

1 **BEFORE THE ARIZONA STATE BOARD OF APPRAISAL**

2
3 In the Matter of :

Case No. 06F-2177-BOA

4 **LUCILLE DeMARCO,**
5 **Licensed Residential Appraiser**
6 **No. 11366,**

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

7 Respondent.

8 On July 19, 2007, the Arizona Board of Appraisal ("Board") met to consider the
9 Administrative Law Judge Decision of Daniel G. Martin in the above-captioned matter. Lucille
10 DeMarco ("Ms. DeMarco" or "Respondent") did not appear. The State was represented by
11 Dawn Walton-Lee, Assistant Attorney General. The Board received independent legal advice
12 from Christopher Munns, Assistant Attorney General from the Solicitor General's Office.

13 The Board, having reviewed the administrative record and the Administrative Law
14 Judge's Findings of Fact, Conclusions of Law and Order in this matter, and having considered
15 the written and/or oral arguments of the parties and fully deliberating the same, takes the
16 following actions on the recommended decision:

17 1. The Board hereby accepts the Findings of Fact of the Administrative Law Judge
18 with modifications requested by the State to correct typographical errors.

19 2. The Board hereby accepts the Conclusions of Law of the Administrative Law
20 Judge.

21 3. The Board hereby accepts the Order of the Administrative Law Judge with
22 modifications to include the Board's standard language regarding revocation decisions.

23 4. The Findings of Fact, Conclusions of Law and Order shall read as follows:
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FINDINGS OF FACT

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1. The Arizona State Board of Appraisal (the "Board") is the duly constituted authority for licensing and regulating the practice of appraisal in the State of Arizona.

2. Respondent Lucille DeMarco holds license No. 11366 for the practice of residential appraisal in the State of Arizona. The classification under which Ms. DeMarco is licensed is defined as "those persons meeting the requirements for licensing relating to appraisal or appraisal review of noncomplex one to four residential units having a value of less than one million dollars and complex one to four residential units having a value of less than two hundred fifty thousand dollars." See A.R.S. § 32-3612(A)(3).

3. On February 17, 2006, Ms. DeMarco issued an appraisal (the "Appraisal") for a property located at 5700 McDonald Drive in Paradise Valley, Arizona (the "Property"). The Appraisal was effective as of February 14, 2006, and was directed to NFS Loans in Irvine, California. See Exhibit 1.

4. Pursuant to the Appraisal, Ms. DeMarco estimated the market value of the Property as of February 14, 2006 to be \$5,000,000.00. See Exhibit 1.

5. On April 26, 2006, the Board received an anonymous complaint alleging that Ms. DeMarco had acted outside of the limits of her license and further that she had committed multiple factual errors and had violated the Uniform Standards of Professional Appraisal Practice ("USPAP"). See Exhibit 1.

6. On August 15, 2006, the Board engaged Ms. Pat Thoms to conduct an investigation into the allegations of the complaint against Ms. DeMarco. Over the next two weeks, Ms. Thoms conducted her investigation. On September 1, 2006, Ms. Thoms issued a written investigative report. See Exhibit 3.

1 7. At its February 15, 2007, meeting, the Board considered Ms. DeMarco's case.
2 Ms. DeMarco appeared at that meeting, presented statements on her own behalf, and
3 responded to questions from the Board. See Exhibit 4.

4 8. On May 10, 2007, the Board issued a Complaint and Notice of Public Hearing
5 pursuant to which the Board alleged that Ms. DeMarco had violated A.R.S. §§ 32-3612, 32-
6 3631(A)(6), and 32-3631(A)(7), and that such violations constituted grounds upon which the
7 Board could take disciplinary action against Ms. DeMarco's license in accordance with A.R.S. §
8 32-3632(B). The Administrative Law Judge addresses each of the Board's allegations in the
9 Conclusions of Law, below.

10 9. The Board's Complaint and Notice of Public Hearing advised Ms. DeMarco that
11 the hearing in this matter would convene on June 14, 2007 at the Office of Administrative
12 Hearings in Phoenix, Arizona. The Board sent a copy of the Complaint and Notice of Hearing to
13 Ms. DeMarco at her address in Apple Valley, Minnesota by regular and by certified mail, return
14 receipt requested.

15 10. Ms. DeMarco did not appear at hearing, nor did she contact the Office of
16 Administrative Hearings to state any reason for her absence. When Ms. DeMarco continued in
17 her failure to appear after the expiration of a fifteen minute grace period, the Administrative Law
18 Judge convened the hearing and proceeded in Ms. DeMarco's absence.

19 11. The evidence presented at hearing, consisting of Ms. Thoms' testimony and five
20 exhibits submitted by the State, demonstrated the following:

- 21 a. The Appraisal pertained to a complex property.
- 22 b. The Appraisal fails to analyze the fact that the Property had been listed
23 for \$3.5 million, and appears to give credit to a \$6 million contract price. A reasonable
24 appraiser would have questioned why a property had been the subject of such a
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1 significant increase in the listing price, and the failure to have included the information
2 regarding the prior listing rendered the Appraisal misleading.

3 c. The Appraisal did not show any previous sale of the Property within the previous
4 three years; however, according to NetValueCentral, the Property had been sold on
5 September 3, 2004 for \$1.6 million.

6 d. The Appraisal contains errors with regard to the subject's address and the
7 existence of homeowner's association dues.

8 e. The Appraisal contains errors with regard to its use of comparable properties,
9 including failure to support large location and site adjustments, failure to adjust for the
10 presence of guest houses on two of the comparable properties, and failure to comment
11 on and adjust for significant age differences.

