

REAL ESTATE APPRAISERS

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF REAL ESTATE APPRAISERS

IN THE MATTER OF THE
LICENSE OF

ANDREW O'CONNELL
RG01329

TO PRACTICE AS A REAL ESTATE
APPRAISER IN THE STATE
OF NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

FILED
BOARD OF
REAL ESTATE APPRAISERS
James S. Hsu
DR. JAMES S. HSU 3/2/04
Executive Director

This matter was opened to the New Jersey State Board of Real Estate Appraisers ("the Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent is a real estate appraiser in the State of New Jersey and has been a licensee of the Board at all times relevant hereto.
2. On August 6, 2002, a Final Order was entered, imposing a one year term of suspension upon respondent, effective from August 15, 2002 until August 14, 2003.
3. On April 17, 2003, the Board received a complaint from a financial institution alleging that respondent had prepared an appraisal for Crystal Mortgage, a mortgage broker, dated January 7, 2003, at which time his certification was suspended.

The appraisal was of 239 Park Avenue, West Orange, New Jersey, and indicated a value conclusion of \$231,000.

4. 239 Park Avenue, West Orange, New Jersey was listed for sale during the period of May 2, 2002 through May 2, 2003 for an asking price of \$134,900.

This was not indicated in respondent's report.

5. On October 14, 2003, respondent's sworn testimony to the Board indicated that he had prepared the appraisal report which had been furnished to the financial institution. T8-7 to 16.¹

CONCLUSIONS OF LAW

1. Respondent's conduct, as indicated supra, constitutes a failure to comply with a Board order, in that while suspended by operation of a Board order he engaged in real estate appraising. This conduct constitutes professional misconduct pursuant to N.J.A.C. 13:45C-1.4, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and N.J.S.A. 45:1-21(h).

2. Respondent's failure to indicate and analyze in his report that the subject property was being offered for sale at \$134,900 during the same period that he appraised the property at \$231,000 constituted a violation of Standards Rule 1-5(a) of the Uniform Standards of Professional Appraisal Practice, which requires that an appraiser analyze all current listings of the subject property. Pursuant to N.J.A.C. 13:40A-6.2 this constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e) and (h).

¹ T = Transcripts of investigative inquiry dated October 14, 2003.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on December 30, 2003, provisionally imposing upon respondent a civil penalty in the amount of \$15,000, costs in the amount of \$247.50, and provisionally suspending respondent's certification for a period of five years, three years of which were to be a period of active suspension, with two years to be stayed and served as a period of probation. Respondent's period of active suspension was not to terminate until he had paid the civil penalties imposed. A copy of the Order was sent on December 30, 2003 to respondent's address of record, 1375 Pleasant Valley Way, West Orange, NJ, by certified and regular mail. Cf. N.J.S.A. 45:14F-22 (requirement to notify Board of address change). Certified mail was returned unclaimed after four delivery attempts; regular mail was not returned. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Inasmuch as no response has been received from respondent, although the Order was sent to his address of record, the Board considered the matter, determined that further proceedings were not necessary and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 2nd day of March, 2004,

ORDERED that:

1. Respondent's certification is hereby suspended for a period of five years. Three years of this period of suspension shall be a period of active suspension; two years of this period shall be subsequently stayed, and served as a period of probation.

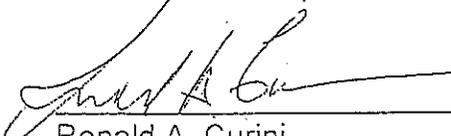
2. A civil penalty in the amount of \$15,000 is hereby assessed against respondent.

3. Respondent is to pay \$247.50 in costs.

4. Respondent's period of active suspension shall not terminate, nor shall the period of stayed suspension begin, until he has paid the civil penalties imposed by the terms of this Order. In addition, in the event that respondent has not either paid the civil penalties imposed by this Order, or begun payments pursuant to a payment plan offered by the Board upon the finalization of this Order, within 30 days following the finalization of this Order, a certificate of debt may be filed.

5. Respondent is to forward any payments, or any requests for a payment plan, to the attention of Dr. James S. Hsu, Executive Director, Board of Real Estate Appraisers, P.O. Box 45032, 124 Halsey Street, Third Floor, Newark, New Jersey 07101.

NEW JERSEY STATE BOARD OF
REAL ESTATE APPRAISERS



Ronald A. Curini
Board President