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BEFORE THE ARIZONA STATE BOARD OF APPRAISAL

In the Matter of:	Case No. 3209
KEVIN J. RODOLICO Licensed Residential Appraiser License No. 11497	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

This formal administrative hearing came before the Arizona State Board of Appraisal on September 19, 2013. Respondent was properly noticed of this hearing. Respondent appeared/did not appear. The State was represented by Jeanne M. Galvin, Assistant Attorney General. The Board received legal advice from Christopher Munns, 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 and appraisal management companies.

2. Kevin J. Rodolico, ("Respondent") holds License No. 11497 to practice as a Licensed Residential Appraiser in Arizona. Respondent has been licensed since April 11, 2006. His current license expires April 30, 2014.

3. The Complaint and Notice of Hearing was issued, and these proceedings were

instituted pursuant to A.R.S. § 32-3631 *et seq.* and § 41-1092 *et seq.*, as a result of Respondent's failure to comply with the terms of the Consent Agreement and Order of Discipline, ("Consent Agreement") signed by all parties on April 12, 2012.

FACTUAL ALLEGATIONS

1. On April 12, 2012, Respondent and the Board entered into a Consent Agreement and Order of Discipline for which Respondent's license was placed on probation for a minimum of six (6) months from the date of execution of the Consent Agreement and Order. In addition to other requirements, the Consent Agreement ordered Respondent to complete certain continuing education courses; conduct appraisals under the supervision of a mentor, and submit appraisal logs. During the six month probationary term, Respondent was required to (a) demonstrate resolution of the problems that resulted in this disciplinary action; and (b) otherwise comply with the terms of the Consent Agreement.

2. Respondent was required to complete the following educational requirements during the term of probation and submit proof of completion within 3 weeks of course completion.

   a. A Seven (7) hour course in Small Residential Income Producing Properties. **Respondent did not complete this course as required.**
   b. Seven (7) hour 2012-2013 USPAP update course. **Respondent completed this course on April 2, 2012.** The Board found that this satisfied the terms of the Consent Agreement.

3. In addition, Respondent was to complete twelve (12) appraisal reports under the supervision of an Arizona Certified Residential or Certified General Appraiser who was to serve as the Respondent's Mentor. The appraisal reports may be demonstration reports. At least two of the reports were to be of small residential income producing properties. **Respondent failed to complete the twelve (12) appraisals and/or submit the appraisal reports to the Board as required by the Consent Agreement.**

4. In addition, both Respondent and Respondent's Mentor were required to submit monthly reports to the Board reflecting the quantity and quality of Respondent's work, including, but not limited to, improvement in Respondent's practice and resolution of those problems that prompted the disciplinary action. **Respondent failed to submit monthly appraisal logs to the Board as required and failed to ensure that his Mentor submit the logs as required.**

5. Pursuant to the terms of the Consent Agreement, Respondent acknowledged that any violation of the Consent Agreement constituted 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 of 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 April 12, 2012, Consent Agreement and Order entered into by the Board and Respondent, provided that any violation of the Consent Agreement constituted 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.

6. Respondent is in violation of A.R.S.§32-3631(A)(8) by failing to comply with the terms of the Consent Agreement and Order when he failed to complete the seven (7) hour course in Small Residential Income Producing Properties; failed to complete 12 appraisal reports under the supervision of a mentor; and failed to complete appraisal logs for himself and to ensure his mentor completed the required logs.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT license no. 11497 is revoked for the practice of real property appraisal in the State of Arizona previously issued to Kevin J. Rodolico.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he 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 25th day of September, 2013.

ARIZONA STATE BOARD OF APPRAISAL

(SEAL)

By: Debra J. Rudd

Debra J. Rudd
Executive Director
Arizona State Board of Appraisal

ORIGINAL of the foregoing filed this 25th day of September, 2013, with:

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

COPY of the foregoing mailed by U.S. Certified Mail this 25th day #7012 3050 0002 0740 5141 of September, 2013, to:

Kevin J. Rodolico
10134 East Isleta Avenue
Mesa, Arizona 85209

COPY of the foregoing mailed by Interagency Mail this 25th day of September, 2013, to:

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

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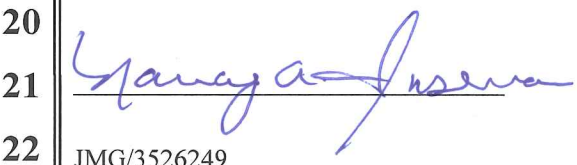

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