12 f. The Appraisal's cost approach figures (approximately \$500.00 per square foot)
13 are not supported by Marshall Swift (a commonly used data source that provides cost
14 data for different regions).

15 g. The Appraisal does not include an estimate of reasonable exposure time (that is,
16 the amount of time a property remains on the market).

17 h. The Appraisal estimates the market value of the site at \$3 million (*i.e.*, more than
18 half the value of the Property) without sufficient or adequate documentation.

19 i. The Property is 34 years old; the Appraisal unreasonably applies an effective age
20 of five years to the Property and total accrued depreciation of 2.08%.

21 j. The Appraisal "falls short of summarizing sufficient information to permit the
22 reader to follow the Appraiser's reasoning leading to market value opinion." See Exhibit
23 3, at 15.

24 12. Because Ms. DeMarco did not appear at the hearing, she did not present any
25 evidence to controvert or mitigate the evidence presented by the State.
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6. A.R.S. § 32-3631(A)(6) and (A)(7) provide:

A. The rights of an applicant or holder under a license or certificate as a state licensed or state certified appraiser may be revoked or suspended or the holder of the license or certificate may otherwise be disciplined in accordance with this chapter and any of the grounds set forth in this section. The board may investigate the actions of a state licensed or state certified appraiser and may revoke or suspend the rights of a license or certificate holder or otherwise discipline a state licensed or state certified appraiser for any of the following acts or omissions:

* * *

6. Violation of any of the standards of the development or communication of appraisals as provided in this chapter.

7. Negligence or incompetence in developing an appraisal, in preparing an appraisal report or in communicating an appraisal.

7. The standards of practice applicable to Ms. DeMarco's conduct are those codified in the 2005 version of the USPAP. See A.A.C. R4-46-401 (as in effect at the relevant time).

8. By her conduct, Ms. DeMarco violated USPAP Standards Rule 1-1(b) (failure to reference \$3.5 million list price), 1-1(c) (series of errors in report), 1-2(c)(iv) (failure to include estimate of reasonable exposure time), 1-4(a) (failure to provide competent analysis of comparable properties, 1-4(b)(i) (site value lacked adequate support), 1-4(b)(ii) (no basis for replacement cost), 1-4(b)(iii) (unreasonable estimate of effective age and accrued depreciation), 1-5(a) (failure to analyze increase in list price from \$3.5 million to \$6 million), 1-5(b) (failure to address prior sale within three years), 2-1(a) (omissions of analysis resulted in the issuance of a misleading report, 2-2(b)(v) (failure to include estimate of reasonable exposure time), 2-2(b)(ix) (failure to provide sufficient information to allow the appraiser's reasoning leading to the market value opinion). Such violations of the applicable standards of practice constitute violations of A.R.S. § 32-3631(A)(6) and (A)(7).

1 substantive review of any application submitted by Respondent, pursuant to A.R.S. § 32-
2 3611(D).

3 6. Pursuant to the Board's Substantive Policy Statement #1, the Board considers
4 the violations set forth herein to amount to Level V Violations for disciplinary purposes.

5 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

6 Respondent is hereby notified that she has the right to petition for a rehearing or review.
7 Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or review must be filed
8 with the Board's Executive Director within 30 days after service of this Order and pursuant to
9 A.A.C. R4-46-303, it must set forth legally sufficient reasons for granting a rehearing or review.
10 Service of this order is effective five days after mailing. If a motion for rehearing or review is not
11 filed, the Board's Order becomes effective 35 days after it is mailed to Respondent.

12 Respondent is further notified that the filing of a motion for rehearing or review is
13 required to preserve any rights of appeal to the Superior Court.

14 DATED this 23rd day of July, 2007.

15 ARIZONA STATE BOARD OF APPRAISAL

16 By: Deborah G. Pearson
17 Deborah G. Pearson, Executive Director

18 Copy of the foregoing personally served
19 this 23rd day of July, 2007, on:

19 Office of Administrative Hearings
20 1400 West Washington, Suite 101
20 Phoenix, AZ 85007

21 Copy of the foregoing mailed via regular U.S.
22 & Certified Mail #7005 1820 0000 5286 9119
22 this 23rd day of July, 2007, to:

23 LUCILLE DEMARCO
24 12644 DUTCH CT.
24 APPLE VALLEY, MN 55124

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1 Copy of the foregoing mailed via regular U.S.
Mail this 23rd day of July, 2007, to:

2 ROBERT BILLAR, ESQ.
3 LEYH, BILLAR & ASSOCIATES, P.L.L.C.
4 101 NORTH FIRST AVENUE, SUITE 2480
5 PHOENIX, AZ 85003

6 Copies of the foregoing sent by interagency
this 23rd day of July, 2007, to:

7 DAWN WALTON-LEE
8 ASSISTANT ATTORNEY GENERAL
9 1275 W. WASHINGTON
10 PHOENIX, AZ 85007

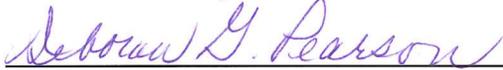
CHRISTOPER MUNNS
ASSISTANT ATTORNEYS GENERAL
SOLICITOR GENERAL'S OFFICE
1275 W. WASHINGTON
PHOENIX, AZ 85007

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12 _____
13 Deborah G. Pearson

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1 Copy of the foregoing remailed via U.S.
2 Certified Mail #7006 0100 0002 8652 4681
3 this 13th day of August, 2007, to:

3 LUCILLE DEMARCO
4 12644 DUTCH CT.
5 APPLE VALLEY, MN 55124

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6 _____
7 Deborah G. Pearson

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