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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Appraiser License of:

No. 16F-3812-BOA

WALTER REED

Certified Residential Appraiser
License No. 20769

**CERTIFICATION OF DECISION
OF ADMINISTRATIVE
LAW JUDGE**

Respondent.

I have reviewed the records of the Office of Administrative Hearings and as co-custodian of such records have determined:

1. On July 14, 2016, the Administrative Law Judge Decision in the above entitled matter was transmitted to the Division of Real Estate Appraisal by electronic filing.
2. Pursuant to A.R.S. § 41-1092.08 and A.R.S. § 1-243, the Division of Real Estate Appraisal had until August 18, 2016, to accept, reject or modify the Administrative Law Judge Decision, as evidenced by receipt of such action by the Office of Administrative Hearings.
3. No action by the Division of Real Estate Appraisal was received by the Office of Administrative Hearings as of August 18, 2016.

Therefore, pursuant to A.R.S. § 41-1092.08(D), the attached Administrative Law Judge Decision is certified as the final administrative decision of the Division of Real Estate Appraisal.

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NOTICE

Rights for Rehearing or judicial review will be lost without action taken in a timely manner. A Party has the right to request a rehearing from the Division of Real Estate Appraisal pursuant to A.R.S. § 41-1092.09(A). In addition, the matter may be reviewed by the Superior Court, pursuant to A.R.S. § 41-1092.08(H), although a party may be required to seek a rehearing from the Division of Real Estate Appraisal before petitioning the Superior Court for such review. See A.R.S. § 41-1092.09(B). Further rights may be lost without action taken in a timely manner. Parties may wish to review these statutes as quickly as possible after receipt of this notice. The relevant statutes may be found at the local library or on the internet at:

<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>.

Not later than ten days after a complaint for judicial review of an administrative decision is filed with the Superior Court, the party who filed the complaint must file a notice of the action with the Office of Administrative Hearings.

Done this day, August 23, 2016.

/s/ Greg Hanchett
Interim Director

Copy mailed/e-mailed/faxed August 23, 2016 to:

Robert D. Charlton,
Arizona Department of Financial Institutions
ATTN: Sabrina Zimmerman
2910 North 44th Street, Suite 310
Phoenix, AZ 85018

Copy mailed August 23, 2016 to:

Attorney General's Office
Shane Foster
1275 West Washington
Phoenix, AZ 85007

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Walter Reed
454 W. Remington Drive
Chandler, AZ 85286

Board of Appraisal
Debra Rudd
2910 N. 44th St, Suite 310
Phoenix, AZ 85018

By Rosella J. Rodriguez

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Appraiser License of:

No. 16F-3812-BOA

WALTER REED

ADMINISTRATIVE LAW JUDGE

Certified Residential Appraiser
License No. 20769

DECISION

Respondent.

HEARING: June 29, 2016, at 1:00 p.m.

APPEARANCES: The Arizona Department of Financial Institutions (“the Department”) was represented by Lynette Evans, Esq., Assistant Attorney General; Walter Reed (“Respondent”) failed to appear.

ADMINISTRATIVE LAW JUDGE: Diane Mihalsky

FINDINGS OF FACT

1. The Department has been authorized and entrusted by the Arizona legislature to regulate the appraisal profession in the State of Arizona by issuing licenses, investigating complaints, and disciplining licensees.

2. On November 10, 1994, Respondent was issued Certified Residential Appraiser License No. 20769. That certificate is currently scheduled to expire on November 30, 2016.¹

3. On June 6, 2015, and June 9, 2015, two unrelated consumers filed complaints against Respondent regarding his appraisals of two different properties with the Department’s predecessor.²

4. The Department investigated the complaints and concluded that Respondent had committed various violations of the Uniform Standards of Professional Appraisal Practice (“USPAP”) in preparing the two appraisals.³

¹ See the Department’s Exhibit 1.

² See the Department’s Exhibits 2 and 3.

³ See the Department’s Exhibit 4 (attachments).

1 5. After the Department shared the results of its investigation with Respondent,
2 on September 21, 2015, Debra Rudd (“Ms. Rudd”), the Manager of the Department’s
3 Real Estate Appraisal Division, offered Respondent a consent agreement to resolve the
4 two complaints. The consent agreement required Respondent to admit the USPAP
5 violations, to waive his right to request a hearing, and within six months of the date of
6 the letter, to complete a 15-hour course on Report Writing with exam, which could be
7 used toward his continuing education.⁴

8 6. On November 4, 2015, Respondent signed a consent agreement to accept
9 its terms.

10 7. Respondent did not complete the 15-hour course on Report Writing with an
11 exam on or before March 21, 2016, six months after the Department’s September 21,
12 2015 letter, or at any time thereafter.

13 8. Instead, in a letter dated March 19, 2016, which the Department received on
14 March 23, 2016, Respondent informed Ms. Rudd that he would not complete the 15-
15 hour course on Report Writing with exam, in relevant part as follows:

16 I have given it much thought and have concluded that, after
17 writing various kinds of reports for over 30 years, including
18 SAMDA contracts for the RTC and the FDIC and to a lesser
19 extent, following up on Congressional inquiries regarding
20 real estate fraud, not to mention my last 22 years of
21 appraising, if you think for one minute that I am going to
22 follow through on attending some asinine class in report
23 writing, at my age, you must be smoking some of that new
24 Colorado weed. What is the instructor going to teach me:
25 how to fill in the blanks and summarize opinion based data,
26 because that is what residential appraising is and has
27 always been but how would you know?

