ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

Superintendent of Financial Institutions

Douglas A. Ducey
Governor

December 17, 2015

Mr. Steven H. Slaton
7974 El Rancho Trail
Snow Flake, AZ 85937

Reference: Docket No. 16F-3761-BOA – Steven H. Slaton License #21114

Dear Mr. Slaton:

Enclosed is my Amended Final Decision and Order. This Order has been amended to correct the Certificate Number on the Order, Page 1, Paragraph 2, Line 12.

This Order is effective immediately and the provisions of this order shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this Order shall have been modified, terminated, suspended, or set aside by the Superintendent or a court of competent jurisdiction.

Please contact Lynette Evans, Unit Chief Counsel at 602-542-7755 with any questions.

Sincerely,

Robert D. Charlton
Assistant Superintendent

RDC:jb

Enclosure

cc: Lynette Evans, Unit Chief Counsel, Attorney General's Office

2910 North 44th Street • Suite 310 • Phoenix, Arizona 85018
Telephone: (602) 771-2800 • Facsimile: (602) 381-1225

ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Appraisal License of: **STEVEN H. SLATON** Certified Residential Appraiser License No. 21114 Respondent.	**No. 16F-3761-BOA** **SUPERINTENDENT'S AMENDED FINAL DECISION AND ORDER**

The Assistant Superintendent of Financial Institutions ("Superintendent") having reviewed the record in this matter, including the Administrative Law Judge Decision attached and incorporated herein by this reference, adopts the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order as follows:

ORDER

IT IS ORDERED that the Certified Residential Appraiser Certificate Number 21114 issued to Respondent is revoked.

NOTICE

The parties are advised that, pursuant to A.R.S. § 41-1092.09, this Order shall be final unless Respondent submits a written motion for rehearing no later than thirty (30) days after service of this decision. The motion for rehearing or review must specify the particular grounds upon which it is based as set forth in A.A.C. R20-4-1219. A copy shall be served upon all other parties to the hearing, including the Attorney General, if the Attorney General is not the party filing the claim of error. In the alternative, the parties may seek judicial review of this decision pursuant to A.R.S. § 41-1092.08(H).

DATED this 17th day of December 2015.

Robert D. Charlton
Assistant Superintendent of Financial Institutions

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ORIGINAL filed this 17th day of December, 2015 in the office of:

Mike Fowler, Assistant Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: June Beckwith
2910 North 44th Street, Suite 310
Phoenix, Arizona 85018

Copy of the foregoing e-filed this
17th day of December, 2015, in the office of:

Suzanne Marwil, Administrative Law Judge
Office of the Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

COPY of the foregoing mailed/emailed this
14th day of December, 2015, to:

Lynette Evans
Unit Chief Counsel
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

Debra Rudd
Appraisal Division Manager
ATTN: Kelly Luteijn
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018
kluteijn@azdfi.gov

AND COPY MAILED AND E-MAILED SAME DATE by Certified Mail, Return Receipt Requested, to:

Mr. Steven H. Slaton
7974 El Rancho Trail
Snow Flake, AZ 85937
sslaton@hughes.net

By: June Beckwith

RECEIVED
DEC 0 7 2015
DEPT. OF FINANCIAL INSTITUTIONS

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Appraisal License of: STEVEN H. SLATON Certified Residential Appraiser License No. 21114 Respondent	**No. 16F-3761-BOA** **ADMINISTRATIVE LAW JUDGE DECISION**

HEARING: November 19, 2015

APPEARANCES: The Arizona Department of Financial Institutions (DFI) formally known as the Arizona Board of Appraisal (the Board) was represented by Assistant Attorney General, Lynette Evans, Esq. No one appeared on behalf of Respondent Steven H. Slaton (Respondent or Mr. Slaton)

ADMINISTRATIVE LAW JUDGE: Suzanne Marwil

Evidence and testimony were presented and the following Findings of Fact, Conclusions of Law and Recommended Order are made:

FINDINGS OF FACT

1. Since March 22, 2004, Respondent has been a Certified Residential Appraisal, holding Certificate No. 21114.

2. On October 1, 2013, the Board filed a Complaint and Notice of Hearing against Respondent regarding Complaints 3521, 3536, 3537, 3546, and 3547.

