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FILED 1-5-15  
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 :  
: Administrative Action  
JOHNNY R. DAVID :  
License # 42RC00224900 : 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:

FINDINGS OF FACT

1. Johnny R. David ("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. On or about November 4, 2013, Respondent completed and submitted an online biennial license renewal form and Respondent's license was then renewed through December 31, 2015.

3. 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, 2012 through December 31, 2013. 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 and certified that answer to be true and complete by clicking on the "Submit Answers" button and proceeding with the application.

4. 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, 2012 through December 31, 2013. 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 and certified that answer to be true and complete by clicking on the "Submit Answers" button and proceeding with the application.

5. After January 1, 2014, 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.

6. On or about April 30, 2014, 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.

7. In response to the April 2014 letter, Respondent supplied documentation verifying Respondent's completion of twenty-eight hours of approved continuing education, including completion of a seven hour USPAP Update Course, all of which were completed out of time in May 2014, months after the biennial period of January 1, 2012 - December 31, 2013 had

ended.

CONCLUSIONS OF LAW

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 from January 1, 2012 - December 31, 2013, the AQB Qualification Criteria mandated that appraisers complete a minimum of twenty-eight (28) class hours of approved continuing education.

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.

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.

Respondent failed to demonstrate, to the satisfaction of the Board, timely completion of the required twenty-eight (28) hours of approved continuing education within the two year period of January 1, 2012 - December 31, 2013. The Board therefore finds Respondent in violation of N.J.A.C. 13:40A-5.3, which in turn subjects Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).

Respondent failed to demonstrate, to the satisfaction of the Board, timely completion of a seven hour USPAP Update Course, or its equivalent, within the two year period of January 1, 2012 - December 31, 2013. The Board therefore finds Respondent in violation of N.J.A.C. 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).

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).

Respondent may use the twenty-eight hours of continuing education completed in May 2014 to cure the deficiency from the January 1, 2012 - December 31, 2013 biennial period, but those same hours may not also be used to satisfy the requirements of the January 1, 2014 - December 31, 2015 biennial period.

#### DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a two thousand five hundred dollar (\$2500) civil penalty was entered on August 21, 2014. 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 timely responded to the Provisional Order of Discipline and provided evidence that he had signed up for the required continuing education classes in a timely manner, but

acknowledged that he did not timely complete them. Respondent included a bank cashier check in full payment of the provisionally imposed civil penalty.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as Respondent did not dispute the findings of fact or conclusions of law.

WHEREFORE, it is on this 5<sup>th</sup> day of January, <sup>2015</sup>~~2014~~

ORDERED that:

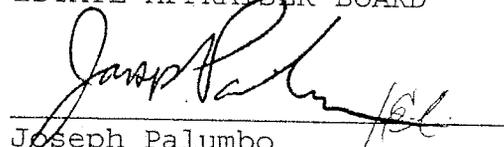
1. Continuing education hours taken after December 31, 2013 and applied to cure the deficiency from a previous biennial period shall not be used to satisfy the requirements of the current biennial period. Respondent shall complete an additional twenty-eight (28) hours of continuing education prior to December 31, 2015 to satisfy the requirements of the current biennial period.

2. Respondent is assessed a civil penalty in the amount of two thousand five hundred dollars (\$2500). Said penalty is an aggregate penalty, which includes a penalty in the amount of one thousand dollars (\$1000) for having provided false answers

to two questions on the biennial renewal application (that is, falsely claiming completion of twenty-eight (28) hours of continuing education credit and falsely claiming completion of a seven hour USPAP Update Course), one thousand dollars (\$1000) for failing to timely complete twenty-eight hours of required continuing education, and five hundred dollars (\$500) for failing to timely complete a seven hour USPAP Update Course, or its equivalent. The Board acknowledges receipt of the bank cashier check and shall process same as payment of the within civil penalty.

NEW JERSEY STATE REAL  
ESTATE APPRAISER BOARD

By:

  
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Joseph Palumbo  
Board President