

COPY

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

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In the matter of:

FRANK HAAK  
License No. 42RA003495

CONSENT ORDER

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This matter was opened before the New Jersey Real Estate Appraisers Board (the "Board") upon receipt of a complaint dated April 12, 2012 from John Lim, on behalf of AMC Lendervend Appraisal Zone (hereinafter "Lendervend"), which detailed that respondent had been removed from Lendervend's panel of approved appraisers following internal review of three of respondent's appraisal reports. In each of the three cases, respondent appraised properties located in Morris County, New Jersey and, in each case, respondent submitted an original appraisal and then a revised appraisal wherein respondent increased his opinion of value. Lendervend alleged in its complaint that respondent was not sufficiently diligent in his appraisal practice and/or in the manner in which he prepared each of the original appraisals.

The Board thereafter initiated an investigation of this matter, and in the course thereof has reviewed and considered documentation provided by Lendervend in support of their complaint,

to include copies of the original and revised appraisals for each of the three properties, respondent's written response to the complaint, sworn testimony offered by respondent when he appeared before a Committee of the Board on May 8, 2014, and the workfiles respondent maintained for the three appraisal reports.

The three appraisal reports that are the subject of this inquiry were prepared on single family residences located at 19 Cliff Trail, Kinnelon (the "Cliff Trail appraisal") and 224 Morris Turnpike, Randolph (the "Morris Turnpike appraisal"), and a condominium unit at 13-19 Franklin Place, Morristown (the "Franklin Place appraisal").

#### *Cliff Trail Appraisal*

The Board finds that, when preparing the Cliff Trail appraisal, respondent initially opined that the property's market value was \$480,000 as of November 30, 2010. Respondent's initial appraisal, dated and signed November 30, 2010, was predicated exclusively on a sales comparison analysis. After respondent transmitted his initial appraisal report to his client, the client contacted respondent and advised him that he had "undervalued" the property. Respondent then prepared a second appraisal report, which he also dated and signed November 30, 2010, in which he increased his estimate of the market value of the subject property to \$575,000 (an increase of \$95,000, representing 19.8%). Respondent concedes that the revised appraisal was in fact prepared

subsequent to November 10, 2011, and thus the date of signature and report listed on the revised appraisal were not accurate.

In the revised appraisal, respondent prepared a new sales comparison grid, retaining one of the three closed sales that he analyzed in the original appraisal report (8 Sylvan Trail, Kinnelon) and substituting two new, higher priced comparable sales for two sales that he had analyzed and relied upon in the original appraisal. Respondent changed his estimate of the gross living area of the one retained comparable sale (a property located at 8 Sylvan Trail, Kinnelon) from 2,800 square feet in his original report to 1,811 square feet in the revised report. Respondent then applied a +\$51,700 adjustment to 8 Sylvan Trail in the sales grid for the revised report (based on an adjustment of \$50/square foot), thereby inflating his opinion of the adjusted value of 8 Sylvan Place by \$51,700 in the revised report (respondent had made no adjustment for a 24 square foot differential in his original report).<sup>1</sup>

When appearing before the Board, respondent suggested that he had made a "mistake," which he characterized as a "typo," in reporting that 8 Sylvan Place was 2800 square feet in his original report. Respondent maintained that the g/l/a of 1,811

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<sup>1</sup> In addition to the above concerns, the Board found that adjustments that respondent made for differences in lot site sizes were inconsistent. When appearing before the Board, respondent was unable to offer any explanation for inconsistent adjustments, other than to acknowledge having made "mistakes" when preparing the reports.

square feet in the revised report was correct. Respondent also maintained that the value conclusion expressed in his revised report was more accurate than that expressed in the initial report, suggesting that he had perhaps "rushed" when preparing the original report and missed the two comparable sales that were added and analyzed in the revised report.

*Franklin Place and Morris Turnpike Appraisals*

As was the case with the Cliff Trail appraisal, respondent prepared an initial and a revised appraisal for both the Franklin Place and Morris Turnpike properties, expressing a higher opinion of market value in both revised appraisals. Specifically, respondent increased his opinion of the market value of 13-19 Franklin Place from \$385,000 in his original report to \$395,000 in his revised report, and his opinion of the market value of 224 Morris Turnpike from \$445,000 in his original report to \$460,000 in his revised report. The original and revised report for 13-19 Franklin Place are both signed and dated August 8, 2011, and the original and revised report for 224 Morris Turnpike are both signed and dated August 9, 2010.

