

**BEFORE THE
BUREAU CHIEF OF THE BUREAU OF REAL ESTATE APPRAISERS
BUREAU OF REAL ESTATE APPRAISERS
STATE OF CALIFORNIA**

In the Matter of the of the
Real Estate Appraiser License of:

Frank O. May,
2815 Chanticleer Avenue
Santa Cruz, CA 95065

Real Estate Appraisers License No. 002051

Respondent.

Case No. C20130911-04 and
C20140127-01

OAH No. 2015061027

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Chief of the Bureau of Real Estate Appraisers, Department of Consumer Affairs as the Decision and Order in the above entitled matter.

This Decision shall become effective on 10-28-15.

It is so ORDERED 9-28-15.

Original Signed

JAMES MARTIN, BUREAU CHIEF,
BUREAU OF REAL ESTATE APPRAISERS
DEPARTMENT OF CONSUMER AFFAIRS

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7
8 **BEFORE THE**
BUREAU OF REAL ESTATE APPRAISERS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. C20130911-04 and C20140127-01

12 **FRANK O. MAY**
13 **2815 Chanticleer Avenue**
Santa Cruz, CA 95065

OAH No. 2015061027

14 **Real Estate Appraiser License No. 002051**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.
16

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Elizabeth Seaters, acting on behalf of the Bureau of Real Estate Appraisers
22 ("Complainant"), Department of Consumer Affairs, brought this action solely in her capacity as
23 the Chief of Enforcement for Complainant, and is represented in this matter by Kamala D. Harris,
24 Attorney General of the State of California, by Char Sachson, Deputy Attorney General.

25 2. Respondent Frank O. May ("Respondent") is represented in this proceeding by
26 attorney Peter Morse, whose address is: 650 Fifth Street, Suite 509, San Francisco, CA 94107.

27 3. On or about December 10, 1991, the Bureau of Real Estate Appraisers (formerly
28 Office of Real Estate Appraisers) issued Real Estate Appraiser License No. 002051 to

1 Respondent. The Real Estate Appraiser License was in full force and effect at all times relevant
2 to the charges brought in Accusation No. C20130911-04 and C20140127-01 and will expire on
3 June 2, 2016, unless renewed.

4 JURISDICTION

5 4. Accusation No. C20130911-04 and C20140127-01 was filed before the Bureau of
6 Real Estate Appraisers, Department of Consumer Affairs, and is currently pending against
7 Respondent. The Accusation and all other statutorily required documents were properly served
8 on Respondent on May 12, 2015 Respondent timely filed his Notice of Defense contesting the
9 Accusation.

10 5. When deemed by the Bureau Chief to be in the public interest, Complainant has the
11 authority under Business and Professions Code section 11315.5 to enter into a settlement related
12 to administrative allegations of violations of the regulations governing the conduct of licensed
13 appraisers and appraisal management companies. The administrative allegations associated with
14 Accusation No. C20130911-04 and C20140127-01 against Respondent are incorporated herein
15 by reference.

16 6. A copy of Accusation No. C20130911-04 and C20140127-01 is attached as exhibit A
17 and incorporated herein by reference.

18 ADVISEMENT AND WAIVERS

19 7. Respondent has carefully read, fully discussed with counsel, and understands the
20 charges and allegations in Accusation No. C20130911-04 and C20140127-01. Respondent has
21 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
22 Settlement and Disciplinary Order.

23 8. Respondent is fully aware of his legal rights in this matter, including the right to a
24 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
25 his own expense; the right to confront and cross-examine the witnesses against him; the right to
26 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
27 the attendance of witnesses and the production of documents; the right to reconsideration and
28

1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

3 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 CULPABILITY

6 10. Respondent understands and agrees that the charges and allegations in Accusation
7 No. C20130911-04 and C20140127-01, if proven at a hearing, constitute cause for imposing
8 discipline upon his Real Estate Appraiser License.

