool cost \$70,000. Mr. Mehkri had said that there was no way
12 the seller could get back that expenditure and valued the pool at \$45,000. He had not adjusted
13 the price for the pool because he had already reduced the value of the pool.

14 129. Mr. Mehkri admitted that USPAP required him to be geographically competent to
15 perform an appraisal in an area with which he was unfamiliar.

16 130. Mr. Morris opined that Mr. Mehkri had violated SR 1-1(a), 1-1(b), SR 1-1(c), SR1-
17 5(a), SR 1-5(b), SR 2-2(b)(viii), and the Ethics Rule—Record Keeping and Conduct in his
18 appraisal of the property at 9411 West Ross Avenue.

19 **Case No. 08F-2584-BOA**

20 131. Case No. 2584 involved Mr. Mehkri's summary appraisal report of a property
21 located at 8438 West Maya Drive in Peoria, Arizona. The date of value and date of the
22 appraisal report was July 21, 2006.

23 132. Mr. Morris testified that the record keeping USPAP provisions require an
24 appraiser to keep his workfile and appraisal report for five years. The USPAP standards
25 regarding the scope of the assignment required the supervising appraiser to put in detail the
26

1 trainee's participation in the appraisal report. Although the appraisal report stated that "Sarah
2 Hanke has greatly assisted in the compilation of the information included in this report," her
3 exact assistance was not noted. Moreover, Ms. Hanke had not signed the certification, as
4 required by SR 2-3. Because a trainee needed to meet a 2000-hour experience requirement to
5 be licensed, it is important for the supervising appraiser to note exactly what the trainee did.

6 133. Mr. Morris' investigative report noted the following findings:

7 There was no work file. The respondent stated that the trainee, Ms. Sarah
8 Hanke, was in possession of the work file; that the respondent had not been able
9 to contact Ms. Hanke, but would continue his efforts to obtain the work file (May
10 2008). This is a violation of the record keeping rule.

11 There was no disclosure of the trainee's participation in the report. The trainee's
12 name was not included under the certification of assistance as required.

13 The contract portion of the report states that the property was currently under
14 contract for \$450,000, and that both parties have signed the contract on 7/19/06.
15 (Report dated 7/21/06.) Factually, this property sold for \$370,000 with zero down
16 payment, recording on September 29, 2006, and with an affidavit-reported sale
17 date of July 2006.

18 The subject was listed as a lease in MLS at \$1,400 as of the appraisal date.

19 Prior sale of the subject was \$400,000 as reported. The report failed to disclose
20 that the asking price on the subject prior to the sale at \$400,000 was \$319,000,
21 and that the subject sold on April 7, 2005, at \$305,000. Four months later it sold
22 at \$400,000 or +\$95,000 (+24 percent). This does require further explanation
23 under [SR] 1-5 and FNMA guidelines. . . .

24 Sale No. 1 at 8336 West Staghorn Road is factually an outside curve lot backing
25 to open space (8,691 square feet versus subject's 6,945 square foot corner lot.
26 Per MLS, this sale has impressive entry with flagstone courtyard, mahogany
entertainment center, dramatic gourmet kitchen with top-of-the line stainless
appliances, mahogany cabinets, granite countertops, wine cooler, jetted tub in
master bath, water softener, RO system, tinted windows, security system, BBQ
cook center on extended patio, play pool, water feature, triple French doors to
patio, etc., that were not addressed in the adjustment grid. The adjusted results
are not credible, with substantial errors of omission and commission. . . .

Sale No. 2 at 26498 North 84th Drive has the wrong picture in the report, once
again showing that the respondent is not inspecting the sales cited. This sale
backs to common area/open space and had wrought iron fencing. . . . Additional
errors of omission are, per MLS, this sale had granite countertops, raised tile
fireplace hearth, all wood blinds, rotunda entry, designer pain, garage with

1 custom cabinets and epoxy floor, 3+ existing telephone lines, networking wiring
multiple rooms, and extensive landscaping. Again, the results are not credible.

