

FILED  
BOARD OF  
REAL ESTATE APPRAISERS  
*James S. Hsu*  
DR. JAMES S. HSU 11/28/07  
Executive Director

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

COPY

IN THE MATTER OF THE  
LICENSE OF

CHARLES M. MADIA  
RA00111700

TO ENGAGE IN REAL ESTATE  
APPRAISING IN THE  
STATE OF NEW JERSEY

Administrative Action

FINAL ORDER  
OF DISCIPLINE

CERTIFIED TRUE COPY

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 licensed residential 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 October 29, 2004, respondent appraised residential property

at 168 Seymour Avenue, Newark, NJ.

3. Mr. Madia certified that he personally prepared all conclusions and opinions, and personally inspected the interior and exterior of the subject property. (Exhibit A, Appraiser's certification, Paragraphs #8 and #9) However, the report was prepared by a trainee, Anthony Pisani, who was not identified in the report, and respondent did not inspect the interior of the subject property.

4. There was a prior sale of the subject property on December 20, 2002 for \$90,500 to an entity called NJ Affordable Homes Corp. This sale was not analyzed or indicated in the report. Respondent did not research the sales history, and did not know the extent to which the trainee who prepared the report had researched the sales history.

5. Despite the fact of the 2002 prior sale for \$90,500, the report affirmatively stated "The subject has not been sold or listed for sale over the past 36 months other than the above mentioned sale" (referring to a sale on December 26, 2003 for \$290,000.)

6. In the section of the report addressing prior sales of the comparables within one year, the report stated "n/a" with respect to each comparable sale. However comparable #1, 114 Seymour Avenue, sold for \$138,000 on July 8, 2004 to NJ Affordable Homes Corp. Respondent testified that he was aware of the prior sale.<sup>1</sup>

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<sup>1</sup> Comparable #2, 96 Ridgewood Avenue, was acquired on June 2, 2003, for \$63,200, and was sold on July 19, 2004 for \$315,000. Comparable #3, 433 Irvine Turner Boulevard, as sold on February 24, 2003 for \$62,500, and again on February 2, 2004 for \$317,000. Respondent was aware of these prior sales and acknowledged that the prior sales history was relevant to the appraisal in light of the disparity of the sales prices, but did not note this in the report. T28-4 to 29-1.

7. Respondent indicated that the comparable sales were "provided" by "the broker" or "the homeowner" to his trainee. All of the comparable sales used had an entity called NJ Affordable Homes in the chain of title. Respondent did not indicate this in the report.

8. Respondent acknowledged that he had signed other appraisal reports prepared by the trainee who prepared the appraisal of 168 Seymour, which also bore inaccurate certifications indicating that respondent personally prepared all conclusions and opinions, and personally inspected the interior and exterior of the subject property, when this was not the case. Respondent forwarded to the Board copies of 34 appraisal reports which bore such inaccurate certifications.<sup>2</sup>

#### THE APPLICABLE APPRAISAL STANDARDS

1)The Conduct Section of the Ethics Rule of the Uniform Standards of Professional Appraisal Practice ("the USPAP") provides that an appraiser must not communicate assignment results in a misleading or fraudulent manner.

2)Standards Rule 1-1(a) provides that an appraiser must be aware of, understand and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.

3)Standards Rule 1-5(b) requires that an appraiser analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

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<sup>2</sup> Copies available upon request.

4)Standards Rule 2-1(a) requires that an appraisal report must clearly and accurately set forth the appraisal in a manner that will not be misleading.

5)Standards Rule 2-3 requires that each appraisal report contain a signed certification indicating, inter alia, whether the appraiser received significant appraisal assistance in preparing the report.

#### CONCLUSIONS OF LAW

1. Pursuant to N.J.A.C. 13:40A-6.1, an appraiser's failure to comply with the USPAP may constitute professional misconduct within the meaning of N.J.S.A. 45:1-21(e).

