FILED
11-30-11
BOARD OF
REAL ESTATE APPRAISERS
CHARLES F. KIRK
Acting Executive Director

COPY

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

IN THE MATTER OF

David Vaughan
License #42RA00321300

TO ENGAGE IN THE PRACTICE OF
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 Appraisers Board (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

1. Respondent is a State Licensed Residential Real Estate Appraiser in the State of New Jersey, and has been a licensee at all times relevant hereto.

2. Pursuant to N.J.S.A. 45:14F-18 and N.J.A.C. 13:40A-5.3, all licensed and certified real estate appraisers are required to complete all continuing education requirements established by "The Real Property Appraiser Qualification and Criteria and Interpretations of the Criteria" promulgated by the Appraisal Qualifications Board of the Appraisal Foundation (the "AQB"), and the AQB requirements are incorporated by reference in the Board's regulations. For the two year period between January 1, 2008 and December 31, 2009, the AQB Qualification Criteria mandated that appraisers complete a minimum of twenty-eight class hours of approved continuing education.

3. Pursuant to N.J.A.C. 13:40A-5.4, all licensed and certified appraisers are required to complete a seven hour National Update Course on the Uniform Standards of Professional Appraisal Practice ("USPAP"), or its equivalent, at least once every 24 months. The AQB Qualification Criteria similarly mandate that appraisers must successfully complete the 7 hour USPAP Update Course, or its equivalent, every two calendar years.

4. Pursuant to N.J.A.C. 13:40A-5.8, licensees or certificate holders are required to maintain documentation for at least four years of continuing education hours completed in order to verify program attendance and/or activity completion.

5. On or about December 23, 2009, respondent completed and returned a biennial licensure registration form, for the period January 1, 2010 through December 31, 2011 to the Board, and respondent's license was then renewed by the Board through December 31, 2011.

6. Respondent was asked on the biennial renewal application whether respondent "completed the continuing education requirement during the past two years," referring to the biennial renewal period of January 1, 2008 through December 31, 2009. The renewal application included "specific instructions" regarding this question, which read:

> As a condition of renewal, licensees are required to obtain at least 28 credit hours of approved continuing education for each biennial renewal period subsequent to licensure/certification or 14 hours of continuing education if initially licensed or certified in the first six months of the second year. If initially licensed or

> certified during the last six months of the second year, no continuing education is required. If you are exempt from this requirement for this renewal period only, please answer "yes" to this question. Credits may not be carried over to another renewal period.

Respondent answered "yes" to the question.

7. Respondent was asked on the biennial renewal form whether respondent successfully completed the seven hour National USPAP Update Course, or its equivalent, during the past two years, referring to the biennial period of January 1, 2008 through December 31, 2009. The renewal application included "specific instructions" regarding this question, which read:

> As a condition of renewal, licensees must successfully complete the seven-hour National USPAP Update Course, or its equivalent, at a minimum of every two years. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB.

Respondent answered "yes" to this question.

8. Respondent certified, when submitting the renewal application, that all of the information on the renewal form was true and complete to the best of respondent's knowledge, and acknowledged awareness that if any of the information submitted was willfully false, respondent would be subject to punishment and/or disciplinary sanction to include license suspension or revocation or the imposition of civil penalties as provided by law.

9. On or about February 19, 2010, the Board commenced a continuing education audit, asking a random sampling of its licensees to submit documentation to verify completion of required continuing education. Respondent was selected for inclusion within

the continuing education audit.

10. On or about February 19, 2010, all licensees selected for inclusion in the audit were sent a notice, by regular mail, addressed to the address of record that the licensee maintained with the Board, advising of the need to supply copies of documentation maintained to verify continuing education hours claimed. On or about April 13, 2010, those licensees who failed to respond to the first notice were sent a second notice by the Board detailing the need to supply documentation to verify continuing education claims. The second notice was sent by both certified and regular mail.

11. Respondent failed to respond to any of the notices that were forwarded to respondent regarding the need to supply documentation verifying completion of required continuing education.

CONCLUSIONS OF LAW

1. Respondent's failure to have responded to any of the notices that were sent requiring respondent to supply documentation verifying the claimed completion of required continuing education constitutes a violation of the Uniform Duty to Cooperate Regulation, N.J.A.C. 13:45C-1.2, -1.3, which in turn subjects respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

2. By virtue of failing to have responded to the two notices, respondent is deemed to have failed to demonstrate, to the satisfaction of the Board, the completion of any hours of

continuing education for the two year period between January 1, 2008 and December 31, 2009, and to have failed to demonstrate completion of the required 7 hour USPAP-Update Course, or its equivalent. The Board therefore finds respondent in violation of both N.J.A.C. 13:40A-5.3 and 13:40A-5.4, which in turn subjects respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).

3. Based on the above findings and conclusions, the Board further finds that respondent falsely certified on the renewal application that all responses to all questions that were asked on that application were true. By doing so, the Board finds that respondent engaged in misrepresentation, and is therefore subject to sanction pursuant to N.J.S.A. 45:1-21(b).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") was entered on April 8, 2011 provisionally suspending respondent's license to practice real estate appraising in the State of New Jersey and provisionally imposing a civil penalty in the amount of $3,500. Copies were served upon respondent via regular and certified mail at respondent's address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by 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.

The certified mail was returned to sender as "unclaimed" and the regular mailing was not returned, therefore, the Board deems service to have been effected. No response has been received to date. Respondent may not be allowed to evade process by failing to respond to the Board. Accordingly, it is determined that further proceedings are not necessary and that the Provisional Order should be made final.

ACCORDINGLY, it is on this 30th **day of** November, **2011**

ORDERED that:

1. Respondent's license to practice real estate appraising in the State of New Jersey is hereby suspended.

2. Respondent is hereby assessed a civil penalty in the aggregate amount of $3,500. Said penalty is an aggregate penalty, which includes a penalty in the amount of $1,000 for having made false representations when responding to two questions on the biennial renewal application, a penalty in the amount of $1,000 for having violated the Uniform Duty to Cooperate Regulation, a penalty in the amount of $1,000 for having failed to have demonstrated completion of any of the 28 hours of required continuing education during the licensure period January 1, 2008 through December 31, 2009, and a penalty of $500 for having failed to have demonstrated completion of a seven hour USPAP Update Course during the licensure

period January 1, 2008 through December 31, 2009.

NEW JERSEY STATE REAL
ESTATE APPRAISER BOARD

By: _____
Denise M. Siegel
Board President