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BOARD OF
REAL ESTATE APPRAISERS
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Executive Director

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

COPY

IN THE MATTER OF THE
APPLICATION OF

JOHN ALDEN
Permit # RP1153

FOR A REAL ESTATE APPRAISER
TRAINEE PERMIT IN THE STATE
OF NEW JERSEY

Administrative Action

FINAL ORDER
DENYING TRAINEE
PERMIT

This matter was originally opened to the New Jersey State Board of Real Estate Appraisers ("the Board") upon an attempt by the applicant to renew a trainee permit to engage in real estate appraising. An application for renewal was received by the Board on January 8, 2003. Respondent had previously been a trainee for at least two years, and his previous trainee permit had expired on March 31, 2002.

In the spring and summer of 2002, complaints had been filed with the Board by two former high school friends of applicant, alleging that the applicant was involved in a criminal conspiracy in connection with his work as an appraiser trainee. In an appearance before the Board on March 11, 2003, the applicant took the Fifth Amendment when asked whether he had arranged to have friends use their credit for financing in connection with appraisal reports which he had worked on, where the

friends were paid $2500 each for the use of their names. The applicant took the Fifth Amendment when asked whether his girlfriend had brought him appraisals to do while he was residing in New York. Additionally, he took the Fifth Amendment when asked whether he had commented to one of his friends, while referring to appraisal reports he had worked on: "I don't care, Al [the applicant's supervising appraiser] signed them, he's going to jail, not me."

The applicant's application to have his trainee permit reinstated remained pending, and the Board determined to review a sample of the applicant's appraisal work prior to approving his application. The Board asked the applicant to appear on February 10, 2004 to discuss certain appraisal reports, but at that time the applicant stated that he was not certain whether he had actually worked on the reports selected by the Board and forwarded to his attorney, and therefore the Board determined it would not be helpful at that time to ask the applicant questions as to how he had prepared the reports. The applicant was asked to review the reports and related workfiles and indicate which reports he had actually worked on.

On April 12, 2005, the applicant appeared before the Board to answer questions about a list of reports he performed under the supervision of Jacques Magloire. The applicant was asked questions about his work. In the course of those inquiries, the applicant appeared to distance himself from the final report that issued, although the reports presented to the Board bore the applicant's signature. The applicant was asked:

> Q: When your signature appears, that means you had an opportunity to review any changes that would have been made?
> A: No.

> Q: You would have signed the report before there [were] any changes?
> A: I signed it afterward, but not ever looking at it or seeing if he changed anything.

Subsequently, the applicant was asked about two appraisal reports he had worked on where the same comparable property was used. The size of the property was indicated to be 3000 square feet on one report, and 2300 square feet on another report. The applicant stated that either he had made a mistake, or that his supervisor had modified the square footage after he, the applicant, had submitted his work. The applicant was then asked:

> Q: You seem to be attributing these issues . . . to the fact that once you did your draft copy, you don't know what happened.
> A: No. Well, a lot of the times he modified the appraisals.
> Q: So you don't know what happened? You have no --
> A: I wasn't there when he made the modifications. No, I'm sorry, no, I don't.
> Q: But notwithstanding that, your signature appears on the final draft as it's printed in front of us today?
> A: These appraisals were signed after the fact. I went to Mr. [Magloire's] office and signed the appraisals after the inspection was done. I never took the appraisal back home with me and cross-referenced it with the appraisal I had on my computer.

In a subsequent discussion of modifications which his supervisor might have made to his reports, the applicant stated "When I send [Mr. Magloire] the appraisal, if he makes modifications, I have no way of knowing if he did or didn't. I could have done it, he could have done it. I have no way of knowing that." He added that it would be impossible for him to know whether his report had been modified:

> A: [b]ecause I e-mail him the appraisal, okay. He signs the appraisal and he sends it out to his clients. I rarely see the appraisal unless I come in a couple of months -- you know, a month or two later to sign it, to sign the appraisals.
> Q: But don't you think you would have some responsibility to do exactly that, to verify the information that the draft that you prepared and your

signature is reflected upon is in fact the copy that went out to the client?
A: I don't understand how I would do that.
Q: You would go to the office and sign the final copy or you'd go there and see the final copy and compare it with - - -
A: Bring it home, back to my house and cross-reference it? Maybe you're right, maybe yes, I should have. But unfortunately I didn't because I had to make a living. I just left that for his authority, you know.

With regard to this issue, the question was posed as to how far the applicant would go to accommodate his employer:

Q: So far you indicated you're pretty much willing to let him make any changes he wanted.
A: Well, he's the licensed appraiser. I was the apprentice.
Q: But your name is on the report.

The applicant did not deny that his name was on the report, but went on the assert that because it was Mr. Magloire's company, he prepared the report the way Mr. Magloire wanted.

Further questioning ensued. In two other appraisal reports on which the applicant had worked, it was pointed out that the same comparable was reported as having 3200 square feet in one report, and 1900 square feet in another report. Again, the applicant indicated that his supervisor may have modified the report, and he could not state whether he was responsible for the variation in square footage:

A: And what we don't know, who made the modifications to the appraisals. I don't know if Mr. [Magloire] did it.
Q: Again, just to revisit that . . . There wasn't any point in time after you completed a draft report before that report went out to the client that you actually viewed the report?
A: Not once.