9 11. For the purpose of resolving the Accusation without the expense and uncertainty of
10 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
11 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
12 those charges.

13 12. Respondent agrees that his Real Estate Appraiser License is subject to discipline and
14 he agrees to be bound by the Bureau's imposition of discipline as set forth in the Disciplinary
15 Order below.

16 CONTINGENCY

17 13. This stipulation shall be subject to approval by the Chief of the Bureau of Real Estate
18 Appraisers. Respondent understands and agrees that counsel for Complainant and the staff of the
19 Bureau of Real Estate Appraisers may communicate directly with the Bureau Chief and staff
20 regarding this stipulation and settlement, without notice to or participation by Respondent or his
21 counsel. By signing the stipulation, Respondent understands and agrees that he may not
22 withdraw his agreement or seek to rescind the stipulation prior to the time the Bureau Chief
23 considers and acts upon it. If the Bureau Chief fails to adopt this stipulation as its Decision and
24 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
25 this paragraph, it shall be inadmissible in any legal action between the parties, and the Bureau
26 Chief shall not be disqualified from further action by having considered this matter.

1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
3 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

4 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
7 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
8 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
9 writing executed by an authorized representative of each of the parties.

10 16. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Bureau Chief may, without further notice or formal proceeding, issue and enter the following
12 Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Respondent's Real Estate Appraisers License No. 002051
15 is revoked. However, the revocation shall be stayed, and Respondent shall be monitored on
16 probation for two (2) years from the effective date of the Decision and Order on the terms and
17 conditions described below.

18 **1. Uniform Standards of Professional Appraisal Practice Course/Examination.**

19 Respondent shall take and pass a BRE A approved 15-hour basic education course on the Uniform
20 Standards of Professional Appraisal Practice within six (6) months of the effective date the
21 Decision and Order. The course must be The Appraisal Foundation's National USPAP Course (or
22 its equivalent as determined solely by the Appraiser Qualifications Board (AQB) Course
23 Approval Program), and must be taught by an AQB Certified USPAP Instructor who is also a
24 Certified Residential or Certified General appraiser in good standing with BRE A. The course
25 must administer a closed-book final examination. Respondent must submit proof of successful
26 completion of the course and final examination within six (6) months following the effective date
27 of the Decision and Order. Respondent understands that it is his/her responsibility to ensure that
28 the course meets all of the requirements listed above and to make all necessary and preparatory

1 arrangements to take the course. Educational courses imposed as a term or condition of probation
2 by the Chief of BREa may not be credited toward Respondent's continuing education
3 requirements required for renewal of Respondent's real estate appraiser license. Failure to
4 comply with the education requirements as contained in this Disciplinary Order shall result in an
5 automatic suspension of Respondent's real estate appraiser license. In order to reinstate your
6 license if it is automatically suspended for failure to comply with the education requirement,
7 Respondent must provide BREa with the following: i) satisfactory verification of the completion
8 of the education course or courses imposed; (ii) completion and filing of a reinstatement
9 application along with \$140 for processing; and (iii) payment of all other applicable fees, fines, or
10 penalties.

11 **2. Payment of Fine.** Respondent shall pay a fine in the sum of Four Thousand Dollars
12 (\$4,000.00). Payment of this fine shall be made in quarterly installments with payments of not
13 less than Five Hundred Dollars (\$500.00), with the first payment due within 30 days of the
14 effective date of the Decision and Order as signed by the Bureau Chief. Payments shall be made
15 to the Real Estate Appraisers Regulation Fund, c/o Bureau of Real Estate Appraisers, 1102 Q
16 Street, Suite 4100, Sacramento, California 95811, by check or money order and shall indicate on
17 its face the notation: "BREa Case No. C20130911-04 & C20140127-01." If any of the payments
18 are not received by the due date, pursuant to the payment plan set forth above, a 10 percent late
19 penalty shall be added to the unpaid balance and interest will accrue on the unpaid balance at the
20 pooled money investment rate in effect at that time, until the amount is paid. Respondent shall
21 not be eligible to renew his license until such time as all payments then due, pursuant to the
22 payment plan set forth above, have been paid. Failure to make timely payment on the fine shall
23 constitute a violation of the probationary order.