2. Respondent's certifying in the appraisal of 168 Seymour, and in the 34 appraisal reports noted in Paragraph #9, supra, that he had prepared all opinions and conclusions personally, and his failure to name in the report the trainee who provided significant professional assistance with the report, constitutes a violation of Standards Rule 2-3, and is misleading, in violation of the Conduct Section of the Ethics Rule and Standards Rule 2-1(a), and thus in violation of N.J.S.A. 45:1-21(e). It is also misrepresentation in violation of N.J.S.A. 45:1-21(b).

3. Respondent's certifying that he had personally inspected the interior of the subject property in the appraisal of 168 Seymour, and in the 34 appraisal reports noted in Paragraph #9, supra, constitutes a violation of Standards Rule 2-3, and is misleading, in violation of the Conduct Section of the Ethics Rule and Standards Rule 2-1(a), and thus in violation of N.J.S.A. 45:1-21(e). It is also misrepresentation in violation of N.J.S.A. 45:1-21(b).

4. Respondent's failure to analyze a prior sale of the subject property within

three years of the effective date of the report constitutes a violation of SR 1-5(b), subjecting him to sanctions pursuant to N.J.S.A. 45:1-21(e).

5. Respondent's affirmative statement that the subject had not been sold or listed for sale, other than the prior sale indicated in the report, was misleading in violation of the Conduct Section of the Ethics Rule and SR 2-1(a). This subjects respondent to sanctions pursuant to N.J.S.A. 45:1-21(b) and (e).

6. Respondent's indication of "n/a" in the section of the report addressing prior sales of the comparables within one year, despite the fact that comparable #1, 114 Seymour Avenue, sold for \$138,000 on July 8, 2004 to NJ Affordable Homes Corp., was misleading in violation of the Conduct Section of the Ethics Rule and SR 2-1(a). This subjects respondent to sanctions pursuant to N.J.S.A. 45:1-21(b) and (e).

7. Respondent's limited research of the sales history of the subject and comparables, and his failure to indicate the readily available information that the subject and all of the comparable sales were properties with NJ Affordable Homes Corp. in the chain of title, is a violation of SR 1-1(a), which subjects respondent to sanctions pursuant to N.J.A.C. 13:40A-6.1 and N.J.S.A. 45:1-21(e).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on September 26, 2007, provisionally suspending respondent for a period of one year, with six months of the suspension to be active, and the remainder to be served as a period of probation. In addition, a civil penalty of \$5,000.00 was provisionally imposed. A copy of the Order was served upon respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> 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.

Respondent replied, requesting consideration based upon the financial hardship that suspension of his license would cause, and asking that the Board reconsider the penalties imposed by the Provisional Order. He indicated that the current real estate market had already taken a toll upon his business, and that he was burdened by child support payments, mortgage payments, and other living expenses. Respondent also indicated that he intended to ensure that mistakes he made in the past would not be repeated. Respondent's submission was reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as respondent did not contest the Findings of Fact and Conclusions of Law. Moreover the Board found that the penalties imposed by the Provisional Order had been lenient, in acknowledgment of respondent's candid admissions, and that further leniency would tend to overly deprecate the seriousness of the conduct found. Accordingly, the Board determined that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 28<sup>th</sup> day of November, 2007,

ORDERED that:

1. Respondent's license is hereby suspended for a period of one year. Six

months of the suspension are to be an active suspension; with the remainder to be served as a period of probation. Respondent's active suspension shall commence on December 15, 2007, providing respondent sufficient time to conclude any appraisal assignments respondent has already commenced. Fifteen (15) days prior to the termination of the six month period of active suspension, respondent shall advise the Board in writing of his intension to re-enter appraisal practice.

2. A civil penalty in the amount of \$5,000.00 is hereby imposed for respondent's violation of N.J.S.A. 45:1-21(b) and (e). Payment shall be in the form of a certified check or money order made payable to the State of New Jersey, and shall be forwarded 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. In the event that no payment is received within fifteen (15) days following the issuance of this Order, a certificate of debt may be filed.

NEW JERSEY STATE  
REAL ESTATE APPRAISER BOARD  
  
Stephen P. Giocondo  
Board President