2 Sale No. 3 at 26468 North 84th Avenue has errors of omission and commission.
3 The report adjusts this sale's site Interior/Average +\$10,000. The subject backs
4 to a busier street and on entrance corner. This is not credible. This sale has two
fireplaces; the reports states one fireplace with a -\$1,000 adjustment. This is not
5 credible.

6 The report adjusts this sale upward +\$20,000 for Upgrades/Average, with MLS
7 stating ". . . all the upgrades you want, gourmet kitchen with slab granite counters
8 and bar top, 5-burner gas cooktop with warming drawer, stainless steel
9 appliances, 42-inch raised-panel maple staggered cabinets with crown molding,
10 travertine floors throughout except bedrooms, four-inch baseboards, eight-inch
interior doors, courtyard patio with fireplace and fountain 250-square-foot private
casita with French doors and sitting area, master bedroom bay window and gas
fireplace, Travertine-tiled separate Jacuzzi tub and shower, beautiful light fixtures
and ceiling fans, On-Q wiring, wood blinds, etc." Adjusted results are not credible
in light of numerous and substantial errors of omission and commission.

11 Two alternate sales are listed below. These sales are from the subject's
12 immediate subdivision.

- 13 • 8518 West Maya Drive (same street/same model) \$375,000; contracted
February 9, 2006
- 14 • 8552 West Andrea Drive (same subdivision/same model) \$365,000;
15 contracted April 21, 2006

16 These alternative sales demonstrate the price levels in February to April 2006 in
the subject subdivision.

17 134. Mr. Mehkri testified that the subject had so many upgrades that he could not put
18 them all down on the appraisal report. That is why he rated the subject's improvements as
19 "average +" Now he does an addendum.

20 135. Mr. Mehkri was asked if he was surprised to learn that Mr. Morris' inspection had
21 shown that the kitchen countertops in the subject were Formica. Mr. Mehkri answered that he
22 could not recall.

23 136. Mr. Morris testified that Mr. Mehkri had violated SR 1-1(b), SR1-5(a), SR 1-5(b),
24 SR 2-2(b)(viii), and the Ethics Rule—Record Keeping and Conduct in his appraisal of the
25 property at 8438 West Maya Drive.
26

1 **Evidence of Intent**

2 137. Mr. Morris testified that Mr. Mehkri's violations of USPAP in the seven cases
3 were repeated and substantial. Because the effect of the violations generally was to inflate the
4 value of the subject, Mr. Morris inferred that the violations were willful.

5 138. Mr. Mehkri denied having any fraudulent or malicious intent. He has changed his
6 appraisal practice since receiving these complaints. He is willing to work under the supervision
7 of Mr. Morris or another certified appraiser.

8 **APPLICABLE 2005 AND 2006 USPAP PROVISIONS**

9 1. SR 1-1(a) provides: "In developing a real property appraisal, an appraiser must . . .
10 be aware of, understand and correctly employ those recognized methods and techniques that
11 are necessary to produce a credible appraisal."

12 2. SR 1-1(b) provides: "In developing a real property appraisal, an appraiser must . . .
13 not commit a substantial omission or commission that significantly affects an appraisal."

14 3. SR1-1(c) provides: "in developing a real property appraisal, an appraiser must . . .
15 not render appraisal services in a careless or negligent manner, such as a series of errors that,
16 considered individually, may not significantly affect the results of an appraisal, but which, when
17 considered in the aggregate, would be misleading."

18 4. SR 1-4 "contains specific requirements from which departure is not permitted"
19 and provides:

20 In developing a real property appraisal, an appraiser must collect, verify, and
21 analyze all information applicable to the appraisal problem, given the scope of
work identified in accordance with Standards Rule 1-2(f).

22 (a) When a sales comparison approach is applicable, an appraiser must
23 analyze such comparable sales data as are available to indicate a
value conclusion.

24 (b) When a cost approach is applicable, an appraiser must:

25 (i) develop an opinion of site value by an appropriate appraisal method
26 or technique;

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- (ii) analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and
- (iii) analyze such comparable cost data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).

(c) When an income approach is applicable, an appraiser must:

- (i) analyze such comparable rental data as are available and/or the potential earnings capacity of the property to estimate the gross income potential of the property;
- (ii) analyze such comparable operating expense data as are available to estimate the operating expenses of the property;
- (iii) analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount; and
- (iv) base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.