3. On January 9, 2014, Administrative Law Judge (ALJ) M. Douglas with the Office of Administrative Hearings (OAH) held a formal hearing to address the Complaint and Notice of Hearing. Respondent was present at that hearing and represented his own interests.

4. On February 4, 2014, ALJ Douglas, issued an ADMINISTRATIVE LAW JUDGE DECISION (ALJ Decision) concerning those matters.

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

5. On or about February 7, 2014, the Board sent Respondent a copy of the ALJ Decision and a notice that the Board would have a meeting (Board Meeting) on February 21, 2014, to address the ALJ Decision.

6. On or about February 11, 2014, the State sent Respondent its STATE'S POSITION RE: RECOMMENDED DECISION (Recommendations), which informed Respondent about changes the State recommended to the ALJ Decision.

7. On or about February 12, 2014, Respondent sent the Board a letter that stated that he received the ALJ Decision and the State's Recommendations. Additionally, Respondent stated his position on the ALJ Decision and the State's Recommendations. Respondent notified the Board that he would not attend the Board Meeting set for February 21, 2014.

8. On or about February 24, 2014, the Board signed its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF PROBATION (Order of Probation) and sent a copy to Respondent by certified mail. The Order of Probation issued the following disciplinary actions against Respondent:

a. Probation for a term of six months (Order of Probation, page 9, line 4).
b. Written proof that Respondent completed a fifteen-hour course in USPAP, with an exam (Order of Probation, page 9, lines 5 - 6).
c. Written proof that Respondent completed a fifteen-hour course in basic appraisal, with an exam (Order of Probation, page 9, lines 7 - 8).
d. Written proof that Respondent completed a seven-hour course in the proper use of the cost approach for appraisal (Order of Probation, page 9, lines 9 - 11).
e. Respondent must submit at least twelve appraisal reports that Respondent performed during term of probation (Order of Probation, page 9, lines 12 - 14).

The Board ordered specifically, "[Respondent] [is] not allowed to use the above course work to apply to any educational requirements that he may be required to renew Certified Residential Appraiser License No. 21114." (Order of Probation, page 9, line 15 - 17). The Order of Probation also ordered "that if [Respondent] fails to comply with the 21 above terms of license probation, Certified Residential Appraiser License No. 21114 issued to [Respondent] shall be revoked." (Order of Probation, page 9, lines 18 - 20).

9. On February 25, 2014, Respondent signed a certified mail receipt for the copy of the Order of Probation that the Board mailed to him. Respondent failed to comply with the Order of Probation in a timely manner in that he did not take classes or submit monthly logs of his appraisals as required.

10. On October 28, 2014, the Board opened a complaint against Respondent for non-compliance with the Order of Probation terms (Complaint #3761). On November 7, 2014, the Board sent Respondent notification of the new complaint for non-compliance.

11. On March 11, 2015, the Board received Respondent's PETITION TO TERMINATE PROBATION (Respondent's Petition). The basis of Respondent's Petition was that he had finally gotten everything done to comply with the Order of Probation.

12. On May 21, 2015, the Board sent Respondent a letter stating that the Board had denied Respondent's Petition. Additionally, the Board sent Respondent a copy of its ORDER EXTENDING PROBATION AND REQUIRING MENTORSHIP (Order to Extend). The Order to Extend increased the length of Respondent's probation for three months and added terms to Respondent's probation that included requiring him to obtain a mentor and to file a monthly appraisal log.

13. Respondent has failed to comply with the terms set forth in the Order to Extend. The record is devoid of evidence that Respondent ever retained a mentor.

