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

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

IN THE MATTER OF THE LICENSE OF **JOHN P. WILLIAMS** **License # 42RG00167700** TO ENGAGE IN THE PRACTICE OF REAL ESTATE APPRAISING IN THE STATE OF NEW JERSEY	Administrative Action **FINAL ORDER** **OF DISCIPLINE**

This matter was opened to the New Jersey Board of Real Estate Appraisers (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. John P. Williams ("Respondent") is a State Certified General 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

Criteria and Interpretations of the Criteria" promulgated by the Appraisal Qualifications Board of the Appraisal Foundation (the "AQB"). The AQB requirements are incorporated by reference in the Board's regulations. For the two year period between January 1, 2010 and December 31, 2011, the AQB Qualification Criteria mandated that appraisers complete a minimum of twenty-eight (28) 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 twenty-four (24) months. The AQB Qualification Criteria similarly mandate that appraisers must successfully complete the seven 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 January 11, 2012, Respondent completed and submitted an online biennial license renewal form, for the

period January 1, 2012 through December 31, 2013, and Respondent's license was then renewed through December 31, 2013.

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, 2010 through December 31, 2011. 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, 2010 through December 31, 2011. 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. After January 1, 2012, 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 22, 2012, 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.

11. On or about May 25, 2012, 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 both certified and regular mail. The Board received a signed receipt confirming delivery of the certified mail. The regular mail was not returned.

12. Respondent failed to reply to any of the notices that were forwarded regarding the need to supply documentation verifying completion of continuing education.

CONCLUSIONS OF LAW

Respondent's failure to reply to the notices that were sent requiring Respondent to supply documentation verifying the completion of continuing education constituted a violation of the Uniform Duty to Cooperate regulation, N.J.A.C. 13:45C-1.2 and 1.3, which in turn subjected Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

By virtue of having failed to respond to the notices, Respondent was deemed to have failed to demonstrate, to the

satisfaction of the Board, that Respondent completed any hours of continuing education and the seven hour USPAP Update course for the biennial period of January 1, 2010 - December 31, 2011. The Board therefore found Respondent in violation of N.J.A.C. 13:40A-5.3 and 5.4, which in turn subjected Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

Respondent failed to demonstrate, to the satisfaction of the Board, completion of a seven hour USPAP Update Course, or its equivalent, for the two year period between January 1, 2010 and December 31, 2011. The Board therefore found Respondent in violation of N.J.A.C. 13:40A-5.4, which in turn subjected Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).

Based on the above findings and conclusions, the Board further found 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 found that Respondent engaged in misrepresentation, and was 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 suspending Respondent's license and imposing a three thousand five hundred dollar ($3,500) civil penalty was entered on December 20, 2012. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and 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.

Respondent replied to the Provisional Order of Discipline by forwarding documentation that he had completed all the required continuing education, including the USPAP Update course, within the biennial period of January 1, 2010 - December 31, 2011.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary. Inasmuch as Respondent demonstrated timely completion of continuing education, the Board determined that the suspension and civil

penalties for failure to complete continuing education and for providing false answers were no longer warranted.

However, the Board determined that Respondent's failure to respond to the original inquiries, thereby necessitating the filing of the Provisional Order of Discipline, and review of Respondent's subsequent reply months later, warrants imposition of a one thousand dollar ($1,000) civil penalty for failure to cooperate.

WHEREFORE, it is on this 27th **day of** February**, 2013**

ORDERED that:

1. Respondent is hereby assessed a civil penalty in the amount of one thousand dollars ($1,000) for violating the Uniform Duty to Cooperate Regulation. Payment shall be made by certified check or money order payable to the State of New Jersey, delivered or mailed to Charles Kirk, Executive Director, State Board of Real Estate Appraisers, P.O. Box 45032, Newark, New Jersey 07101. Payment shall be made no later than 15 days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as

authorized by law.

NEW JERSEY STATE REAL
ESTATE APPRAISER BOARD

By: John A. McCann

John A. McCann
Board President