

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF COLORADO

OAC Case No. APR 2009-0002

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY ACTION AGAINST THE APPRAISER'S
LICENSE OF **MARK YOUNG (LICENSE # CR40030360)**,

Respondent.

IT IS HEREBY STIPULATED by and between the Colorado Board of Real Estate Appraisers (the "Board") and 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 on the Board's own motion or by individuals 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, the investigation and the investigative report.
5. The Board considered the investigative report regarding the appraisal and the appraisal reporting of the property located at 5046 McClure Lane, Castle Rock, CO (the "subject property") and found reasonable grounds exist to refer Respondent to hearing for violations of appraisal law. The Board authorizes the preparation of this settlement agreement including the disciplinary terms set forth as a means to resolve the matter without the need for formal hearing.
6. Respondent neither admits nor denies the allegations contained in the Notice of Charges in OAC Case No. APR 2009-0002, but Respondent admits the allegations, if proven at hearing held pursuant to the Colorado Administrative Procedure Act, C.R.S. 24-4-104 and 24-4-105, would constitute a violation or violations USPAP Scope of Work Rule, USPAP Standards Rule 1-1(b); USPAP Standards Rule 1-

2(e), USPAP Standards Rule 1-4(a), USPAP Standards Rule 1-5, Board Rule 11.1 and C.R.S. §§ 12-61-710(1)(b) and (g), and would properly subject Respondent to the imposition of discipline.

7. The Respondent agrees to and accepts the following discipline:

a. **Course Work:**

60 or more hours of real estate appraisal education, to be completed successfully. To be “completed successfully,” Respondent must pass any required examination given as part of the course. As part of the 60 hours of real estate appraisal education, Respondent must complete successfully:

1. 15- hour National USPAP Course (15 classroom hours), to be completed successfully within twelve (12) months after the execution of this Stipulation by the Board.
2. Residential appraiser site valuation and cost approach (15 classroom hours), to be completed successfully within three (3) months after the execution of this Stipulation by the Board.
3. Residential report writing and case studies (15 classroom hours), to be completed successfully within three (3) months after the execution of this Stipulation by the Board.
4. Advanced residential applications and case studies (15 classroom hours), to be completed successfully within twelve (12) months after the execution of this Stipulation by the Board.

Respondent shall also submit written proof of course work completion in a form and manner acceptable to the Board within the designated time frame for successful completion of each course. All such course work 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. Additionally, the coursework cannot be used to satisfy any subsequent license upgrade application.

b. **Work Product Review:**

Within thirty (30) days after execution of this Stipulation, Respondent must obtain approval from the Colorado Division of Real Estate, Appraiser Program Manager of an independent third party certified appraiser who will perform a review of a minimum of six (6) of Respondent’s appraisal reports over a period of not less than six (6) months from the date approval of the review appraiser is provided to Respondent.

During the review period, Respondent must provide the approved review appraiser with a list of all reports completed by Respondent during the preceding month. The review appraiser will then select appraisals to review and perform a field review from the list provided by Respondent.

Respondent will correct all deficiencies in Respondent's work that are identified by the review appraiser or contact the Board as to why Respondent believes the corrections should not be made. Respondent shall also implement all practice management strategies recommended by the review appraiser.

Respondent shall be responsible for notifying the Colorado Division of Real Estate, Appraiser Program Manager in writing upon completion of the work product review required above. Upon receipt of such written notification, the Appraiser Program Manager will determine whether Respondent completed successfully the work product review. In making this decision, the Appraiser Program Manager will request input from the review appraiser who reviewed Respondent's work product to determine if Respondent is performing USPAP compliant appraisals.

If the Appraiser Program Manager determines that Respondent failed to comply with the recommendations of the review appraiser or the recommendations of the Board, Respondent shall be subject to an additional six (6) months of work review as outlined above. If, after the additional six months, the Appraiser Program Manager determines that Respondent failed to comply with the recommendations of the review appraiser or the recommendations of the Board, Respondent will be suspended automatically for a minimum period of three (3) months and continue to be suspended until Respondent successfully and competently completes 20 appraisals with supervision.