14. On September 3, 2015, DFI[1] filed a Complaint and Notice of Hearing Respondent regarding Complaint #3761 setting hearing before OAH on October 22, 2015, at 1:00 p.m.

15. On October 19, 2015, Respondent requested a continuance because he had just received a copy of DFI's exhibits and needed time to review them. On October 20, 2015, the undersigned denied the motion to continue as untimely and indicated that the need for a continuance would be addressed prior to the start of hearing.

[1] The Board became part of DFI in July 2015. The substantive rules governing certified appraisers did not change as a result of this transition.

16. On October 22, 2015, the undersigned convened the hearing. Respondent did not appear. With the consent of DFI's counsel, the undersigned telephoned Respondent and reached him. At that time, he raised concerns regarding his due process rights. Although DFI did not agree that Respondent needed more time to review the exhibits, it consented to a short continuance. Thus, that hearing was converted to a prehearing conference. During the conference, Respondent committed to appearing at hearing, which was set with a 1:00 p.m. start time to afford Respondent the opportunity to drive from Snowflake to Phoenix, Arizona.

17. Respondent failed to appear at the time scheduled for hearing and did not request to appear telephonically. After the expiration of a 20 minute grace period, the Administrative Law Judge conducted the hearing in Respondent's absence. The record reflects that the Order Setting Further Hearing was mailed to two different addresses for Respondent: 306 E. Aspin Wall Street, Winslow, AZ 86047 and 7974 El Rancho Trail Snowflake, AZ 85937. Respondent is therefore deemed to have had notice of the rescheduled hearing.

18. Debra Rudd, Manager of the Real Estate Appraisal Division of DFI, offered the only testimony in this matter. She detailed the history of the Board's and DFI's interactions with Respondent. She explained that both the Board and later DFI had gone to great lengths to work with Respondent. She said that the Order of Probation stayed in place for as long as it took Respondent to comply. She indicated that DFI had issued the Order to Extend after receiving the request to terminate probation because a review of Respondent's submitted appraisals showed continued errors. Ms. Rudd commented that, without a mentor, Respondent doesn't know what he doesn't know. She maintained that in light of Respondent's ongoing refusal to comply with the Order to Extend, he cannot be regulated. Therefore, she requested that Respondent's license be revoked.

CONCLUSIONS OF LAW

1. This matter is within the Board's jurisdiction under A.R.S. § 32-3661 *et seq.*

2. The Board bears the burden of proof and must establish cause to penalize Mr. Slaton's Certified Residential Appraiser License No. 21114. The standard of proof on all issues in these matters is by a preponderance of the evidence. *See* A.A.C. R2-19-119.

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).

4. A.R.S. § 32-3631 authorizes the Board to discipline the certificate of an appraiser that has committed any act in violation of the Board's statutes or rules. Subsection 8 of this statutory section explicitly provides that an appraisal certificate may be disciplined for "[w]ilfully disregarding or violating any of the provisions of this chapter or a board order or the rules of the board for the administration and enforcement of this chapter."

5. Undisputed credible evidence establishes that Respondent has failed to comply with DFI's Order to Extend. Given Mr. Slaton's history of failure to timely comply with the Order of Probation and his continuing refusal to recognize DFI's legitimate efforts to regulate the manner in which he conducts appraisals, the Tribunal concludes that DFI has established grounds to revoke Mr. Slaton's certified appraisal certificate.

RECOMMENDED ORDER

Based on the foregoing it is recommended that the Certified Residential Appraiser Certificate No 21114 issued to Mr. Slaton shall be revoked.

In the event of certification of this Administrative Law Judge Decision by the Director of the Office of Administrative Hearings, the effective date of the Order will be five days from the date of the certification.

Done this day, December 7, 2015.

/s/ Suzanne Marwil
Administrative Law Judge

Transmitted electronically to:

Lauren Kingry, Superintendent
Department of Financial Institutions