BEFORE THE ARIZONA STATE BOARD OF APPRAISAL

In the Matter of: **DONNA HASTINGS** Certified Residential Appraiser Certificate No. 21954, Respondent.	Case No. 3706 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF REVOCATION**

This formal administrative hearing came before the Arizona State Board of Appraisal on December 19, 2014. Respondent was properly noticed of this hearing. Respondent did not appear and was not represented by legal counsel. The State was represented by Jeanne M. Galvin, 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. Donna L. Hastings, ("Respondent") held Certificate No. 21954 to practice as a Certified Residential Appraiser in the State of Arizona, issued on September 30, 2008, pursuant to A.R.S. § 32-3612, and expired on September 30, 2014.

3. On or about November 6, 2011, the Board received a Real Estate Appraiser Violation Complaint No. 3354 (hereinafter "the Complaint") against Respondent filed anonymously by a fellow appraiser alleging poor quality of work and dishonesty in completing an appraisal of 9700 E. Little Further Way, in Gold Canyon, Arizona, with an

effective date of July 26, 2011.

4. A formal hearing in case number 3354 was held on August 12, 2013, before Judge Michael Douglas and the Office of Administrative Hearings. Respondent was noticed properly but did not appear.

5. Judge Douglas entered his Recommended Decision on September 6, 2013.

6. On October 15, 2013, the Board considered the Judge Douglas' Recommended decision and on October 16, 2013, the Board sent Respondent its Findings of Fact, Conclusions of Law and Order of Probation.

7. Pursuant to the Board's Final Order, Respondent's Certificate was placed on probation for six (6) months. In addition to other requirements, Respondent was ordered to complete certain continuing education courses and conduct appraisals under the supervision of a mentor.

8. Specifically, Respondent was required to complete a fifteen (15) hour USPAP course with an exam. **Respondent failed to complete this requirement.**

9. Additionally, Respondent was required to provide the Board with the name and resume of an Arizona Certified Residential or Arizona Certified General Appraiser who is willing to serve as Respondent's mentor ("Mentor"). The Mentor is subject to the Board approval. **Respondent failed to locate a Mentor and/or provide this information to the Board.**

10. Respondent was to complete a minimum of six (6) appraisal reports under the supervision of an approved Mentor. The appraisal reports may be demonstration reports. **Respondent failed to complete the six (6) appraisals and/or submit the appraisal reports to the Board.**

11. Pursuant to the Order, the Respondent was to bear all costs associated with her probation, including the cost of the supervising appraiser/mentor.

12. The Order further provided that should Respondent fail to abide by any terms of the Order, her certificate would be revoked. Respondent did not appeal the Board's Final Order.

13. At its June 20, 2014 meeting, the Board considered Respondent's non-compliance with its Final Order issued in Case No. 3354. In doing so, the Board voted to open Case No. 3706 for Respondent's non-compliance with the Final Order in Case No. 3354.

14. At the August 15, 2014 Board Meeting, the Board considered Respondent's written response to Case No. 3706 (non-compliance). According to her written response (Respondent did not appear) Respondent stated that financial hardship prevented her from complying with the Board's Order in Case No. 3354 but that her circumstances had improved and she was now able and desired to comply with the Board's Final Order in Case No. 3354. After considering the matter, the Board voted to offer Respondent a Consent Agreement in which her probation would be extended for an additional six months to allow her time to comply. The Board also voted that should Respondent fail to comply with any one term of the Consent Agreement, the Board would immediately pursue its continued enforcement of Complaint No. 3706 for the revocation of Respondent's certificate.

15. On September 2, 2014, the Board sent via regular and certified mail the Proposed Consent Agreement and Amended Order of Discipline and Extension of Probation. Respondent was required to return the Consent Agreement and Amended Order to the Board no later than September 17, 2014.

16. Respondent failed to return the signed Consent Agreement and Amended Order and Extension of Probation to the Board by the stated deadline. Therefore, the Board proceeds with Complaint No. 3706.

17. Pursuant to the terms of the Final Order dated October 16, 2013, Respondent's

failure to comply is a violation of A.R.S. §32-3631(A)(8), which is willfully disregarding or violating any of the provisions of the Board's statutes or the rules of the Board for the administration and enforcement of its statutes.

CONCLUSIONS OF LAW

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

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

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

4. A.R.S. §32-3631 provides that the rights of a state license or certificate holder may be revoked or suspended or the holder of the license or certificate may otherwise be disciplined in accordance with this chapter for any of the grounds set forth in this section. The board may investigate the actions of a state licensed or state certified appraiser for any of acts or omissions stated in the statute. Included in the acts or omissions for which an appraiser may be disciplined is "[w]ilfully disregarding or violating any of the

provisions of this chapter or the rules of the board for the administration and enforcement of this chapter."

5. The October 16, 2013 Order of Probation entered into by the Board and Respondent, provided that if she did not comply with the Order of Probation, her Certified Residential Appraiser Certificate No. 21954 shall be revoked.

6. Respondent is in violation if A.R.S.§32-3631(A)(8) which is willfully disregarding or violating any of the provisions of the Board's statutes, a board order, or the rules of the Board for the administration and enforcement of its statutes.

ORDER

1. Based upon the foregoing, **IT IS HEREBY ORDERED THAT** Certificate No. 21954 previously issued to Donna L. Hastings is revoked for the practice of real property appraisal in the State of Arizona.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that she has the right to petition for a rehearing or review. Pursuant to A.R.S. §41-1092.09, as amended, the petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. Pursuant to A.A.C. R4-46-303(D), the petition must set forth legally sufficient reasons for granting a rehearing. Service of this Order is effective five (5) days after date of mailing. If a petition for rehearing is not filed, the Board's Order become effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a petition for rehearing is required

to reserve any rights of appeal to the Superior Court.

Dated this 29th day of December, 2014.

(SEAL)

ARIZONA STATE BOARD OF APPRAISAL

By: Debra J. Rudd

Debra J. Rudd
Executive Director
Arizona State Board of Appraisal

ORIGINAL of the foregoing filed
this 29th day of December, 2014, with:

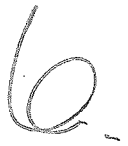
Debra J. Rudd
Executive Director
Arizona State Board of Appraisal
15 South 15th Ave.; Ste. 103A
Phoenix, Arizona 85007

COPY of the foregoing mailed by U.S. Regular and Certified Mail
7012 3050 0002 0740 9620 this 29th day of December, 2014, to:

Donna L. Hastings
2759 South Sorrelle
Mesa, Arizona 85209

COPY of the foregoing mailed by Inter-agency Mail
this 29th day of December, 2014, to:

Jeanne M. Galvin
Assistant Attorney General
Arizona Attorney General's Office
1275 W. Washington, CIV/LES
Phoenix, AZ 85007



Kelly Luteijn