In both cases, the sole difference between the original and revised reports was the specification of the gross living area of the subject properties. Specifically, 13-19 Franklin Place was reported to be 1,829 square feet in the original report and 2,107 square feet in the revised report (an increase of 278 square feet,

representing 15.2%) and 224 Morris Turnpike was reported to be 1,326 square feet in the original report and 1,584 square feet in the revised report (an increase of 258 square feet, representing 19.5%). In both cases, the reported increased size of the subject property was the sole basis for respondent's revised higher value estimate (that is, respondent made no changes to any other data or to any adjustments, other than those taken for gross living area differentials between the subject property and comparable sales). When appearing before the Board, respondent testified that he re-measured both 13-19 Franklin Place and 224 Morris Turnpike prior to issuing the revised reports and, in each case, found them to be larger than he had initially reported.

#### *Findings of USPAP Violations*

The Board finds that respondent violated requirements of the Uniform Standards of Professional Appraisal Practice ("USPAP") when preparing each of the three appraisal reports (all USPAP references herein are to the 2010-2011 edition of USPAP). In all three cases, the Board finds that respondent made substantial errors of omission or commission, to include errors in reporting the gross living area of the subject properties and of a comparable property, which violated the requirements of Standards Rule 1-1(b) ("in developing a real property appraisal, an appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal").

With regard to the Cliff Trail appraisal, the Board finds that respondent additionally violated Standards Rule 1-4(a) by failing to appropriately identify and analyze available comparable sales, and thus failing to develop a credible sales comparison approach ("When a sales comparison approach is necessary for credible appraisal results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion").

All licensees are required, by N.J.A.C. 13:40A-6.1, to ensure that all appraisals conform to the USPAP. Failure to comply with USPAP requirements, in turn, may be deemed to constitute professional misconduct. The Board thus concludes that cause for disciplinary sanction against respondent exists pursuant to N.J.S.A. 45:1-21(h) (failing to comply with provisions of Board regulations) and/or N.J.S.A. 45:1-21(e) (engaging in professional misconduct). The parties desiring to resolve this matter without the need for further administrative proceedings, and the Board finding that good cause exists for the entry of the within Order,

IT IS on this 5<sup>th</sup> day of August, 2015:

ORDERED and AGREED:

1. The license of respondent Frank Haak to practice real estate appraising in the State of New Jersey is hereby suspended for a period of six months, the entirety of which shall be stayed

and served as a period of "probation" provided that, during said time period, respondent complies with all conditions of this Order.

2. Respondent is assessed a civil penalty in the amount of \$3,000, which penalty shall be payable in full upon the entry of this Order.

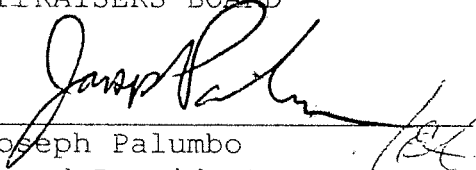
3. Respondent is hereby assessed costs, limited to transcript costs, in the amount of \$274.50, which costs shall be due and payable in full at the time of entry of this Order.

4. Respondent shall, during the period of "probation" (that is, within six months of the date of entry of this Order), be required to successfully complete: (1) a 30 hour course in Basic Appraisal Principles; and (2) a 15 hour course in the Uniform Standards of Professional Appraisal Practice. Prior to commencing said courses, respondent shall provide all available information regarding the courses he proposes to take to the Executive Director of the Board, and shall obtain pre-approval, in writing, from the Executive Director for all proposed courses. Respondent shall thereafter be responsible to ensure that documentation of successful completion of each course (to include proof that any examination offered at the conclusion of a course was passed) is forwarded by the course provider to the Board (said documentation must be provided within thirty days of the date of respondent's completion of the course). In the event that respondent fails to successfully complete the course work required herein in a timely fashion (that


is, in the event the Board does not receive documentation of successful completion of the required course within seven months of the date of entry of this Order), respondent shall be deemed to have failed to comply with the terms of this Order. In such event, the parties expressly agree that the Board may enter an Order of Immediate Suspension of license for failure to comply with the terms of this Order. In such event, respondent's license shall thereafter continue to be actively suspended until such time as he successfully completes the required course work, documentation thereof is submitted to the Board, and written notice of reinstatement is provided by the Board to respondent.

NEW JERSEY STATE REAL ESTATE  
APPRAISERS BOARD

By:

  
Joseph Palumbo  
Board President

I represent that I have carefully read and considered this Order, and consent to the entry of the Order by the Board.

  
Frank Haak, SLRREA

Dated:

7/30/15