28

29 Your lack of Residential Certification precludes you from
30 overseeing any aspect of the residential complaint process.
How you finagled yourself to achieve that level of
authoritativeness over residential appraisers should be
grounds for an investigation.

⁴ See the Department’s Exhibit 4 at 1-2.

1 But, forever humble that I am, I may give you the benefit of
2 the doubt and come to an agreement with you: I *might*
3 *consider* taking a completely unnecessary and insulting
4 class in report writing if, and only if, you take it before me
5 because you need it one hell of [a] lot more than me.

6

7 *Take a class in report writing – what is this, third grade?*⁵

8 9. The Department referred the matter to the Office of Administrative Hearings
9 (“OAH”), an independent agency, for an evidentiary hearing.

10 10. On May 4, 2016, the Department issued a Complaint and Notice of Hearing
11 for Revocation of License, setting an administrative hearing on June 29, 2016, at 1:00
12 p.m. and charging that cause existed to revoke Respondent’s real estate appraiser’s
13 license under A.R.S. § 32-3631(A)(8).

14 11. The Complaint and Notice of Hearing was sent to Respondent via certified
15 and regular mail to his most recent address of record.

16 12. Respondent did not appear personally or through an attorney at the duly
17 noticed hearing, did not request to appear telephonically, and did not contact OAH to
18 request a continuance or that the time for the hearing be delayed. Respondent did not
19 present any evidence to defend his license.

20 13. The Department presented the testimony of its Ms. Rudd and submitted
21 five exhibits.

22 14. Ms. Rudd testified that on July 3, 2015, the Department’s Real Estate
23 Appraisal Division was consolidated with the former independent Board of Appraisal
24 (“the Board”). Ms. Rudd was the former executive director of the Board and, before
25 that, had been a member of the Board since 2007.

26 15. Ms. Rudd explained that in 1989, as a result of the Savings and Loan crisis
27 that was worsened by questionable real estate appraisals, the United State Congress
28 passed the Financial Institutions Reform, Recovery And Enforcement Act (“FIRREA”),
29 part of which imposes federal regulatory requirements on real estate appraisers. The
30 Dodd-Frank Act amended FIRREA.

1 16. Ms. Rudd testified that under FIRREA, federally regulated transactions
2 could be completed by state-licensed appraisers if the responsible state agency had in
3 place requirements, including that the appraisers would comply with USPAP and
4 procedures for enforcing compliance. Ms. Rudd testified that if the Department did
5 nothing and allowed Respondent's license to expire, the Department's inaction could
6 have an adverse effect on its licensing authority because FIRREA required regulatory
7 agencies to resolve all complaints within 12 months.

CONCLUSIONS OF LAW

8
9 1. The Complaint and Notice of Hearing for Revocation of License that the
10 Department mailed to Respondent at his address of record was reasonable and he is
11 deemed to have received notice of the hearing.⁶

12 2. The Superintendent of the Department has the authority and duty to regulate
13 all persons engaged in the activities of real estate appraisal and with the enforcement
14 of statutes, rules, and regulations relating to real estate appraisals.⁷ This matter lies
15 within the Department's jurisdiction.

16 3. The Department bears the burden of proof to establish Respondent's
17 statutory violation by a preponderance of the evidence.⁸ "A preponderance of the
18 evidence is such proof as convinces the trier of fact that the contention is more
19 probably true than not."⁹

20 4. The Department established that Respondent willfully disregarded the
21 September 21, 2015 consent agreement that he signed on November 4, 2015.
22 Therefore, the Department established grounds to discipline Respondent's real estate
23 appraiser's license under A.R.S. § 32-3631(A)(8).¹⁰

24
25 ⁵ The Department's Exhibit 5 at 1-2.

26 ⁶ See A.R.S. §§ 41-1092.04; 41-1092.05(D).

27 ⁷ See A.R.S. § 32-3601 *et seq.*

28 ⁸ See A.R.S. § 41-1092.07(G)(1); A.A.C. R2-19-119; see also *Vazanno v. Superior Court*, 74 Ariz. 369,
372, 249 P.2d 837 (1952).

29 ⁹ Morris K. Udall, ARIZONA LAW OF EVIDENCE § 5 (1960).

30 ¹⁰ A.R.S. § 32-3631(A)(8) provides in relevant part as follows:

The board . . . may revoke or suspend the rights of a license or
certificate holder or otherwise discipline a registered trainee appraiser or
a state licensed or state certified appraiser for any of the following acts
or omissions:

1 5. With respect to the penalty, Respondent's March 19, 2016 letter to Ms. Rudd
2 evidenced an utter lack of respect for the Department and a total disregard for
3 regulatory requirements. His letter, along with his failure to appear at the duly noticed
4 hearing, show that he cannot be regulated.

5 **RECOMMENDED ORDER**

6 Based on the foregoing, it is recommended that on the effective date of the final
7 order in this matter, Respondent Walter Reed's Certified Residential Appraiser License
8 No. 20769 shall be revoked.

9 *In the event of certification of the Administrative Law Judge Decision by the*
10 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
11 *five days from the date of that certification.*

12 Done this day, July 13, 2016.

13 /s/ Diane Mihalsky
14 Administrative Law Judge

15 Transmitted electronically to:

16 Andy Tobin, Superintendent
17 Arizona Department of Financial Institutions
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29 8. Wilfully disregarding or violating any of the provisions of this chapter
30 or a board order or the rules of the board for the administration and
 enforcement of this chapter.