

**BEFORE THE WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD**

**WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD,**

Complainant,

v.

COMPLAINT NO.: 13-014

JOE HOLT,

Respondent.

FINAL ADMINISTRATIVE ORDER

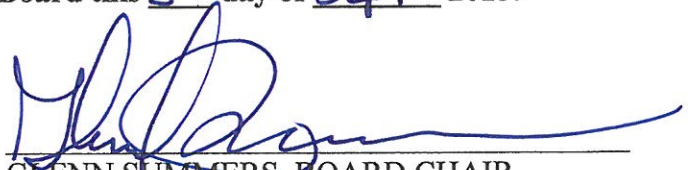
Upon review of the record in the above-styled matter, the West Virginia Real Estate Appraiser Licensing and Certification Board, (hereinafter "Board") hereby ADOPTS, in its entirety, the Recommended Decision of the Hearing Examiner, dated August 10, 2015, which is attached hereto and incorporated by reference herein. Based on the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Examiner, the Board hereby ORDERS as follows:

1. The Board shall ADOPT and RATIFY verbatim the Findings of Fact, Conclusions of Law and Recommended Order entered on August 10, 2015, attached hereto and incorporated by reference herein.
2. The appraiser license of and/or the right to an appraiser license for Joe Holt (hereinafter "Respondent"), License Number LR0758, is hereby **REVOKED**. The Respondent shall not engage in the practice or business of real estate appraising whatsoever, either directly or indirectly, in the State of West Virginia.

3. That the Respondent shall reimburse the Board the sum of Two Thousand Eight Hundred Eighteen and 94/100 Dollars (\$2,818.94) for the costs incurred by the Board associated with the prosecution of this matter. Such payment shall be paid to the Board upon entry of this Order.

4. That the Respondent shall be assessed a fine in the amount Two Thousand Five Hundred Dollars (\$2,500.00) to be paid upon entry of this Order.

ENTERED into the records of the Board this 3RD day of SEPT 2015.



GLENN SUMMERS, BOARD CHAIR
West Virginia Real Estate Appraiser
Licensing and Certification Board

Pursuant the West Virginia Code §29A-5-4(b) an appeal of this decision may be made at the election of the licensee, in either the circuit court of Kanawha County, West Virginia or in the circuit court of the county in which the licensee resides or does business, within thirty days after the date upon which such party received notice of the final order or decision of the agency. A copy of the petition shall be served upon the agency and all other parties of record by registered or certified mail. The petition shall state whether the appeal is taken on questions of law or questions of fact, or both. No appeal bond shall be required to effect any such appeal.

CERTIFICATE OF SERVICE

I, Glenn Summers, Chair of the West Virginia Real Estate Licensing and Certification Board, do hereby certify that a true and exact copy of the foregoing "Final Administrative Order" was served upon the following by certified mail, return receipt requested this 3RD day of September 2015 addressed as follows:

Joe M. Holt
P.O. Box 1124
Lewisburg, West Virginia 24901


Glenn Summers, Chair

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**HEARING EXAMINER'S FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDED ORDER**

This matter came on for evidentiary hearing on the 7th day of May, 2015, before the undersigned Hearing Examiner Jack C. McClung pursuant to a Statement of Charges issued by Complainant West Virginia Real Estate Appraiser Licensing and Certification Board against Respondent Joe Holt. This matter was initially set for hearing for January 14, 2015, but was continued upon motion of the Respondent and subsequently conducted on May 7, 2015.

Complainant West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Complainant" or "Board") appeared by its counsel, Darlene Ratliff Washington, Senior Assistant Attorney General. Respondent Joe Holt (hereinafter "Respondent" or "Holt") appeared in person, pro se.

All witnesses were sworn, documents (Exhibits 1 - 6) were received into evidence, the hearing was recorded electronically, and a transcript prepared and distributed to the parties. .

After a review of the record and exhibits admitted into evidence at the hearing of this matter, after assessing the credibility of all testimony of witnesses of record and weighing the evidence in

consideration of the findings as to credibility, and after consideration of the proposed findings of fact and conclusions of law as were filed by the parties, the undersigned hearing examiner makes the following findings of fact, conclusions of law, and proposed order.

To the extent that these findings and conclusions are inconsistent with any proposed findings of fact and conclusions of law submitted by the parties, the same are rejected by the hearing examiner. Conversely, to the extent that these findings and conclusions are generally consistent with any proposed findings of fact and conclusions of law submitted by the parties, the same are accepted and adopted. To the extent that the testimony of any witness is not in accordance with these Findings and Conclusions, such testimony is not credited. Any proposed finding of fact, conclusion of law, or argument proposed or submitted by a party but omitted herein is deemed irrelevant or unnecessary to the determination of the material issues in this matter.

