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**FILED**  
**BOARD OF**  
**REAL ESTATE APPRAISERS**  
*James S. Hsu 6-19-09*  
**DR. JAMES S. HSU**  
**Executive Director**

**CERTIFIED TRUE COPY**

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

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IN THE MATTER OF THE :  
TRAINEE PERMIT AND :  
LICENSE APPLICATION OF :  
:  
TERENCE E. WALDEN :  
Trainee Permit #RP00276300 :  
:  
TO ENGAGE IN REAL ESTATE :  
APPRAISING IN THE STATE :  
OF NEW JERSEY :  
:  
\_\_\_\_\_

FINAL ORDER OF  
DENIAL OF LICENSURE

**COPY**

This matter was opened to the New Jersey State Real Estate Appraiser Board ("the Board") upon receipt of the application for licensure of Terence E. Walden on May 31, 2007. Upon a review of information received in respondent's Criminal History Background Check it was ascertained that respondent, on March 24, 2005, had been convicted of a violation of 18 U.S.C. 201 (b) (2), accepting

bribes as a public official, In United States District Court, District of New Jersey. The applicant was sentenced to a three year term of probation and a fine of \$3,000.00.

Although respondent had applied for licensure in 2007, at the time of his application he had been on criminal probation, and consideration of his application was deferred. On or about October 15, 2008, the applicant was granted early discharge from probation. On December 9, 2008, the applicant appeared before the Board to respond to questioning about his conviction, and to present evidence of rehabilitation.

Mr. Walden testified that the federal charges against him were related to his employment as a United States Customs Inspector. He indicated that an acquaintance of his, a co-worker named Otis Rackley, a U.S. Immigrations Inspector, was part of an immigrant smuggling ring. Mr. Walden stated that in a telephone conversation Rackley had spoken to him about the illegal activity in which he had was then engaged. Mr. Walden testified that he had been unaware that Mr. Rackley was involved in a smuggling ring, but that he believed him to be involved in assisting illegal immigrants to obtain visas or related documents. He explained that because Mr. Rackley was under investigation, and therefore under telephone surveillance, the authorities became aware that Rackley had spoken to Mr. Walden about the illegal activity, and charged him with conspiracy.

When asked about the activity that resulted in his conviction, which was for accepting a bribe, Mr. Walden elaborated:

Whatever [Rackley] was taking is also like me, being that if I knew part of a crime or something, as they put it, something was going on, I didn't know the totality, but I knew enough and I should have come to my supervisor. . . and I failed to do that.

Q: Did you know that he was accepting bribes?

A: No, not at the beginning[.]

Q: When did you know?

A: A couple of months later - he didn't tell me it was a bribe, what he was doing . . . I didn't know exactly to an extent what he was doing[.] T7-11 to 8-6.<sup>1</sup>

Mr. Walden thus implied in his testimony that his sole participation in the criminal conduct was merely being made aware in the course of telephone conversations with his colleague that the colleague was engaging in illegal conduct, and that he was criminally charged because he had not reported this conduct to the authorities. Similarly, in a writing addressed to the Board dated September 6, 2007, Mr. Walden described his own behavior as consisting of "negligence of not alerting the U.S. Customs Department of Mr. Rackley's illegal activity."

Following Mr. Walden's appearance before the Board, he was asked to provide the Board with the transcripts of his plea allocution and sentencing. A review of the transcripts indicated that on April 23, 2004, Mr. Walden testified that in the summer

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<sup>1</sup> T = transcripts of investigative inquiry dated December 9, 2009.

of 2003 he had accompanied Mr. Rackley to the Woodbridge, New Jersey home of an individual named Mena, where he observed Mena give Rackley an envelope containing cash. Rackley gave Mr. Walden approximately \$2,000 from this envelope. The plea allocution continued:

Q: Sometimes later, did Otis Rackley indicate to you, in substance and in part, that he was receiving cash payments from Mena in exchange for assisting Indian nationals enter the United States through Newark Liberty International Airport and acquire immigration documents?

A: Yes.

Q: Did you understand that what Otis Rackley was doing, assisting illegal aliens to enter and remain in the United States in exchange for money, was illegal?

A: Yes.

Q: In or about July of 2003, did Otis Rackley ask you, in substance and in part, to travel to Mena's Woodbridge home to pick up a bribe payment for him?

A: Yes.

Q: Did you drive to Mena's house and receive an envelope containing approximately \$4,000 in cash?

A: Yes.

Q: Did Otis Rackley tell you that you could keep \$2,000 for picking up the envelope?

A: Yes.