24 **3. Obey All Laws.** Respondent shall comply with all federal, state and local laws, the
25 Real Estate Appraisers' Licensing and Certification Law and regulations promulgated thereto,
26 and conform to the minimum guidelines set forth under the Uniform Standards of Professional
27 Appraisal Practice ("USPAP"), and all other laws and regulations pertaining to real estate
28 appraisers.

1 **4. Appraisal Log/Work Samples.** Commencing on the effective date of the Decision
2 and Order and continuing through the period of probation, Respondent shall maintain a log of all
3 appraisals and appraisal reviews Respondent performs on a Log of Appraisal Experience form
4 provided by BREA. Respondent shall submit a complete and accurate copy of the log of all
5 appraisals and appraisal reviews completed each six (6) months. Each six (6) month log shall be
6 submitted to the Bureau of Real Estate Appraisers within 30 days following the end of each six
7 (6) month period. Respondent understands BREA may select work samples for review from each
8 submitted six (6) month log. Failure to submit the log, or any selected work samples, in
9 compliance with these terms shall extend the probation for a period equivalent to the period of
10 noncompliance.

11 Respondent shall complete a minimum of 12 appraisals per year. If Respondent fails to
12 complete 12 appraisals per year, probation shall be tolled. Periods during which probation is
13 tolled shall not apply to reduction of the probationary period, suspension or any other disciplinary
14 order or term.

15 **5. Monitoring.** Respondent shall be subject to, and shall permit and cooperate with,
16 monitoring and investigation of Respondent's professional practice. Such monitoring and
17 investigation shall be conducted by representatives of BREA.

18 **6. Monitoring Costs.** Respondent shall pay costs associated with monitoring each and
19 every year of probation. Respondent shall comply with BREA's probation compliance
20 monitoring program. Failure to pay costs or comply with probation monitoring shall be
21 considered a violation of probation. Said costs shall be in a sum sufficient to cover the costs
22 incurred by BREA in reviewing appraisals, and other monitoring, in an amount not to exceed
23 \$450.00 per six (6) months.

24 **7. Comply With Probation.** Respondent shall fully comply with the terms and
25 conditions of the probation imposed by the Chief of BREA and shall cooperate fully with
26 representatives of BREA in its monitoring and investigation of Respondent's compliance with the
27 terms and conditions of probation.

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1 **8. Violation of Probation.** If Respondent violates probation in any respect, the Chief of
2 BREA, after giving Respondent notice and an opportunity to be heard, may revoke probation and
3 carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation
4 is filed against Respondent during probation, the Chief shall have continuing jurisdiction until the
5 matter is final, and the period of probation shall be extended until the matter is final.

6 **9. Surrender of License:** During Respondent's term of probation, if he ceases
7 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
8 probation, Respondent may surrender his license to BREA. BREA reserves the right to evaluate
9 Respondent's request and to exercise its discretion whether to grant the request, or to take any
10 other action deemed appropriate and reasonable under the circumstances, without further hearing.
11 Upon formal acceptance of the tendered license, Respondent will no longer be subject to the
12 conditions of probation.

13 Surrender of Respondent's license shall be considered a disciplinary action and shall
14 become a part of Respondent's license history with the BREA. An appraiser whose license has
15 been surrendered may re-apply for licensure no sooner than one year from the effective date of
16 the disciplinary decision.

