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2 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

3 In the Matter of the Appraiser's License of:

Case No. 4093

4 **JOHN M. SIMMS,**

**CONSENT AGREEMENT and
ORDER**

5 Certified Residential Appraiser
License No. 22370

6 Respondent.

7 In the interest of a prompt and judicious settlement of the above-captioned matter before the
8 Arizona Department of Financial Institutions ("Department"), and consistent with public interest,
9 statutory requirements and responsibilities of the Department, and pursuant to Arizona Revised
10 Statutes ("A.R.S." or "Statutes") § 32-3601 *et seq.*, John M. Simms ("Respondent"), holder of
11 License No. 22370, and the Department enter into this Consent Agreement and Order ("Consent
12 Agreement") as the final disposition of this matter.

13 **JURISDICTION**

14 1. The Department is the state agency authorized pursuant to A.R.S. § 32-3601 *et seq.*,
15 and the rules promulgated thereunder, found in the Arizona Administrative Code ("A.A.C." or
16 "Rules") at Rules 4-46-101 *et seq.*, to regulate and control the licensing and certification of real
17 property appraisers in the State of Arizona.

18 2. Respondent holds a license as a Certified Residential Appraiser in the State of
19 Arizona, License No. 22370, originally issued on December 9, 2014, pursuant to A.R.S. § 32-3612.
20 Respondent's license currently expires on December 31, 2020. Respondent also holds a registration
21 as a Designated Supervisory Appraiser in the State of Arizona, Registration No. DS0120, which was
22 issued on November 25, 2016.

23 **CONSENT AGREEMENT**

24 Respondent understands and agrees that:

25 3. The Department has jurisdiction over Respondent and the subject matter pursuant to
26 A.R.S. § 32-3601 *et seq.*

1 personally inspect the subject property.

2 11. On June 15, 2018, Respondent signed the appraisal report as the inspecting appraiser,
3 not as the supervisory appraiser, and he submitted that appraisal report to Assurant. In that appraisal
4 report, Respondent:

5 a. certified and agreed that he “performed a complete visual inspection of the
6 interior and exterior areas of the subject property”;

7 b. certified that to the best of his knowledge and belief: “The statements of fact
8 contained in this report are true and correct.” and “Unless otherwise indicated, I have made a
9 personal inspection of the property that is the subject of this report.”; and

10 c. specifically indicated that he had personally performed an “Interior and
11 Exterior” inspection of the subject property on June 7, 2018.

12 12. On June 26, 2018, Tracy Daniels of Assurant spoke with Respondent regarding the
13 appraisal report, and during that conversation Respondent admitted to Ms. Daniels that he had not
14 inspected the subject property.

15 13. On August 27, 2018, Ms. Daniels filed Complaint No. 4093 (“Complaint”) with the
16 Department against Respondent, because Respondent had submitted an appraisal report to Assurant
17 wherein he falsely claimed to have personally inspected the Rimrock property when, in fact, he had
18 not.

19 14. On August 28, 2018, the Department sent an email to Respondent notifying him of
20 the Complaint filed by Ms. Daniels. A copy of the Complaint was attached to that email.

21 15. On or about September 24, 2018, Respondent sent an email to the Department, along
22 with an attached letter dated September 19, 2018, responding to the Department’s August 28, 2018
23 email regarding the Complaint. In that September 19, 2018 letter, Respondent wrote, in part:

24 a. “The Complaint is accurate in that I did not physically inspect the interior of
25 the subject property.”;

26 b. “I have been appraising Arizona real estate since 1983 and understand that it

1 is wrong for me to sign the appraisal report without inspecting the interior of the property.”;

2 c. “The Rimrock, AZ property, that is the subject of this report, was the first
3 appraisal inspection that Brittini Larsen did on her own without my accompaniment.” ;

4 d. “When I signed the appraisal, I did not yet have Brittini’s digital signature set
5 up in my system. The appraisal report was due for Assurant Valuations, and I wanted to
6 maintain my metrics with Assurant Valuations.”;