Q: A few days after picking up the envelope, did you deliver the envelope and the remaining \$2,000 to Otis Rackley?

A: Yes.

Q: Did you perform the above acts knowingly and willfully?

A: Yes. 2T-22-21 to 23-24.<sup>2</sup>

The Board has compared Mr. Walden's testimony in his appearance before the Board, as well as his written submission to the Board, with the conduct he acknowledged in his plea allocution. The Board preliminarily finds that Mr. Walden was

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<sup>2</sup> 2T= transcripts of proceedings dated April 23, 2004.

deceptive and evasive in describing his criminal conduct to the Board, in that he completely omitted any reference to monies he received, and implied that his conduct consisted solely of being made aware of criminal activity by his colleague and failing to report that activity.

Pursuant to N.J.S.A. 45:1-21(f), a licensing Board may deny licensure to any applicant who has been convicted of a crime involving moral turpitude or relating adversely to the activity regulated by the Board. Pursuant to N.J.S.A. 2A:168A-2, a licensing authority may disqualify an applicant for licensure for a conviction relating adversely to the profession for which licensure is sought, provided that the licensing authority takes into consideration eight factors. These are: a) the nature and the duties of the profession for which licensure is sought; b) the nature and seriousness of the offense; c) the circumstances under which the crime was committed; d) the date of the crime; e) the age of the person at the time of the offense; f) whether the offense was an isolated incident or repeated; g) social conditions contributing to the crime; and h) evidence of rehabilitation.

Respondent served seven years in the United States Navy, from 1986 to 1993, prior to working as a customs agent. His employment at customs ended in 2003. Consequently it appears that he was fully adult at the time of his arrest. The offense was serious, involving a course of conduct rather than an isolated event, although its gravity was somewhat mitigated by respondent's cooperation with the authorities. The nature of the professional license sought, a license as a real

estate appraiser, is a profession where integrity is crucial. Appraisers are often subjected to pressures, sometimes subtle, to inflate value to ensure that a real estate transaction occurs. In matters relating to divorce or tax appeals, there may be pressure to minimize value. The appraiser, in order to comply with the ethical standards required by the Uniform Standards of Professional Appraisal Practice, must be willing to forego or lose an assignment or a client, if necessary, in the interest of providing an objective result. The Board's own enabling legislation was a response to Federal legislation enacted in response to the savings and loan crisis of the 1980s, in which inflated appraisals were found to play a significant role. Thus ensuring integrity and objectivity in the appraisal process may justifiably be characterized as the moving force behind the Board's statutory purpose.

The offense of which respondent was convicted, accepting a bribe, relates adversely to real estate appraising. Respondent's testimony before the Board was evasive and misleading testimony, downplaying conduct characterized by the prosecutor as "essentially being Mr. Rackley's bag man."<sup>3</sup>T-312 to 13. Although respondent has presented numerous letters of endorsement from professional associates, and may have worked diligently since his conviction in 2005, the lack of candor before the Board about the nature of the criminal activity he engaged must be considered, in weighing these endorsements. This lack of candor, as well as the nature of the offense of which he was convicted, which is a crime of moral turpitude, are the factors given the most

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<sup>3</sup> 3T = transcripts of sentencing dated March 24, 2005/

weight in arriving at its decision in this matter.

Based on the foregoing findings and conclusions of law, a Provisional Order of Denial of Licensure was entered on April 27, 2009, provisionally denying respondent's application for licensure based upon his having committed a crime relating adversely to the profession of real estate appraising within the intendment of N.J.S.A. 45:1-21(f), which crime is also a crime of moral turpitude. An additional preliminary basis for denial of respondent's application for licensure was his testimony before the Board about his offense, which the Board found deceptive within the intendment of N.J.S.A. 45:1-21(b).

With respect to renewal of respondent's trainee permit, which had initially been granted at a time prior to respondent's conviction, no renewal was to be permitted at this time. A copy of the Order was forwarded to respondent by certified and regular mail at his address of record. 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.

Although the record reflects that the certified mailing was signed for, and the regular mailing was not returned, no response

has been received to date. Accordingly, the Board considered this matter, and found that inasmuch as no material discrepancies had been raised, the Provisional Order should be made final.

ACCORDINGLY,

IT IS on this 19<sup>th</sup> day of June, 2009,

ORDERED that:

1. Respondent's application for licensure is hereby denied for his violations of N.J. S.A. 45:1-21 (b) and (f).

NEW JERSEY STATE  
REAL ESTATE APPRAISER BOARD

*Cheryle A. Randolph-Sharpe*  
Cheryle Randolph-Sharpe  
Board President