



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 :
: Administrative Action
DAVID HOFFER :
License # 42RC00160300 : FINAL ORDER
: OF DISCIPLINE
TO ENGAGE IN THE PRACTICE OF :
REAL ESTATE APPRAISING IN :
THE STATE OF NEW JERSEY :

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. David Hoffer ("Respondent") is a State Certified 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 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 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 November 23, 2011, 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. In response to the audit, Respondent supplied documentation verifying Respondent's completion of seven (7) hours of approved continuing education, including completion of

a seven hour USPAP Update Course, or its equivalent. In addition, Respondent certified on the continuing education listing form that he completed an additional thirty-five (35) hours of continuing education. Respondent provided some documentation (emails and registration confirmation) pertaining to training courses that he listed on the continuing education form. However, the Board cannot determine from the documents provided whether the courses listed were approved as continuing education, whether Respondent completed the courses, the date of completion, or the amount of hours awarded as continuing education credit.

CONCLUSIONS OF LAW

Respondent failed to demonstrate, to the satisfaction of the Board, completion of the required twenty-eight (28) hours of approved continuing education for the two year period between January 1, 2010 and December 31, 2011. While Respondent was able to verify seven (7) hours of approved continuing education, Respondent failed to demonstrate completion of twenty-one (21) hours of required continuing education. The Board therefore found Respondent in violation of N.J.A.C. 13:40A-5.3, 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 one thousand five hundred dollar (\$1,500) 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 by providing documentation that he registered and attended the same webinar

"CompCruncher Fast Track Training" twice - once in September 2010 and again in October 2010. Respondent maintained that each webinar was worth sixteen hours of continuing education, even though it was the same webinar. Additionally, Respondent maintained that one of the prerequisites to the webinar training, a statistics and regression test, was worth three hours of continuing education. Respondent provided a copy of the August 2011 CompCruncher Training Guide, which is presumably a later version of the training guide that was utilized in the 2010 webinars that Respondent attended. Respondent also provided an email from the provider confirming that Respondent attended the webinars.

Respondent, however, failed to provide a certificate of completion indicating that the webinars or the prerequisite statistics and regression test were approved as continuing education. A telephone call to the provider on behalf of the Board revealed that the webinars were not approved as continuing education, nor was the prerequisite statistics and regression test. The provider further revealed that attendance at an on-site live classroom CompCruncher Training would qualify as sixteen hours of continuing education and that a certificate of completion would have been issued for classroom attendance.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary. The Board was not persuaded that the submitted materials qualified as thirty-five hours of continuing education, as Respondent had certified on the continuing education listing form. Despite the provider indicating that the webinars did not qualify as continuing education, the Board has considered the materials submitted and determined that the webinar is consistent with the purpose of continuing education for real estate appraisers. The Board has therefore decided to award eight hours of continuing education credit to Respondent. The Board will not, however, award credit for taking the same webinar twice, one month apart. Nor will the Board grant separate credit for a prerequisite (the statistics and regression test) which is considered one of the required four sections of the training, according to the program materials submitted by Respondent. As such, Respondent has demonstrated fifteen hours of continuing education completed during the January 1, 2010 - December 31, 2011 biennial period: seven hours for the USPAP Update Course completed on December 28, 2011 and eight hours for the CompCruncher webinar.

WHEREFORE, it is on this 13th day of March, 2013

ORDERED that:

1. Respondent's certification to practice real estate appraising in the State of New Jersey is hereby suspended until Respondent provides proof of completion of thirteen (13) hours of continuing education to be applied to the January 1, 2010 - December 31, 2011 biennial period. Continuing education hours taken after December 31, 2011 and applied to cure the deficiency from the previous biennial period shall not be used to satisfy the requirements of the current biennial period. Respondent shall complete an additional twenty-eight (28) hours of continuing education prior to December 31, 2013 to satisfy the requirements of the current biennial period.

2. Respondent is hereby assessed a civil penalty in the amount of one thousand dollars (\$1,000). Said penalty is an aggregate penalty, which includes a penalty in the amount of five hundred dollars (\$500) for having provided a false answer to one question on the biennial renewal application (that is, falsely claiming completion of twenty eight (28) hours of continuing education credit); and five hundred dollars (\$500) for failing to complete thirteen (13) hours of required continuing education.

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.

3. Respondent shall refrain from practicing as a real estate appraiser and shall not represent himself as a State licensed or certified real estate appraiser until such time as Respondent's license is reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

NEW JERSEY STATE REAL
ESTATE APPRAISER BOARD

By:



John A. McCann
Board President