17 Respondent may petition to BREA for reinstatement pursuant to the provisions set forth in
18 Government Code section 11522. If, following a surrender of his license, Respondent ever
19 applies for licensure to the BREA and/or petitions for reinstatement in the State of California, the
20 Chief shall treat it as a new application for licensure. Respondent must comply with all the laws,
21 regulations and procedures for licensure in effect at the time the application or petition is filed,
22 and all of the charges and allegations contained in Exhibit "A" will be deemed true when the
23 Chief determines whether to grant or deny the application or petition. Further, Respondent shall
24 pay the fine, as specified in this Decision and Order prior to filing any application for
25 reinstatement or issuance of a new license.

26 **10. Cost Reimbursement.** Respondent shall reimburse the BREA its investigation and
27 prosecution costs in the sum of Eleven Thousand Dollars (\$11,000.00). Payment shall be made in
28 quarterly installments with payments of not less than One Thousand Three Hundred Seventy-Five

1 Dollars (\$1,375.00), with the first payment due within 30 days of the effective date of the
2 Decision and Order as signed by the Bureau Chief. Payments shall be made to the Real Estate
3 Appraisers Regulation Fund, c/o Bureau of Real Estate Appraisers, 1102 Q Street, Suite 4100,
4 Sacramento, California 95811, by check or money order and shall indicate on its face the
5 notation: "BREA Case No. C20130911-04 & C20140127-01." If any of the payments are not
6 received by the due date, pursuant to the payment plan set forth above, a 10 percent late penalty
7 shall be added to the unpaid balance and interest will accrue on the unpaid balance at the pooled
8 money investment rate in effect at that time, until the amount is paid. Respondent shall not be
9 eligible to renew his license until such time as all payments then due, pursuant to the payment
10 plan set forth above, have been paid. Failure to make timely payment on the costs of
11 investigation and prosecution shall constitute a violation of the probationary order.

12 **11. Active License/Registration Status.** Respondent shall at all times maintain an active
13 license/registration status with the BREA, including during any period of suspension. If the
14 license/registration is expired at the time the Decision and Order of the Bureau Chief of the
15 BREA becomes effective, the license/registration must be renewed within 30 days of the effective
16 date of the Decision and Order.

17 **12. Tolling of Probation For Out-of-State Residence/Practice.** In the event respondent
18 should leave California to reside or practice outside this state, Respondent must notify the BREA,
19 in writing, of the dates of departure and return. Periods of non-California residency or practice
20 outside the state shall not apply to reduction of the probationary period, or of any suspension. No
21 obligation imposed herein, including requirements to file written reports, reimburse the BREA's
22 costs, or make restitution to consumers, shall be suspended or otherwise affected by such periods
23 of out-of-state residency or practice except at the written direction of the BREA. Respondent
24 must provide written notice to the BREA within 10 days of any change of residency or practice
25 outside the state, and within 30 days prior to re-establishing residency or returning to practice in
26 this state.

27 **13. Violation of Probation.** If Respondent violates probation in any respect, the Bureau
28 Chief of the BREA, after giving Respondent notice and an opportunity to be heard, may revoke

1 probation and carry out the disciplinary order that was stayed. If an accusation or a petition to
2 revoke probation is filed against respondent during probation, the Bureau Chief shall have
3 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
4 the matter is final.

5 **14. Completion of Probation.** Notwithstanding the continued effects of the published
6 discipline, upon successful completion of probation, Respondent's license will be fully restored.

7 ACCEPTANCE

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
9 discussed it with my attorney, Peter Morse. I understand the stipulation and the effect it will have
10 on my Real Estate Appraiser License. I enter into this Stipulated Settlement and Disciplinary
11 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
12 of the Chief of the Bureau of Real Estate Appraisers, Department of Consumer Affairs.

13
14 DATED: 09-25-2015

Original Signed

FRANK O. MAY
Respondent

15
16 I have read and fully discussed with Respondent Frank O. May the terms and conditions
17 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
18 its form and content.

19 DATED: 9/25/2015

Original Signed

PETER MORSE
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Chief of the Bureau of Real Estate Appraisers, Department of Consumer Affairs.

Dated: 9/25/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Original Signed

CHAR SACHSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. C20130911-04 and C20140127-01