

STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS 633 17 TH Street, Suite 1300 Denver, Colorado 80202	▲ COURT USE ONLY ▲
Colorado State Board of Real Estate Appraisers, Petitioner, vs. James Esters, Respondent.	
CASE NUMBER: APR 2006-0009	
STIPULATION AND FINAL AGENCY ORDER	

IT IS HEREBY STIPULATED by and between the Colorado Board of Real Estate Appraisers (the "Board") and James Esters ("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 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 allowed Respondent to give written data, views and arguments concerning the complaint, investigation and investigative report.
5. At a regularly scheduled public meeting held on October 13, 2006, the Board considered the investigative report regarding the appraisal and appraisal reporting of properties known as 2681 Emilia Street, Pueblo, Colorado; 1230 Elm Street, Pueblo, Colorado; 1800 E. Evans Ave., Pueblo, Colorado; 1712 Quillian Ave., Pueblo, Colorado; 1322 Bragdon Ave., Pueblo, Colorado; 2026 E. Routh St., Pueblo, Colorado; and 1716 Jones Ave., Pueblo, Colorado, and found probable cause to refer Respondent to hearing for violation of real estate appraiser licensing law. Additionally, on or about February 28, 2007, acting under a Delegation of Authority from the Board, Staff for the Board directly referred to the Office of the Attorney General two additional matters for hearing, requesting discipline regarding an appraisal report

for property situated at 1706 Spruce St., Pueblo, Colorado, and requesting discipline for Respondent's non-compliance with a June 2006 Stipulation and Final Agency Order in regard to Case Numbers 805 5199 and 803 56820.

6. Respondent neither admits nor denies the allegations contained in the investigative report described in Paragraph 5 above. Respondent admits that the allegations stated in the investigative report, if proven at a hearing held pursuant to the Colorado Administrative Procedure Act, §§24-4-104 and 24-4-105, C.R.S., would constitute a violation or violations of §12-61-710(g), C.R.S., and would properly subject Respondent to the imposition of discipline.

7. Respondent and the Board agree to and accept the following terms:

a. The Board has assessed an administrative fine against Respondent in the amount of \$24,000.00 (the "Administrative Fine"). Respondent and the Board agree that Respondent shall pay \$7,500.00 of the Administrative Fine to the Board in three payments. The first payment of \$3,500.00 is due and payable immediately upon acceptance and execution of this Stipulation and Final Agency Order. The remaining \$4,000.00 shall be paid to the Board in two installments of \$2,000.00 each, which payments shall be made within six and twelve months, respectively, of the signing and execution of this Stipulation and Final Agency Order. All payments described in this sub-paragraph "a" shall be paid by means of certified funds such as money order, bank check, certified check or other guaranteed funds.

b. The remainder of the Administrative Fee (\$16,500.00) shall be permanently stayed unless Respondent attempts to re-apply for an appraiser license as set forth in sub-paragraph "d" of this paragraph 7. The Board agrees that it will not seek collection of this amount and will not attempt to reduce the terms of this Stipulation and Final Agency Order to a civil judgment unless Respondent fails to comply with the terms of this Stipulation and Final Agency Order.

c. Respondent shall permanently surrender his license to the Board. Respondent understands and agrees that such surrender is equivalent to revocation of licensure as provided in §12-61-710(5)(a), C.R.S. Such surrender shall be effective upon execution of this Stipulation and Final Agency Order by the parties. 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 permanently refrain from engaging in any act requiring licensure as an appraiser as set forth in §§12-61-706 and 12-61-712, C.R.S.

d. Respondent agrees that should he ever attempt to re-apply for licensure as a real estate appraiser in the State of Colorado, that portion of the Administrative Fine to be stayed as set out in paragraph 7(b) above, shall be due and payable to the Board, in full and in one lump-sum payment, prior to his submitting an application for licensure as a real estate appraiser in the State of Colorado. Respondent and the Board agree and understand that payment of any amount as described herein shall not be deemed to effect a renewal or guarantee a more favorable review of a future application for licensure.

e. Respondent agrees that should he make application for licensure or certification with any other program within the Division of Real Estate at any time in the future, he shall reference Office of Administrative Court Case Number 2006-0009, *State Board of Real Estate Appraisers v. James Esters*, in his application as to previous disciplinary action.

f. Respondent agrees that the Board shall have the right to 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 to continue thereafter to treat this Stipulation and Final Agency Order as a public record in the custody of the Board.

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 paragraphs 3, 4 and 5 above.

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. Regardless of whether Respondent has been represented by 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 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 the formal hearing.

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

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

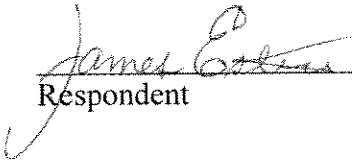
e. The right to engage in pre-hearing discovery of the Board's evidence.

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

12. 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 19th day of June 2007.

JAMES ESTERS


Respondent


By:

COLORADO BOARD OF REAL ESTATE APPRAISERS


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

Approved as to Form:

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