(d) When developing an opinion of value of a leased fee estate or a leasehold estate, an appraiser must analyze the effect on value, if any, of the terms and conditions of the leases(s).

....

5. SR 1-5(a) and 1-5(b) provide as follows:

In developing a real property appraisal, when the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

- (a) analyze all agreements of sale, options, or listing of the subject property current as of the effective date of the appraisal; and
- (b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

6. SR 2-2(b)(ix) provides as follows:¹¹

The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum . . . summarize the information analyzed, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions.

¹¹ SR 2-2(b)(viii), which was cited in the notice of the hearing, concerns extraordinary assumptions and hypothetical conditions. The Board offered no evidence in any improper extraordinary assumptions or hypothetical conditions by Mr. Mehkri.

1 evidence.¹⁴ "A preponderance of the evidence is such proof as convinces the trier of fact that
2 the contention is more probably true than not."¹⁵ A preponderance of the evidence is "[t]he
3 greater weight of the evidence, not necessarily established by the greater number of witnesses
4 testifying to a fact but by evidence that has the most convincing force; superior evidentiary
5 weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still
6 sufficient to incline a fair and impartial mind to one side of the issue rather than the other."¹⁶

7 2. The Arizona legislature created the Board to prescribe and enforce standards of
8 professional appraisal practice.¹⁷ The Arizona legislature charged the Board with investigating
9 complaints against licensed appraisers and, if violations of applicable statute, regulation, or
10 standards are established, disciplining appraisers' certification.¹⁸

11 3. Licensed appraisers' appraisals in Arizona must comply with USPAP.¹⁹

12 4. The most basic requirement for an appraisal is that it must be independently and
13 impartially performed and set forth an unbiased opinion of value supported by analyses that
14 comply with USPAP's requirements.²⁰

15 5. The Board has established violations of the USPAP provisions charged in the
16 Amended Complaint and Notice of Public Hearing in this matter, with the exception of the
17 charged violation of SR 2-2(b)(viii), through Mr. Morris' investigative report and expert opinion.
18 The violations were significant and repeated.

19 6. The Board's Substantive Policy Statement #1 described the requirements for a
20 Level V violation in two serial sentences that were not joined by a conjunction. It is not clear
21

22 ¹⁴ See A.R.S. 41-1092.07(G)(1); A.A.C. R2-19-119; see also *Vazanno v. Superior Court*, 74 Ariz. 369,
372, 249 P.2d 837(1952).

23 ¹⁵ Morris K. Udall, *Arizona Law of Evidence* § 5 (1960).

24 ¹⁶ *Black's Law Dictionary* at page 1220 (8th ed. 1999).

25 ¹⁷ A.R.S. § 32-3605(A)(1).

26 ¹⁸ A.R.S. § 32-3631(A)(2) and (6); see also A.A.C. R4-46-301 and R4-46-302 (concerning formal hearing
procedures, investigations, and penalties).

¹⁹ A.A.C. R4-46-401.

²⁰ A.R.S. § 32-3601(1) and (2).

1 whether the violations must be significant *and* evidence willful disregard of USPAP or
2 significant *or* evidence willful disregard of USPAP. The Board has not defined what it means
3 by "willful disregard."

4 7. In other administrative contexts, agencies and courts have defined willful
5 disregard as requiring three elements: (1) That the regulated party knew that an applicable
6 regulation or standard governed his performance of regulated activities; (2) That, subsequent
7 thereto, the regulated party violated the regulation or standards; and (3) That the regulated
8 party's violation was committed voluntarily and in intentional disregard or plain indifference to
9 applicable regulation or standard.²¹

10 8. Mr. Mehkri is not a native speaker of English. He admitted numerous violations
11 of USPAP. His testimony at the hearing also seemed to contain certain additional admissions
12 that may have been inadvertent.

13 9. Mr. Mehkri also expressed a willingness to work under the supervision of another
14 appraiser and to remedy his past violations of USPAP. His demeanor at the hearing was
15 respectful and compliant.

