

BEFORE THE REAL ESTATE APPRAISERS BOARD
OF THE STATE OF NEW MEXICO

IN THE MATTER OF:

Michael Hufstedler,
License No. 03151-R,
Respondent.

Case No. REA-19-05-COM
REA-19-06-COM

FINAL DECISION AND ORDER

This matter came before a quorum of the New Mexico Real Estate Appraisers Board (the “Board”) at an open meeting held June 18, 2021, upon a complaint filed against Michael Hufstedler (hereinafter “Respondent”) alleging possible violations of the Real Estate Appraisers Act, NMSA 1978, Sections 61-30-1 through -24 (1990, as amended through 2017) (the “Act”). A formal evidentiary hearing in this matter was held on April 26, 2021, and presided over by designated Hearing Officer and Board Chair, Dean Zantow, pursuant to the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -35 (1957, as amended through 2021) (the “ULA”), the Act, and the Board’s rules. The Board, having familiarized itself with the whole record, including the Hearing Officer’s Report, voted to adopt the Hearing Officer’s Proposed Findings of Fact, find the Respondent to have violated the Act and the Board’s rules, and revoke the Respondent’s license to practice as a residential certified appraiser, License No. 03151-R. This discipline is based on the following:

FINDINGS OF FACT

The Board hereby adopts the Hearing Officer’s Proposed Findings of Fact, numbered 1 through 17, and incorporates them into this Final Decision and Order as if stated herein.

CONCLUSIONS OF LAW

1. Respondent was, at all relevant times, licensed by the Board to practice as a residential certified appraiser, License No. 03151-R, and is therefore subject to the jurisdiction of the Board.
2. Pursuant to Section 61-1-3, Section 61-30-15, and 16.62.13.14 NMAC, the Board held an evidentiary hearing on this matter and previously provided Respondent with proper notice of the general nature of the allegations and evidence against him.
3. Respondent was provided timely notice of the hearing and advised of his rights.
4. The Board complied with all procedural due process in sending Respondent the notice of the hearing on April 26, 2021, sending the notice of hearing to the same address to which it had previously mailed the notice of contemplated action and the same address Respondent listed in his letter requesting a hearing. The Board's rules further provide that it is the obligation of each licensee to notify the Board of any change of address. *See* 16.62.7.15 NMAC ("A trainee, license or certificate holder shall report to the board in writing any change of mailing, physical business, and e-mail address. Failure to do so within 30 days is grounds for trainee, license or certificate suspension.").
5. The Board has complied with all notice and other procedural and due process requirements of the Act, the ULA, and the Board's rules. Respondent has further not alleged that the Board has failed to comply with any such procedural or due process requirements.
6. Section 61-30-15(A)(6) provides that the Board "shall suspend or revoke a registration, license or certificate at any time when the applicant, real estate appraiser trainee, state licensed residential real estate appraiser or state certified real estate appraiser, in performing or attempting to perform any of the actions set forth in the Real Estate

Appraisers Act, is determined by the board to have ... willfully disregarded or violated any of the provisions of the Real Estate Appraisers Act or the rules of the board adopted pursuant to that act.”

7. It is a violation of the Board’s rules to “obtain[...] or attempt[...] to obtain any fee through fraud, misrepresentation, or other dishonesty.” 16.62.13.14(B)(1) NMAC.
8. The Board’s rules specifically require licensees to respond to disciplinary complaints within ten business days. *See* 16.62.13.10(A) NMAC (“In response to an investigation against any person who is a trainee, licensed or certified under the Real Estate Appraisers Act, the respondent must respond within 10 business days of receipt as allowed by the Uniform Licensing Act.”).
9. It is a violation of the Board’s rules to fail to respond to disciplinary complaints when requested by the Board. *See* 16.62.13.10(B) NMAC (“Failure to respond within time frame specified may result in disciplinary action up to and including revocation of license at the discretion of the board.”).
10. Pursuant to Section 61-30-16 and 16.62.1.8 NMAC, all those licensed by the Board under the Real Estate Appraisers Act are subject to the standards and requirements of the Uniform Standards of Professional Appraisal Practice (“USPAP”). “The purpose of the *Uniform Standards of Professional Appraisal Practice* (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers.” USPAP, 2018-2019 Ed., p. 1.
11. Because Respondent failed to attend the evidentiary hearing scheduled in this matter on April 26, 2021 after receiving proper notice, the Board’s evidence, outlined generally in its Notice of Contemplated Action, was not “rebutted or explained.” Section 61-1-4(D)(1).

