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**BEFORE THE ARIZONA STATE BOARD OF APPRAISAL**

In the Matter of:

Case No. 3441

**KURT J. GOEPPNER**  
Certified General Appraiser  
Certificate No. 30293,

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER OF DISCIPLINE**

Respondent.

This formal administrative hearing came before the Arizona State Board of Appraisal on May 22, 2014. Respondent was properly noticed of this hearing. Respondent appeared/did not appear and was/was not represented by legal counsel. The State was represented by Jeanne M. Galvin, Assistant Attorney General. The Board received legal advice from Diana Day, Assistant Attorney General.

**FINDINGS OF FACT**

1. The Arizona State Board of Appraisal (“Board”) is the duly constituted Agency for licensing and regulating real property appraisers, property tax agents, appraiser trainees and appraisal management companies.

2. Kurt J. Goeppner, (“Respondent”) holds Certificate No. 30293 to practice as a Certified General Appraiser in the State of Arizona, issued on July 25, 1995, pursuant to A.R.S. § 32-3612.

**FACTUAL ALLEGATIONS**

1. On or about January 27, 2012, the Board opened complaint no. 3441 against Respondent alleging that Respondent failed to make certain disclosures on various renewal applications regarding his criminal history.

2. The Board’s renewal application 2005 asked the following question:

1 Have you been **arrested, indicted, or convicted** for a felony or any  
2 other offense involving dishonesty or moral turpitude or entered a plea  
3 of guilty or nolo-contendere (no contest) even if the adjudication was  
withheld?

4 3. In 2005, the Respondent answered “No” to this question, failing to disclose his  
5 9/04 arrest for unlawful entry of a non-commercial dwelling and public intoxication. The  
6 Respondent pled guilty to public intoxication and received three years probation, paid a  
7 fine and was ordered to attend AA meeting.

8 4. Mr. Goepner was arrested when he entered a residence that was not his and  
9 without the owner’s permission. The offense of unlawful entry of a non-commercial  
10 dwelling involves dishonesty and should have been disclosed on his 2005 renewal  
11 application.

12 5. Beginning in 2007, the Board’s renewal application asked the following question:

13 Have you ever been charged with, convicted or pled nolo contendere  
14 (no contest) to a criminal offense, other than a minor traffic violation,  
15 in this or any other jurisdiction (i.e. locality)? **You must answer**  
16 **“YES” even if you received a pardon, the conviction was set aside,**  
17 **the records were expunged, your civil rights were restored, and**  
**whether or not a sentence was imposed or suspended.**

18 6. On the June, 2011, renewal application, the Respondent answered “NO” to the  
19 above question, failing to disclose his 2010 conviction for DUI and driving with a BA  
20 that exceeds .08% for which he received five years probation, a \$390 fine and 20 days in  
21 jail.

22 7. Respondent’s 2010 conviction for DUI and driving with a BA that exceeds .08%  
23 for which he was sentenced to five years probation, a \$390 fine and spent 20 days in jail  
24 does not constitute a minor traffic violation and therefore was required to be disclosed on  
25 his 2011 renewal application

26 8. On April 4, 2014, a Complaint and Notice of Hearing was issued, and these

1 proceedings were instituted pursuant to A.R.S. § 32-3631 *et seq.* and § 41-1092 *et seq.*

2 9. Respondent made a false statement(s) and submitted false information to the board  
3 as it related to questions on his 2005 and 2011 renewal applications.

4 10. Respondent's failure to honestly and correctly complete his 2005 and 2011  
5 applications for renewal constitutes an act of omission involving dishonesty or  
6 misrepresentation with the intent to substantially benefit the Respondent.

7  
8 CONCLUSIONS OF LAW

9 1. The Board has jurisdiction over these matters pursuant to A.R.S. § 32-3601 *et seq.*

10 2. The Board bears the burden of proof and must establish that the Respondent  
11 committed unprofessional conduct as defined by A.R.S. §32-3631 by a preponderance of  
12 the evidence.

