

FILED
BOARD OF
REAL ESTATE APPRAISERS
James S. Hsu
DR. JAMES S. HSU 1-13-09
Executive Director

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

DOUGLAS L. NICKEL
RG00185300

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

Administrative Action

CORRECTED
FINAL ORDER
OF DISCIPLINE

COPY

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 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.

CONCLUSIONS 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).

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 \$1,750.00, but wishes to be placed in inactive status, and that no reprimand be imposed. Respondent submitted proof of completion of a total of 19 credit hours acceptable to the State of New Jersey, and with additional credit hours relating solely to the states of Delaware or Pennsylvania. In addition, respondent demonstrated belated completion of 21 credit hours of continuing education in 2008, so that suspension is precluded by the terms of the Provisional Order as written.

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 is to be finalized as written, without modification or dismissal, but without imposition of suspension.

ACCORDINGLY, IT IS on this 13th day of January, 2008,

ORDERED that:

1. Inasmuch as respondent has demonstrated successful completion of the twenty-eight credit hours of continuing education required pursuant to N.J.A.C. 13:40A-5.3, -5.4 for the 2006-2007 licensing period, no suspension is imposed by the terms of this Order. Respondent may be excused from compliance with future continuing education requirements as long as he remains in 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.

4. This Order supersedes the Final Order of Discipline entered on November 25, 2008, which is hereby rendered null and void.

NEW JERSEY STATE
REAL ESTATE APPRAISER BOARD

Cheryle A. Randolph-Sharpe

Cheryle Randolph-Sharpe
Board President