

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF COLORADO

Case Nos. 80356737
80356530
80358806

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY ACTION AGAINST THE APPRAISER'S
LICENSE OF THOMAS A. SHEPARD,

Respondent.

IT IS HEREBY STIPULATED by and between the Colorado Board of Real Estate Appraisers (the "Board") and Thomas A. Shepard (the "Respondent"), as follows:

1. At all times relevant hereto, the Respondent was registered, licensed or certified as a real estate appraiser in the State of Colorado, C.R. 40013695.
2. The Board has jurisdiction over Respondent, Respondent's license and the subject matter of this action.
3. The Board commenced investigations of Respondent's appraisal activities based upon complaints filed by complainants, and complaints filed on the Board's own motion.
4. The Board notified the Respondent of the complaints and the investigations and provided Respondent copies of the complaints and investigative reports. Respondent was given the opportunity to give written data, views and arguments concerning the complaints, investigations and investigative reports.
5. Based upon reasonable investigations of the facts regarding Case Numbers 80356737, 80356530 and 80358806, and appraisals performed by Respondent, the Board found reasonable grounds exist to refer Respondent to hearing for violations of appraisal law. The Board authorized the preparation of this settlement agreement including the disciplinary terms set forth herein as a means to resolve Case Numbers 80356530, 80356737 and 80358806, without the necessity of a formal hearing. The Board believes that this settlement agreement is in the best interests of the people of the state of Colorado.

6. Respondent has been informed fully about the facts regarding Case Numbers 80356737, 80356530 and 80358806, and appraisals performed by Respondent, alleged violations of the Real Estate Appraisers Act, 12-61-701 *et. al*, C.R.S., and Uniform Standards of Professional Appraisal Practice (“USPAP”) Standards Rules.

7. Respondent neither admits nor denies that Respondent violated any of Colorado’s appraisal laws or any other law, statutory or otherwise, in preparing appraisals. Respondent agrees, however, that if the allegations underlying Case Numbers 80356737, 80356530 and 80358806, were proven at a hearing held pursuant to the Colorado Administrative Procedures Act (C.R.S. §§ 24-4-104 and 105), such would constitute violations of Colorado’s appraisal law, including violations of Board Rule 11.1, C.R.S. §§ 12-61-710(1)(b) and (g) and USPAP Standards rules.

8. In order to avoid the necessity of further proceedings, Respondent agrees to and accepts the following discipline:

a. Respondent shall be permitted to voluntarily surrender Respondent’s Colorado appraiser registration, license or certificate to the Board. Such surrender shall be effective immediately upon execution of this Stipulation and Final Agency Order by an authorized representative on behalf of the Board (herein the “effective date”). Any registration(s), license(s), certificate(s) and, or, pocket card(s) of Respondent shall be immediately returned to the Board. On and after the effective date of this Stipulation and Final Agency Order, Respondent shall not engage in any act requiring an appraiser registration, license or certificate as set forth in §§12-61-706 and 12-61-712, C.R.S. The Board reserves the right, notwithstanding the provisions of paragraph 10 below, to review the allegations and, or, charges raised by the investigations which are identified in paragraphs 3, 4 and 5 above should Respondent ever apply for any registration, license or certificate issued by the Board. The Board also reserves the right to treat the surrender of Respondent’s appraiser registration, license or certificate in all respects and without exception as a revocation ordered by the Board pursuant to C.R.S. § 12-61-710.

b. Respondent acknowledges that the Board will publish this Stipulation and Final Agency Order (or a summary of the disciplinary terms provided for herein) on the Board’s website and in the “Appraiser Update,” a Board publication, and will treat this Stipulation and Final Agency Order and the investigative reports as public records in the custody of the Board.

9. It is the intent and purpose of this Stipulation to provide for the settlement of the particular issues, allegations and, or, charges which were raised or which may have been raised by the Board, based upon its investigation of Case Numbers 80356737, 80356530 and

80358806, appraisals of performed by Respondent, all as set forth in paragraphs 3, 4 and 5 above.

10. Upon execution by all parties, this Stipulation and Final Agency Order shall represent the entire and final agreement of the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Stipulation and Final Agency Order shall be given full force and effect.

11. Respondent expressly agrees and acknowledges that Respondent has entered into this Stipulation and Final Agency Order knowingly and voluntarily. After the opportunity to consult with legal counsel, Respondent affirms that Respondent has read this Stipulation and Final Agency Order and fully understands its nature, meaning and content. Respondent agrees that upon execution of this Stipulation and Final Agency Order, no subsequent action or assertion shall be maintained or pursued by Respondent asserting the invalidity in any manner of this Stipulation and Final Agency Order.

12. Respondent understands and knowingly and voluntarily enters into this Stipulation and Final Agency Order. Respondent agrees that the following terms shall apply if Respondent fails to comply with any of the terms of this Stipulation and Final Agency Order. Respondent further understands and knowingly and voluntarily waives the following rights:

a. The right to a formal disciplinary hearing on the merits of the matters forming the basis of this Stipulation and Final Agency Order and the right to require the Board to meet its burden of proof in a formal hearing.

b. The right to confront and cross-examine all witnesses against Respondent at a formal hearing.

c. The right to subpoena witnesses, present evidence and to testify on Respondent's behalf at a formal hearing.

d. The right to engage in pre-hearing discovery of the Board's evidence.

e. The right to appeal the Final Agency Order provided for by this Stipulation.

13. The Commission expressly reserves:

- a. the right to proceed with a subsequent disciplinary action in the event that the Respondent fails to comply with the terms of the Stipulation and Final Agency Order;
- b. the right to proceed against the Respondent's license under § 12-61-307, C.R.S. if there is a payment from the Real Estate Recovery Fund based upon any conduct of the Respondent; and

14. Respondent understands and knowingly and voluntarily enters into this Stipulation and Final Agency Order. The Respondent further understands and knowingly and voluntarily waives the following rights:

- a. the right to a formal disciplinary hearing on the merits of the matters forming the basis of this Stipulation and Final Agency Order and the right to require the Commission to meet its burden of proof in the formal hearing;
- b. the right to confront and cross-examine all witnesses against the Respondent at the formal hearing;
- c. the right to subpoena witnesses, present evidence and to testify on the Respondent's own behalf at the formal hearing;
- d. the right to be represented by counsel of the Respondent's own choosing and at the Respondent's expense at any stage of this proceeding;
- e. the right to engage in pre-hearing discovery of the Commission's evidence; and
- f. the right to appeal the Final Agency Order provided for by this Stipulation.

15. On the date upon which this Stipulation is executed by an authorized representative of the Commission, it shall become the Final Agency Order of the Commission.

EXECUTED BY THE BOARD this 14th day of January 2009.

RESPONDENT

COLORADO BOARD OF REAL ESTATE
APPRAISERS

B.A. Seal

1/7/09

Marcia Waters

Director (or Designee of the Director)
Division of Real Estate
1560 Broadway, Ste. 925
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APPROVED AS TO FORM:

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