16 10. The record does not show that Mr. Mehkri acted fraudulently or maliciously,
17 although the record does show that, at a minimum, he acted incompetently.²²

18 ORDER OF REVOCATION

19 In issuing this order of discipline, the Board considers its obligations to fairly and
20 consistently administer discipline, its burden to protect the public welfare and safety, as well as
21 all aggravating and mitigating factors presented in the case. Based on the foregoing Findings of
22 Fact and Conclusions of Law, **IT IS HEREBY ORDERED:**

23
24 ²¹ See *Division of Occupational Safety and Health of the Industrial Commission of Arizona v. Ball, Ball and*
25 *Brosamer, Inc.*, 172 Ariz. 372, 376, 837 P.2d 174, 178 (App. 1992)(quoting *National Steel & Shipbuilding*
26 *Co. v. Occupational Safety & Health Review Comm'n*, 607 F2d 311, 314 (9th Cir. 1979)).

²² The Board deleted language from the Recommended Decision to be consistent with the Board's
conclusions and Order of Revocation.

1 1. That certified residential appraiser certificate No. 21190 issued to Mr. Mehkri to
2 practice as a Certified Residential Appraiser be revoked as of the effective date of this Order.

3 2. That Mr. Mehkri shall immediately surrender his license by returning it to the
4 Board office.

5 3. That Mr. Mehkri may not accept fees for or perform appraisals, appraisal reviews,
6 consulting assignments, or any services governed by the Uniform Standards of Professional
7 Appraisal Practice, A.R.S. § 32-3601, *et seq.*, or the rules promulgated thereunder.

8 4. That Mr. Mehkri is hereafter subject to the provisions of A.R.S. § 32-3638, which
9 states that any person who is not licensed or certified as an appraiser and performs a real
10 estate appraisal or appraisal review, or uses the designation of licensed or certified appraiser
11 and/or provides false information to the Board is guilty of a Class 1 misdemeanor.

12 5. That if Mr. Mehkri reapplies for licensing or certification as an appraiser in the
13 State of Arizona in the future, this disciplinary action may be considered as part of the
14 substantive review of any application submitted by Mr. Mehkri, pursuant to A.R.S. § 32-3611(D).

15 6. Pursuant to the Board's Substantive Policy Statement #1, the Board considers
16 the violations set forth herein to amount to Level V Violations for disciplinary purposes.

17 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

18 Respondent is hereby notified that he has the right to petition for a rehearing or review.
19 Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or review must be filed
20 with the Board's Executive Director within 30 days after service of this Order and pursuant to
21 A.A.C. R4-46-303, it must set forth legally sufficient reasons for granting a rehearing or review.
22 Service of this order is effective five days after mailing. If a motion for rehearing or review is not
23 filed, the Board's Order becomes effective 35 days after it is mailed to Respondent.

24 Respondent is further notified that the filing of a motion for rehearing or review is
25 required to preserve any rights of appeal to the Superior Court.
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DATED this 20th day of January, 2009.

ARIZONA STATE BOARD OF APPRAISAL

By: *Deborah G. Pearson*

Deborah G. Pearson, Executive Director

Copy of the foregoing personally served
this 20th day of January, 2009, on:

OFFICE OF ADMINISTRATIVE HEARINGS
1400 WEST WASHINGTON, SUITE 101
PHOENIX, AZ 85007

Copy of the foregoing mailed via regular U.S.
& Certified Mail #7007 2560 0001 3358 8683
this 20th day of January, 2009, to:

SHAHAB A. MEHKRI
1912 ANDY DEVINE AVE.
KINGMAN, AZ 86401

Copies of the foregoing sent by interagency
this 20th day of January, 2009, to:

JEANNE GALVIN
ASSISTANT ATTORNEY GENERAL
1275 W. WASHINGTON
PHOENIX, AZ 85007

CHRISTOPER MUNNS
ASSISTANT ATTORNEYS GENERAL
SOLICITOR GENERAL'S OFFICE
1275 W. WASHINGTON
PHOENIX, AZ 85007

Deborah G. Pearson

Deborah G. Pearson