The applicant was then asked how his signature got on the appraisal report:

A: When you asked Mr. [Magloire] for an inquiry, you wanted to call him before the board and you wanted to get a list of appraisals, he signed them. And right after, he signed them a couple of months ago.

Q: So you never signed these reports when they were done?
A: Never, never. When you called Mr. [Magloire] up for a Board interview,[1] he called me into the office. I had to pull up - print out the original appraisals from his systems and do all the work, because he was too busy. And then he signed a copy and I signed a copy, right, all of them together. Before that, I e-mailed my appraisals to Mr. Magloire and he signs them and e-mails them to his client. I never saw them.
BY MR. SCRIVENS:
Q: He signs your name?
A: No. When -- my name is not on the original appraisal. If you go and pull these from the mortgage companies, there would only be Mr. [Magloire's] signature on the appraisal, not mine. When you guys asked for [an] inquiry, you wanted to see the appraisals, he called me into his office. He signed [the reports] and had me sign each one at that time.

The appraisal reports being discussed at the time bore the applicant's signature, and stated in writing the date the report was signed. For example, the appraisal of 46 New Street, Jersey City stated: "Date Report Signed: April 14, 2002."

The applicant was then asked:

Q: Is there a line there that says the date the report is signed?
A: Well, we signed them and dated them at that time.
Q: Backdated them?
A: Excuse me?
Q: Backdated? You didn't sign them with a contemporary date?
A: Exactly.

The reports at it issue were all, with one exception, dated 2002. The date that the applicant actually signed the reports would have been after March 15, 2004.

The applicant's taking of the Fifth Amendment with regard to the complaints filed with the Board by his former friends led to the Board's determination to question the

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[1] The Board had held an investigative inquiry with Mr. Magloire on May 11, 2004. The letter addressed to Mr. Magloire, specifying certain reports the would be questioned about, was dated March 15, 2004.

applicant about the manner in which he prepared appraisal reports. The applicant's attitude with regard to certain irregularities that emerged in the course of the investigative inquiry -- appearing to disclaim all responsibility because of his trainee status -- was troubling to the board. However the applicant's admission that he deliberately, upon the request of his supervising appraiser, signed reports more than a year after-the-fact with the plain intention of deceiving the Board, is in and of itself grounds for denying the applicant's permit application.

Moreover, the applicant's admission casts a new light on his testimony earlier in the inquiry. It was plainly misleading. The applicant's responses implied that he came to his supervisor's office to sign the final version of the report prior to the report being issued to the client. The applicant's comment that perhaps he ought to have brought home a copy of the final version of the report to compare with his original version, but didn't do so because he had to "make a living," was misleading. He did not explain that at the time it would have made no sense to compare the reports, because the actual report had gone out perhaps two years earlier.

Finally, the Uniform Standards of Professional Appraisal Practice require that all appraisers sign a certification indicating whether they have personally inspected the property being appraised, and also indicating the identity of any person or persons who provided significant assistance with the report. See Standards Rule 2-3. The appraisal reports submitted to the Board, and about which the applicant was questioned, all bore such a certification. According to the applicant, he was aware that the reports that actually issued from the office to the clients did not bear his signature, and would have indicated (falsely) that his supervisor had personally inspected the property.

The applicant, as a trainee, is not responsible for the appraisal reports he worked on in the same manner that his supervisory appraiser is responsible. Nevertheless, the applicant is responsible for his own deceptive conduct in connection with the appraisal reports he worked on, and his conduct, as he himself described it, was deceptive. The applicant admitted that he signed reports for submission to the Board, in a manner that made it appear he had signed the reports when they were originally issued. The applicant admitted that the original reports did not indicate that he had made any contribution to the report, or identify him, in violation of the USPAP. The applicant admitted that, although he had himself had physically inspected the properties being appraised, he was aware that the reports were issuing stating that his supervisor had physically inspected the properties.

Given the applicant's admissions, the Board deems it appropriate to deny the applicant's request for a trainee permit on the same basis that it would deny an application for licensure under these circumstances. Pursuant to N.J.S.A. 45:1-21, licensure may be denied for, inter alia, professional misconduct, N.J.S.A. 45:1-21(e) (see also N.J.A.C. 13:40A-6.1, whereby USPAP violations may be deemed professional misconduct); and for the use of deception. See N.J.S.A. 45:1-21(b).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on June 14, 2005 provisionally denying the applicant's application for a trainee permit. A copy of the Order was personally served upon an adult living with the applicant at the applicant's residence, his present address of record with the Board at 420 Monmouth Street, Jersey City, New Jersey, on June 21, 2005. 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. Although the record reflects that the Provisional Order was served upon the applicant, no response has been received. Accordingly, the Board determined that further proceedings were not necessary and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 8th day of August 2005,

ORDERED that:

1. Respondent's application for renewal of his trainee permit is hereby denied.

NEW JERSEY STATE BOARD
OF REAL ESTATE APPRAISERS

Denise M. Siegel
Board President