12. A preponderance of the evidence supports the finding that Respondent obtained a fee through fraud or misrepresentation on two separate occasions. Respondent accepted payment from two separate clients in exchange for appraisals, while entirely failing to provide an appraisal report to either client.
13. A preponderance of the evidence supports the finding that Respondent failed to respond to disciplinary complaints when requested by the Board. On two separate occasions, Respondent effectively refused to cooperate with the Board's investigation by not responding to disciplinary complaints when asked by Board staff.
14. Upon finding that a licensee has repeatedly, continually, or willfully violated the Real Estate Appraisers Act or the Board's rules, the Board is authorized to take disciplinary action up to and including revocation. *See* § 61-30-15; *see also* § 61-1-3.
15. It is the duty of the Board to enforce the Act, the Board's rules, and USPAP as part of its mission, as declared by the Legislature, to ensure "the protection of those persons relying upon real estate appraisals." NMSA 1978, § 61-30-2(B) (1990).
16. The Board's ability to protect the public and ensure professionalism in the appraisal profession is jeopardized when licensees refuse to respond to disciplinary complaints and cooperate in Board investigations, at least where such response or cooperation is specifically requested by the Board. *See generally* 16.62.13.10 NMAC.
17. An individual who obtains a fee through fraud or misrepresentation threatens, at a minimum, the financial well-being of the public and "those persons relying upon real estate appraisals." Section 61-30-2(B).
18. Respondent's conduct warrants the imposition of discipline. By virtue of either repeatedly obtaining a fee through fraud or misrepresentation or, separately, repeatedly failing to

respond to disciplinary complaints when requested by the Board, it is appropriate to revoke his license.

ORDER

Based on these Findings of Fact and Conclusions of Law, a quorum of the Board voted to revoke Respondent's license to practice as a residential certified appraiser, License No. 03151-R.

IT IS THEREFORE ORDERED that Respondent's license to practice as a residential certified appraiser, License No. 03151-R, is hereby REVOKED permanently. This Order constitutes formal disciplinary action by the Board and may be reported to the applicable professional licensing national database, if any.

IT IS ULTIMATELY ORDERED that failure to comply with the terms of this Order may result in further Board action. If Respondent's non-compliance constitutes acts that are prohibited under the Board's statute or rules, the Board may initiate a new disciplinary action and refer that matter for administrative prosecution, seek an injunction in District Court, or pursue other remedies as provided by law.

IT IS SO ORDERED.

/s/ Dean Zantow
Dean Zantow, Chair
New Mexico Real Estate Appraisers Board

6/25/2021
Date

*Email signature executed via email
authorization dated 6/25/2021*

JUDICIAL REVIEW

This Order constitutes a final decision for purposes of initiating any contemplated judicial review pursuant to the provisions of the Uniform Licensing Act, NMSA 1978, Section 61-1-17, and NMSA 1978, Section 39-3-1.1. An aggrieved party has the right to judicial review of this Order by filing a notice of appeal under Rule 1-074 NMRA within thirty (30) days of the date of filing of the final decision. Any pleadings filed with the district court must be served on the Board's counsel, Assistant Attorney General John Kreienkamp, at P.O. Drawer 1508, Santa Fe, NM 87504, jkreienkamp@nmag.gov.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed by certified mail on the date below to:

Michael Hufstedler
P.O. Box 407
Alto, NM 88312
Certified Mail No. 7018 1130 0001 5733 8129

Michael Hufstedler
132 Altamira Dr
Alto, NM 88312
Certified Mail No. 7018 1130 0001 5733 8112

/s/ Kathleen Roybal
Kathleen Roybal, Compliance Liaison

6/25/2021
Date