All fees and costs associated with the review of Respondent's work product shall be paid by Respondent.

c. **Fine:**

The Respondent shall pay a fine to the Board in the amount of \$375.00. Respondent understands and acknowledges that, pursuant to section 24-34-108, C.R.S., the Executive Director of the Department of Regulatory Agencies shall impose an additional surcharge of 15% of this fine. Thus, Respondent shall pay a total amount of \$431.25. Said fine shall be payable to the Board within seven (7) days after the execution of this Stipulation and Final Agency by an authorized Board representative.

8. It is the intent and purpose of this Stipulation to provide for the settlement of the particular issues, allegations and/or charges raised by the investigation of Respondent's activities by the Board as set forth in complaint number 80358340 regarding the subject property. This Stipulation and Final Agency Order does not resolve any other pending or future complaints and the Board specifically reserves the right to take

action upon any additional complaint other than those specifically referred to in this paragraph.

9. 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.
10. 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.
11. 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. In the event that Respondent fails to comply with any of the terms of this Stipulation and Final Agency Order, such failure shall constitute a violation of §12-61-710(1)(b), C.R.S., and the Board shall have the right to proceed with formal disciplinary action against Respondent pursuant to §12-61-710, §24-4-104 and §24-4-105, C.R.S. Completion of the terms of this Stipulation and Final Agency Order after the date required herein neither shall 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 and Final Agency Order, this Stipulation and Final Agency Order 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 any of the terms of this Stipulation and Final Agency Order. 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) specifically shall 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 and Final Agency Order, Respondent stipulates and agrees that the appropriate form of formal discipline to be imposed by the Board shall consist of revocation of Respondent's appraiser registration, license or certificate. Upon such revocation, Respondent shall not

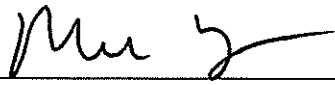
engage in any act requiring an appraiser registration, license or certificate as set forth in §§12-61-706 and §12-61-712, C.R.S.

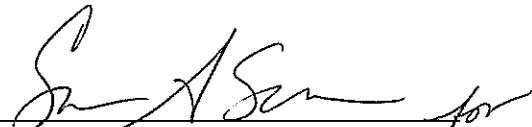
12. The Board shall have the right to publish this Stipulation and Final Agency Order (or a summary of the disciplinary terms therein) on the Board's website and in the Board's newsletter, and to continue thereafter to treat such Final Agency Order as a public record in the custody of the Board.
13. 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 own 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.
14. 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.

EXECUTED BY THE BOARD this 16th day of July, 2009

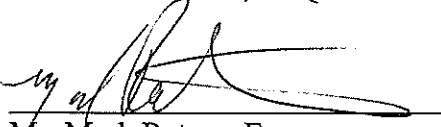
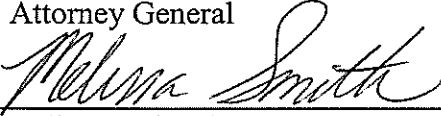
RESPONDENT

COLORADO BOARD OF REAL ESTATE APPRAISERS


Respondent Mark Young

By: 
Erin Toll (or Designee of the Director)
Division of Real Estate
1560 Broadway, Ste. 925
Denver, CO 80202

APPROVED AS TO FORM:

<p>MARK RATNER, ESQ.</p>  <hr/> <p>Mr. Mark Ratner, Esq. Hall & Evans, L.L.C. 1125 17th Street, Ste. 600 Denver, CO 80202</p> <p>Attorney for Mark Young, Respondent.</p>	<p>JOHN W. SUTHERS Attorney General</p>  <hr/> <p>Melissa Smith, *37020 Lisa Brenner Freimann,*31175 Assistant Attorneys General Business and Licensing Section Attorneys for the Colorado Board of Real Estate Appraisers 1525 Sherman Street, 7th Floor Denver, Colorado 80203 Telephone: (303) 866-5245 FAX: (303) 866-5395 *Counsel of Record</p>
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