7 e. “Assurant Valuations/Streetlinks had been a large portion of my income for
8 the past 3 years and I wanted to maintain my *on-time* status for this report. I understand that
9 my desire to keep up my metrics in no way justifies my signing of the report without adding
10 Brittini’s signature.”;

11 f. “If I would have had Brittini’s digital signature set-up in my system, I would
12 have signed the Rimrock appraisal correctly.”;

13 g. “Again, I understand that this is incorrect and wrong. I am not trying to
14 justify my action, but simply add some insight as to my reasoning and thinking.”; and

15 h. “I was trying to maintain my good metric numbers in order to maintain the
16 influx of appraisal work from Assurant Valuations/Streetlinks.”

17 **CONCLUSIONS OF LAW**

18 16. The Department has personal and subject matter jurisdiction in this case under A.R.S.
19 § 32-3601 *et seq.*, and is authorized to seek disciplinary action against any licensed or certified real
20 property appraiser in the State of Arizona for violations of the Statutes, Rules, or standards of
21 practice adopted by the Department.

22 17. Pursuant to A.R.S. § 32-3635, a certified or licensed appraiser in the State of Arizona
23 must comply with the standards of professional appraisal practice adopted by the Department. The
24 standards of practice adopted by the Department are codified in the Uniform Standards of
25 Professional Appraisal Practice (“USPAP”) edition applicable at the time of the appraisal.

26 18. The conduct described above constitutes violations of the following provision of the

1 USPAP, 2018-2019 edition: Standard Ethics Rule – “An appraiser must promote and preserve the
2 public trust inherent in appraisal practice by observing the highest standards of professional ethics.”;
3 and of A.R.S. §§ 32-3635(A) and 32-3631(A)(8).

4 **ORDER**

5 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree to the
6 following Order:

7 19. Respondent’s license as a Certified Residential Appraiser, License No. 22370, is
8 **suspended for a period of fourteen (14) days beginning on September 3, 2019, up to and**
9 **including September 16, 2019.** This Consent Agreement is effective on the date it is signed by the
10 Division Manager on behalf of the Superintendent (the “Effective Date”).

11 20. **During the time of suspension, Respondent shall not act as a Certified**
12 **Residential Appraiser or provide any appraisal services, including appraisal reviews or**
13 **consulting assignments, in the State of Arizona.**

14 21. This suspension is a disciplinary action that affects Respondent’s legal eligibility to
15 engage in appraisal practice. Therefore, pursuant to The Real Property Appraiser Qualification
16 Criteria issued by the Appraiser Qualifications Board, and A.R.S. § 32-3601(23)(b), Respondent will
17 not be eligible to act as a Designated Supervisory Appraiser for a period of three (3) years after
18 successful completion/termination of the suspension set forth in paragraph 19, above.

19 22. Respondent shall pay a civil money penalty in the amount of **one thousand dollars**
20 **(\$1,000.00).** This civil money penalty is due and payable to the Department within **thirty (30) days**
21 of the Effective Date of this Consent Agreement.

22 23. Additionally, within six (6) months of the Effective Date of this Consent Agreement,
23 Respondent shall complete a **fifteen (15) hour USPAP course (with an exam that Respondent**
24 **must successfully complete).** The education required under this paragraph **may not be counted**
25 **toward the continuing education requirements for the renewal of Respondent’s certificate.**

26 a. Proof of completion of the required education must be submitted to the

1 Department within **three (3) weeks** of completion of the required coursework.

2 b. Respondent shall bear all costs and expenses associated with completing the
3 required coursework.

4 24. If, between the effective date of this Consent Agreement and Respondent's
5 compliance with this Consent Agreement, Respondent fails to renew his license and subsequently
6 applies for a license or certificate, the remaining terms of this Consent Agreement shall be imposed
7 if the application for license or certificate is granted.

8 25. Respondent has read and understands this Consent Agreement as set forth herein, and
9 has had the opportunity to discuss this Consent Agreement with an attorney or has waived the
10 opportunity to discuss this Consent Agreement with an attorney. Respondent voluntarily enters into
11 this Consent Agreement for the purpose of avoiding the expense and uncertainty of an administrative
12 hearing.

