

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
STATE OF COLORADO

Case Nos. 80358004 and 803557305

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL AGENCY ORDER

IN THE MATTER OF THE REAL ESTATE APPRAISER'S LICENSE OF GARY BEAVER
(LICENSE #CG1322997),

Respondent.

This matter came before the Board of Real Estate Appraisers ("Board") on July 11, 2008, for a hearing on the Board's "Notice of Duty to Answer, Notice of Hearing and Notice of Charges in the Matter of the Disciplinary Hearing Against the Appraiser's License of Gary Beaver, License # CG1322997" ("Notice of Charges"). The Board took evidence and testimony, and based thereon, makes the following findings of fact and conclusions of law and enters the following final agency order.

FINDINGS OF FACT

- 1) Gary Beaver ("Respondent") is a licensed Colorado appraiser holding license No. CG1322997.
- 2) The Board commenced an investigation of Respondent's activities based upon a complaint filed by an individual and assigned to the investigations Case Nos. 80358004 and 80357505.
- 3) On May 23, 2008, the Board mailed by first-class mail, to Respondent at Respondent's address of record as maintained by the Division of Real Estate's licensee database, 12500 E. Equestrian Circle, # 211, Ft Myers, FL 33907, a letter dated May 23, 2008, requiring a written response to the Board by June 6, 2008, regarding Case Nos. 80358004 and 80357305.
- 4) Along with and attached to the letter to Respondent was a proposed Stipulation and Final Agency Order regarding Case Nos. 80358004 and 80357305 and the Board's investigatory reports for Case Nos. 80358004 and 80357305. The Board's staff commenced its investigations after receiving a credible complaint from a person with direct knowledge of allegedly wrongful conduct by Respondent, including grossly inflating an appraisal of residential property which resulted in financial injury to one or more third parties. Staff of the Board thoroughly investigated the claims presented to it and summarized the information related to those investigations in the reports that accompanied the May 23, 2008, letter to Respondent.

5) The letter was sent pursuant to Board Rule 13.9 and advised Respondent that his failure to respond timely to the letter was grounds for disciplinary action pursuant to Board Rule 13.9.

6) The letter was delivered by the United States Postal Service to Respondent on May 27, 2008, at 12500 E. Equestrian Circle, # 211, Ft. Myers, FL 33907.

7) The letter was delivered to Respondent, but Respondent did not accept delivery of the letter and it was returned to the Board.

8) On June 10, 2008, the Board mailed the Notice of Charges in this matter by first-class mail to Respondent at Respondent's address of record as maintained by the Division of Real Estate's licensee database, 12500 E. Equestrian Circle, # 211, Ft. Myers, FL 33907. By applicable Board rule, the Notice was considered served on the day it was placed in the mail. In accordance with Board rules, the Notice was sent more than 30 days prior to the time a hearing on the matter was scheduled before the Board.

9) The Notice of Charges was delivered by the United States Postal Service to Respondent on June 13, 2008, at 12500 E. Equestrian Circle, # 211, Ft. Myers, FL 33907.

10) The Board made additional efforts to contact Respondent by email and telephone regarding the letter and the Notice of Charges. While at one point the Respondent acknowledged in a voice mail left with the Board that he had received the Board's messages, Respondent never returned any of the Board's subsequent phone calls or emails.

11) Respondent failed to make any response, written or otherwise, to the Board's letter dated May 23, 2008, regarding Case # 80358004 and Case #80357305, or to the Notice of Charges.

CONCLUSIONS OF LAW

1) The Board has jurisdiction over Respondent, Respondent's license and the subject matter of this action.

2) Board Rule 13.9 effective January 1, 2008, and in effect at all times after January 1, 2008 to the present, provides that a licensee shall respond in writing to any correspondence from the Board requiring a response, which response shall be submitted to the Board within the time period provided by the Board for such response; that the Board shall send such correspondence to the licensee at the licensee's address of record with the Board; and that failure of a licensee to submit a timely response shall be grounds for disciplinary action.

3) By failing to respond to the Board's May 23, 2008 letter, as required by Board Rule 13.9, Respondent engaged in conduct that subjects him and his license to discipline.

4) Respondent's failure to respond to the May 23, 2008 Board letter violates Board Rule 13.9 and C.R.S. § 12-61-710 (1)(b), by violating Board Rule 13.9 which was promulgated pursuant to part 7 of Title 12 of the Colorado Revised Statutes.

5) Respondent's violation of Rule 13.9 is sufficient on its own to warrant suspension or revocation of Respondent's license, as Respondent's failure to respond not only contravenes one of the Board's rules, it also diminishes the Board's ability to regulate appraisers in Colorado, and limits the Board's legitimate power and ability to protect the public and the public's interests. Moreover, the underlying findings of staff in the investigative reports related to Respondent's activities are of such a serious nature that action against Respondent's license is likewise in concert with the Board's governing statute and the overall goals of the Board in regulating the practice of its appraisers.

6) When the Board has proven that a licensee has violated the Colorado appraiser law, it is authorized to impose a fine of up to five hundred dollars for each separate offense and to censure, place on probation, suspend or revoke the license of a licensee. C.R.S. §12-71-710 (5) and (6).

CONCLUSION AND ORDER

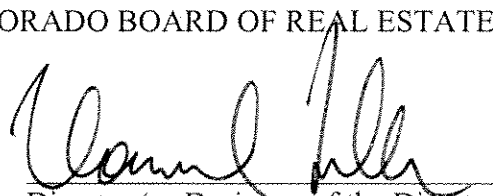
Staff presented admissible and credible evidence that Respondent violated the Board's governing statute and violated one or more applicable Board rules. Respondent did not appear in this matter to present contradictory evidence or any mitigating factors. Respondent's failure to respond to the letter of May 23, 2008, or appear and respond to the Notice of Charges demonstrates a lack of interest in defending the charges against his Colorado appraiser's license. The above, together with the seriousness of the allegations outlined in the Notice of Charges and the Board's investigatory reports, constitutes a serious violation of Board rules and the Board's governing statute. Accordingly, there is ample evidence that revocation of Respondent's license is appropriate. Conversely, there is no information before the Board indicating that some sanction other than revocation of Respondent's appraiser's license is appropriate in this case.

IT IS THEREFORE ORDERED that Respondent's real estate appraiser's license be and hereby is revoked.

Dated this 8 day of August 2008.

COLORADO BOARD OF REAL ESTATE APPRAISERS

By:



Director (or Designee of the Director) **THOMAS FELLOWS**
Colorado Board of Real Estate Appraisers **BOARD CHAIRMAN**
Division of Real Estate