

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF COLORADO

Case No. 80358830

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY ACTION AGAINST THE APPRAISER'S
LICENSE OF DONALD STOOKEY (LICENSE # CR1326302),

Respondent.

IT IS HEREBY STIPULATED by and between the Colorado Board of Real Estate Appraisers (the "Board") and Donald Stookey ("Respondent"), as follows:

1. At all times relevant hereto, Respondent was registered, licensed or certified as a real estate appraiser in the State of Colorado.

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

3. The Board commenced an investigation of Respondent's activities based upon a complaint filed with the Board by an individual with specific knowledge of Respondent's actions.

4. The Board notified Respondent of the complaint and of the investigation and provided to Respondent a copy of the complaint and investigative report. The Board offered Respondent the opportunity to give written data, views and arguments concerning the complaint, investigation and investigative report.

5. The Board considered the investigative report regarding appraisals and the appraisal reporting of real property located in the Colorado Angler's Club Subdivision in Grand County, Colorado, and found reasonable grounds exist to refer Respondent to hearing for violations of appraisal law. The Board filed Case No. APR 2008-0002 with the Office of Administrative Courts (OAC) and the matter was set for hearing. The Board authorized the preparation of this Stipulation and Final Agency Order ("Stipulation"), including the disciplinary terms set forth herein, as a means to resolve the matter without the need for formal hearing.

6. Respondent admits that in his appraisal and appraisal reporting of eight vacant lots in the Colorado Angler's Club Subdivision in Grand County, Colorado, called the 57 Coachman Drive Appraisal and the vacant lot in the Colorado Angler's Club Subdivision in Grand County Colorado called the 60 Native Lane Appraisal, both dated

June 20, 2006, Respondent did not report the listing histories of the lots when the subject lots had been listed in the Multi List Service ("MLS"), did not report their listing price or that the lots went under contract in March 2006 and their contract sales prices, did not analyze the listing history information, current contract information and previous sales history information for the past three years of the lots or the sales history of the comparables and stated that the lots' sales prices, dates and loan terms were "unknown" when some or all of that information was readily available.

7. Respondent admits that in his appraisal and appraisal reporting of lots in the Colorado Angler's Club Subdivision with houses to be constructed on the lots he did not provide the listing histories and sales histories of the lots or analyze previous sales history information for the lots.

8. Respondent neither admits nor denies that the foregoing conduct described in paragraphs 6 and 7 or the conduct alleged in the Notice of Charges violated Colorado statute and particularly C.R.S. § 12-61-710 (1), Board Rule or any USPAP Rules or Standards Rules. However, Respondent admits that if the Board proves the allegations contained in the Notice of Charges an Administrative Law Judge could find that Respondent violated Colorado appraisal law as contained in § 12-61-701 – 718, C.R.S.; Board Rule or USPAP Rules or Standards Rules.

9. Respondent agrees to and accepts the following discipline:

a. Within 30 days from the date of execution of the Stipulation by the Board, Respondent shall retain a review appraiser at Respondent's sole expense who shall be at least a certified residential appraiser. Respondent shall submit all appraisals he performs to the review appraiser who will randomly choose 25 percent of Respondent's appraisals per quarter for review or 10 appraisals per quarter, whichever is more, and submit a quarterly report to the Board advising of Respondent's appraisal work which the review appraiser reviewed. If Respondent completes fewer than 10 appraisals in any quarter for which the review appraiser is required, the requirement for review described in this paragraph shall continue until the review appraiser has completed four quarters of review. Respondent shall correct all deficiencies in his work identified by the review appraiser and implement all practice management strategies recommended by the review appraiser. Such review appraiser shall be chosen by Respondent and approved by the Board which approval shall not be unreasonably withheld. Any fees or costs associated with the review appraiser are the Respondent's sole responsibility.

b. Within one year from the date of execution of this Stipulation by the Board, Respondent shall take all the courses required of an individual seeking to become a certified residential appraiser listed in Board Rule 2.3 A 2 except for 30 hours Basic Appraisal Principles and 30 hours Basic Appraisal Procedures. Courses which Respondent is required to take are as follows:

