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FILED
BOARD OF
REAL ESTATE APPRAISERS
James S. Hsu
DR. JAMES S. HSU
Executive Director 11-25-08

CERTIFIED TRUE 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

DOUGLAS L NICKEL
RG00185300

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

Administrative Action

FINAL ORDER
OF DISCIPLINE

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 preliminary 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 February 11, 2008, the Board conducted a continuing education audit, asking a random sampling of its licensees for documentation of having completed the continuing education requirements set forth in N.J.A.C. 13:40A-5.3 and N.J.A.C.

13:40A-5.4 for the 2006-2007 licensing period. The request for information was sent by regular mail to licensees at their address of record.

3. Respondent replied to the audit, via his attorney, requesting that his appraiser license be placed in inactive status. No information was supplied with regard to any continuing education courses completed during the 2006-2007 licensing period.

4. Subsequently, respondent's attorney wrote again to indicate that respondent had not been engaging in real estate appraising in the State of New Jersey for several years, but that respondent was practicing real estate appraising in other jurisdictions. The letter referenced a Board communication which advised respondent that the Appraisal Subcommittee, the Board's federal monitor, had been notified of the results of the audit.

5. Respondent certified upon respondent's renewal application for the 2008-2009 licensure renewal period that respondent had completed the continuing education requirements during the previous biennial renewal period.

6. Respondent certified upon respondent's renewal application that respondent had completed a course in the Uniform Standards of Professional Appraisal Practice (USPAP).

7. Respondent is required pursuant to N.J.A.C. 13:40A-5.3, -5.4 to have completed the equivalent of fourteen (14) classroom hours of instruction for each year during the period preceding renewal. The continuing education completed must include a seven hour USPAP course, or its equivalent.

8. The Real Property Appraiser Qualification Criteria, issued by the Appraiser Qualifications Board of the Appraisal Foundation, do not recognize any reason apart from military service or inactive status as a justifiable reason for failure to timely complete

continuing education requirements.

CONCLUSION OF LAW

1. Respondent's failure to indicate any continuing education in his response to the audit indicates a failure to timely complete continuing education requirements, in violation of N.J.A.C. 13:40A-5.3, -5.4, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h). Respondent's entry into inactive status after-the-fact, in response to the continuing education audit, does not constitute compliance with continuing education requirements.

2. Respondent's certification on his renewal form that he had successfully completed the 2006-2007 continuing education requirements constitutes misrepresentation, in violation of N.J.S.A. 45:1-21(b).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on July 29, 2008. A copy of the Order was forwarded to respondent's address of record by certified and regular mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following its entry unless respondent requested a modification or dismissal of the above 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 therefore.

Respondent replied to the Provisional Order, via his attorney, John G. Carr, Esq., requesting reconsideration and mitigation of the Provisional Order entered on July 29, 2008, in an affidavit dated August 19, 2008. In the affidavit, respondent indicates that he

is willing to pay the civil penalty of \$1,750, but wishes to be placed in inactive status, and that no reprimand be imposed.

Respondent's submissions were reviewed by the Board. The Board did not find any facts in dispute, nor did respondent's submission merit amendment of the findings or sanctions. The Board determined that the Provisional Order of Discipline is to be finalized as written and should neither be modified or dismissed.

IT IS ON THIS 25th DAY OF November, 2008

HEREBY ORDERED THAT:

1. Respondent's appraising license is hereby suspended until he demonstrates successful completion of the twenty eight (28) hours of continuing education required pursuant to N.J.A.C. 13:40A-5.3, -5.4 for the 2006-2007 licensing period. Respondent may then be excused from compliance with future continuing education requirements by entry into inactive status.
2. A public reprimand is hereby imposed upon respondent for his violation of N.J.S.A. 45:1-21(b), (e) and (h).
3. A civil penalty in the amount of \$1,750.00 is hereby imposed upon respondent.

NEW JERSEY STATE
REAL ESTATE APPRAISER BOARD

Cheryle A. Randolph-Sharpe
By: _____

Cheryle Randolph-Sharpe
Board President