13 26. Respondent understands that he has a right to a public administrative hearing
14 concerning each and every allegation set forth in the above-captioned matter, at which administrative
15 hearing he could present evidence and cross-examine witnesses. By entering into this Consent
16 Agreement, Respondent knowingly, willfully and voluntarily relinquishes all rights to such an
17 administrative hearing, as well as all rights of rehearing, review, reconsideration, appeal, judicial
18 review or any other administrative and/or judicial action, concerning the matters set forth herein.
19 Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

20 27. Respondent understands that this Consent Agreement, or any part thereof, may be
21 considered in any future disciplinary action against him.

22 28. The parties agree that this Consent Agreement constitutes final resolution of this
23 disciplinary matter.

24 29. If Respondent fails to comply with the terms of this Consent Agreement, Respondent
25 understands that the Department, at its sole discretion, may continue the suspension or initiate
26 proceedings for noncompliance with this Consent Agreement, which may result in suspension,

1 revocation, or other disciplinary and/or remedial action. Respondent agrees that any violation of this
2 Consent Agreement is a violation of A.R.S. § 32-3631(A)(8), which is “[w]ilfully disregarding or
3 violating any provisions of this chapter or an order or rule of the superintendent for the
4 administration and enforcement of this chapter.”

5 30. Respondent understands that this Consent Agreement does not constitute a dismissal
6 or resolution of other matters currently pending before the Department, if any, and does not
7 constitute any waiver, express or implied, of the Department’s statutory authority or jurisdiction
8 regarding any other pending or future investigation, action or proceeding. Respondent also
9 understands that acceptance of this Consent Agreement does not preclude any other agency,
10 subdivision or officer of this state from instituting other civil or criminal proceedings with respect to
11 the conduct that is the subject of this Consent Agreement.

12 31. Respondent understands that this Consent Agreement shall not become effective
13 unless and until adopted and signed by the Division Manager and executed on behalf of the
14 Superintendent. Any modification to this original document is ineffective and void unless mutually
15 approved by the parties in writing.

16 32. Respondent understands that this Consent Agreement is a public record that may be
17 publicly disseminated as a formal action of the Department.

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1 33. The Department considers this to be a disciplinary action and these violations to
2 constitute a Level IV¹ (out of five).

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4 DATED this 19th day of August, 2019.

5 Keith Schraad, Interim Superintendent
6 Department of Financial Institutions

7 By: Tammy Seto
8 Tammy Seto, Division Manager
9 Financial Services
 Arizona Department of Financial Institutions

10 DATED this 19th day of AUGUST, 2019.

11 By: [Signature]
12 John M. Simms

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26 ¹ Using the "Voluntary Disciplinary Action Matrix" developed by The Appraisal Foundation.

1 ORIGINAL of the foregoing filed this
2 19th day of August, 2019,
in the office of:

3 Keith Schraad, Interim Superintendent
4 Arizona Department of Financial Institutions
5 ATTN: Ana Starcevic
6 100 N. 15th Avenue, Suite 261
Phoenix, AZ 85007
AStarcevic@azdfi.gov

7 COPY of the foregoing mailed and/or emailed same date to:

8 Tammy Seto, Division Manager, Financial Services
9 Linda Beatty, Staff Investigator
10 Arizona Department of Financial Institutions
11 ATTN: Ana Starcevic
12 100 N. 15th Avenue, Suite 261
Phoenix, AZ 85007
AStarcevic@azdfi.gov

13 Eric Schwarz, Assistant Attorney General
14 Arizona Attorney General's Office
15 2005 N. Central Avenue
Phoenix, Arizona 85007
Eric.Schwarz@aza.gov

16 COPY mailed same date by
Certified Mail, Return Receipt Requested, and emailed to:

17 John M. Simms
18 John Simms & Associates
19 10376 W. Robin Lane
Peoria, AZ 85383
Respondent
20 reappraiser1@cox.net

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22 Doc. # 8112457

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