

CERTIFIED TRUE COPY

COPY

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

IN THE MATTER OF THE
LICENSE OF

ACKLEY O. ELMER, II
RG00023100

TO ENGAGE IN REAL ESTATE
APPRAISING 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 5/21/07
Executive Director

This matter was opened to the New Jersey State Real Estate Appraiser Board ("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 certified general real estate appraiser in the State of New Jersey, and has been a licensee of the Board at all times relevant hereto.
2. On or about July 13, 1999, a two year suspension was imposed upon respondent, three months of which were served as a period of active suspension, with the remainder stayed and served as a period of probation. A civil penalty of \$5,000.00 was also imposed, as well as costs of \$223.86, and \$250.00 restitution. The basis of this suspension was respondent's acceptance of fees for appraisal reports, and then failure to complete the appraisal assignments, accompanied with repeated misrepresentations such as promises that the appraisal report was complete and would

be delivered or mailed forthwith.

2. On March 21, 2006, a Consent Order was filed by the Board in connection with four consumer complaints in 2005 about appraisal reports that were contracted for with respondent and were either not delivered, or not delivered in timely fashion. By the terms of that Consent Order, respondent agreed that he would no longer undertake to perform residential appraisal reports without the assistance of a trainee.

3. On or about October 24, 2006, respondent agreed to appraise a Smithville, New Jersey residence.

4. On or about October 31, 2006, respondent went to the Smithville residence unaccompanied by any other person.

5. Respondent walked with difficulty, and the occupants of the residence assisted him in inspecting the residence by verbally describing the rooms of the house to him, and photographing the interior of the house for him.

6. When respondent had not completed the appraisal assignment by November 27, 2006, the appraisal assignment was cancelled.

7. A Demand for Statement in Writing Under Oath dated January 24, 2007 was forwarded to respondent. In his response, respondent admitted to visiting the Smithville residence on October 31, 2007 without a trainee, and to being assisted by the occupants of the Smithville residence as described in paragraph #6, supra.

8. Respondent admitted that he accepted the appraisal assignment.

9. Respondent admitted that he was not assisted by a trainee in connection with the appraisal of the Smithville residence.

CONCLUSIONS OF LAW

1. Respondent's acceptance of the appraisal assignment in Smithville, and performing or attempting to perform steps of the appraisal process such as inspection and photographing of the residence, without the assistance of a trainee, constitutes a failure to comply with the Board Order of March 21, 2006 in violation of N.J.A.C. 13:45C-1.4, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on March 23, 2007, provisionally suspending respondent's appraising license for three months, with suspension to commence ten days following the entry of a Final Order, and imposing a civil penalty in the amount of \$1,500.00 for respondent's violation of N.J.S.A. 45:1-21(e). A copy of the Order was forwarded to respondent by certified and regular mail at his address of record. A copy was also sent to an attorney who represented respondent at the time of the entry of the March 21, 2006 Consent Order. 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.

No response to the Provisional Order has been received from respondent. Neither certified nor regular mail has been returned. Because the mailings were directed to respondent's address of record, the Board deems service to have been

well as violating the Record Keeping Provision of the Ethics Rule of the USPAP. The Board finds this constitutes professional misconduct pursuant to N.J.A.C. 13:40A-6.1, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

In the interests of resolving this matter amicably and without further proceedings, and the Board finding that the within Order is sufficiently protective of the public, and for other good cause shown,

IT IS ON THIS 14th DAY OF May, 2007,

HEREBY ORDERED AND AGREED THAT:

1. A public reprimand is hereby imposed upon respondent for his violation of N.J.S.A. 45:1-21(e);
2. Respondent shall pay a civil penalty in the amount of \$1,500.00, as well as costs in the amount of \$380.50, for a total amount due of \$1,880.50.
3. Respondent shall provide the Board with proof of successful completion of a fifteen hour USPAP course within six months following the entry of this Order. This course shall not

be used to satisfy respondent's continuing education obligation
as a licensee pursuant to N.J.A.C. 13:40A-5.3, -5.4.

NEW JERSEY STATE BOARD
OF REAL ESTATE APPRAISERS

By:



John A. McCann
Board President

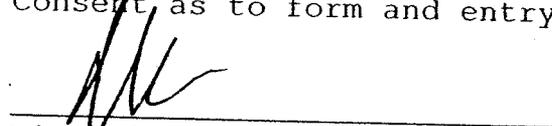
I have read and understood this
Order, and consent to its terms.



Nicholas Galli

Date: 5/10/07

Consent, as to form and entry:



Michael K. McFadden, Esq.
Attorney for respondent

5/10/07
Date