13 3. A preponderance of the evidence is such proof as convinces the trier of fact that  
14 the contention is more probably true than not." *Morris K. Udall, Arizona Law of*  
15 *Evidence §5(1960)*. A preponderance of the evidence is "[t]he greater weight of the  
16 evidence, not necessarily established by the greater number of witnesses testifying to a  
17 fact but by evidence that has the most convincing force; superior evidentiary weight that,  
18 though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient  
19 to incline a fair and impartial mind to one side of the issue rather than the other." *Black's*  
20 *Law Dictionary at p. 1220 (8<sup>th</sup> ed. 1999)*.

22 4. A.R.S. §32-3631 provides that the rights of a state license or certificate holder may  
23 be revoked or suspended or the holder of the license or certificate may otherwise be  
24 disciplined in accordance with this chapter for any of the grounds set forth in this section.  
25 The board may investigate the actions of a state licensed or state certified appraiser for  
26 any of acts or omissions stated in the statute. Included in the acts or omissions for which

1 an appraiser may be disciplined is “[w]ilfully disregarding or violating any of the  
2 provisions of this chapter or the rules of the board for the administration and enforcement  
3 of this chapter.”

4 5. The conduct and circumstances described in the Factual Allegations constitute a  
5 violation of A.R.S. §§ 32-3631(A)(1), which provides that “[p]rocurring or attempting to  
6 procure a license or certificate pursuant to this chapter by knowingly making a false  
7 statement, submitting false information, refusing to provide complete information in  
8 response to a question in an application for a license or certificate or committing any  
9 form of fraud or misrepresentation.”

10 6. The conduct and circumstances described in the Factual Allegations constitute  
11 a violation of A.R.S. §§ 32-3631(A)(5), which provides that “[a]n act or omission  
12 involving dishonesty, fraud or misrepresentation with the intent to substantially benefit  
13 the license or certificate holder or another person or with the intent to substantially injure  
14 another person.”

15  
16 **ORDER**

17 1. Based upon the foregoing, **IT IS HEREBY ORDERED THAT** certificate  
18 no. 30293 previously issued to Kurt J. Goepfner is suspended for a period of ninety days  
19 beginning on June 15, 2014 up to and including September 12, 2014.

20 2. The State of California, Office of Real Estate Appraisers shall be notified  
21 of this action.  
22

23  
24 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

25 Respondent is hereby notified that he has the right to petition for a rehearing or  
26 review. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or review

1 must be filed with the Board's Executive Director within thirty (30) days after service of  
2 this Order. Pursuant to A.A.C. R4-46-303(D), the petition must set forth legally sufficient  
3 reasons for granting a rehearing. Service of this Order is effective five (5) days after date  
4 of mailing. If a petition for rehearing is not filed, the Board's Order become effective  
5 thirty-five (35) days after it is mailed to Respondent.

6 Respondent is further notified that the filing of a petition for rehearing is required  
7 to reserve any rights of appeal to the Superior Court.

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10 Signed this 28<sup>th</sup> day of May, 2014.

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Executive Director

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By: Debra J. Rudd  
Debra J. Rudd

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ORIGINAL of the foregoing filed  
this 28<sup>th</sup> day of May, 2014, with:

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23

Debra J. Rudd  
Executive Director  
Arizona State Board of Appraisal  
15 South 15<sup>th</sup> Ave.; Ste. 103A  
Phoenix, Arizona 85007

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COPY of the foregoing mailed by U.S. Certified and Regular Mail  
this 28<sup>th</sup> day of May, 2014, to: Certified # 7012 3050 0002 0740 9408

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Kurt J. Goepner  
1096 Sea Bluff Drive  
Costa Mesa, California 92627

COPY of the foregoing mailed by Inter-agency Mail  
this 28<sup>th</sup> day of May, 2014, to:

Diana Day  
Assistant Attorney General  
Arizona Attorney General's Office  
SGO  
1275 W. Washington,  
Phoenix, AZ 85007



#3785649v1 Kelly Luttrijn