- * 15-hour National USPAP course
- * 15 hours – Residential market analysis and highest and best use
- * 15 hours – Residential appraiser site valuation and cost approach
- * 30 hours – Residential sales comparison and income approaches

- 15 hours – Residential report writing and case studies
- 15 hours – Statistics, modeling and finance
- 15 hours – Advanced residential applications and case studies
- 20 hours – Appraisal subject matter electives

Respondent shall submit written proof of completion of the foregoing coursework, including passing any examination given as part of the course, in a form and manner acceptable to the Board by the due date (one year from the Board's execution of the Stipulation). Such courses may be taken on line if so available. However, if Respondent cannot complete the courses specified above by the due date because any of the courses were not available during the time required herein, he may petition the Board for an extension of time describing the reasons for the extension, which extension of time will not be unreasonably denied by the Board. The foregoing coursework shall be completed in addition to any continuing education courses required by §12-61-706, C.R.S. and the rules and regulations of the Board.

c. 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 report as public records in the custody of the Board.

10. It is the intent and purpose of this Stipulation to provide for the settlement of the particular issues, allegations or charges raised by the investigation of Respondent's activities by the Board and any appraisals done by Respondent in the Colorado Angler's Club Subdivision done in the year 2006 whether or not specifically alleged in the Notice of Charges in Case No. APR 2008-0002 pending in the Office of Administrative Courts.

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

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

13. 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:

a. Such failure shall constitute a violation of C.R.S. §12-61-710(1)(b) and the Board shall have the right to proceed with formal disciplinary action against Respondent pursuant to C.R.S. §§12-61-710, 24-4-104 and 24-4-105. Completion of the terms of this Stipulation and Final Agency Order after the date required herein shall not excuse the failure to comply nor prohibit the Board from proceeding with such formal disciplinary action.

b. In a proceeding against Respondent for failing to comply with the terms of this Stipulation, this Stipulation shall be admissible as evidence, and the matters at issue shall be limited to the question of whether or not Respondent has failed to comply with the terms of this Stipulation. Any issues relating to the underlying complaint or investigation that formed the basis for disciplinary action against Respondent (and any defenses that Respondent may have to such complaint and investigation) shall specifically not be at issue in the proceeding against Respondent for failing to comply with the terms of this Stipulation and Final Agency Order.

c. In the event that Respondent is found, after a hearing, to have failed to comply with any of the terms of this Stipulation, Respondent stipulates and agrees that the appropriate form of formal discipline to be imposed by the Board shall consist of suspension of Respondent's appraiser registration, license or certificate for a period of 90 days. Upon such suspension, Respondent shall not engage in any act requiring an appraiser registration, license or certificate as set forth in C.R.S. §§12-61-706 and 12-61-712 for the duration of the suspension. Respondent shall also be required to pay any unpaid fee provided for in this Stipulation for Diversion. The Board shall also have the right to publish the Final Agency Order from the hearing (or a summary of the disciplinary terms therein) on the Board's website and in the "Appraiser Update," a Board publication, and to treat such Final Agency Order as a public record in the custody of the Board.

14. Respondent understands and knowingly and voluntarily enters into 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 be represented by counsel of Respondent's own choosing and at Respondent's expense at any stage of this proceeding.

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

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 Board, it shall become the Final Agency Order of the Board.

16. Upon entry of this Stipulation as a Final Agency Order, the Board shall file a Motion to Dismiss OAC Case No. APR 2008-0002.

EXECUTED BY THE BOARD this 15th day of May 2009.

RESPONDENT

COLORADO BOARD OF REAL ESTATE
APPRAISERS

Donald Stookey 5-12-2009

Donald Stookey, Dated:
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By: Marcia Waters

Director (or Designee of the Director)
Division of Real Estate
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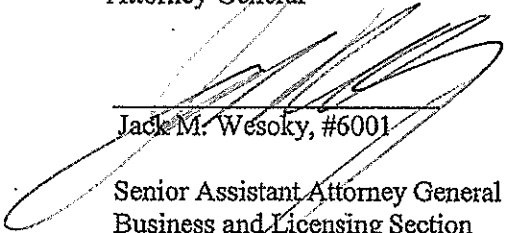
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APPROVED AS TO FORM

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