CREDIBILITY OF WITNESSES, TESTIMONY, AND EXHIBITS

The hearing examiner was and is satisfied that all records and documents entered as exhibits are complete, authentic and valid, and that they were entered with the proper evidentiary foundations.

The hearing examiner was and is satisfied that the witnesses brought on by the parties were credible and truthful except as noted below. Neither the demeanor of the witnesses nor the substance of any testimony suggested any inconsistency, conflict, or ulterior motive except as noted below.

FINDINGS OF FACT

1. The Board is a regulatory agency created for the purpose of regulating the practice of real estate appraising in the State of West Virginia. W. Va. Code § 30-38-1 *et seq.*
2. The Respondent is a licensee of the Board, possessing License Residential (LR) Appraiser Number LR0758, and is therefore subject to the jurisdiction of the Board.
3. Sandra S. Kerns, Executive Director of the Board (hereinafter “Kerns”) , testified that the

Respondent holds the lowest license issued by the Board, which is a LR license. Hearing Transcript (hereinafter “Tr.”) at 9.

4. R. Scott Barber (hereinafter “Barber”), a Certified General Appraiser and former Chair of the Board, testified that he received a letter dated August 23, 2013 at his home address from the Respondent, and that the letter was addressed to the Board and himself. *See* Attachment A to Statement of Charges; Tr. at 26.

5. The letter requested Board permission for the Respondent to continue to serve as a Supervisor for his son. Tr. at 6.

6. Mr. Barber testified that he hand-delivered the letter to the Board Office. Tr. at 26.

7. Kerns testified that the letter was received in the Board Office on August 27, 2013.

8. In demonstration of his abilities to be a supervisor, the Respondent attached a copy of an appraisal he had prepared for property located at HC 40, Box 9, Battle Hill, Lewisburg, West Virginia. *See* Attachment A to Statement of Charges; Tr. at 10, 27 and 28.

9. In the appraisal, Respondent concluded that the market value of the subject property was Two Million Three Hundred Thousand Dollars (\$2,300,000.00). *See* Attachment A to Statement of Charges; Tr. at 10, 27 and 28.

10. After reviewing the appraisal the Board voted at its September 12, 2013, meeting to open a complaint and refer the matter to the Standards Committee for further investigation. Board Exhibit 1; Tr. at 12.

11. A complaint was therefore opened on September 12, 2013 and sent to the Standards Committee (hereinafter “Committee”). Tr. at 16 - 17.

12. The Committee began an investigation into the practice of the Respondent, which included not only the question of him remaining as a supervisor for his son but also concerns regarding the

appraisal attached to Respondent's August 23, 2013, supervisor request.

13. At its meeting of March 10, 2014, the Board voted that the Standards Committee conduct a further investigation of Respondent. Board Exhibit 2; Tr. at 14 - 15.

14. By letter of April 10, 2014, the Board directed Respondent to send the Board a copy of the complete appraisal report as submitted to the client and a copy of the complete work file, including all communications with the client and the scope of work as it related to the property at HC 40, Box 9, Battle Hill, Lewisburg, West Virginia. Board Exhibit 3; Tr. at 16 - 17.

15. On April 24, 2014, the Board received a copy of the requested appraisal of the Respondent along with his response to the Board initiated complaint. Board Exhibit 4; Tr. at 19.

16. Upon the recommendation of the Committee, the Board determined at its May 15, 2014, meeting that there was probable cause to believe that the Respondent violated the Practice Act by conducting an appraisal outside the scope of his license. Board Exhibit 5; Tr. at 22.

17. Barber testified that an LR license issued by the Board would permit an appraiser to appraise non-complex residential real estate having a value of less than One Million Dollars. Tr. at 29.

18. Barber also testified that the appraisal performed by the Respondent had a reconciled value of 2.3 Million Dollars, which is beyond the scope of an appraisal that could be performed by someone with an LR license. Tr. at 28 - 30.

19. In the course of questioning Barber, Respondent stated that the subject appraisal was "bogus" (Tr. at 38) because (quoting his statement to his son, who was assisting on the appraisal) there "isn't a comp [comparable] that would be suitable for this appraisal." Tr. at 40.

20. In a further statement made during his questioning of Barber, Respondent acknowledged that he violated the Practice Act in stating as follows.

So I violated every USPAP law you've got I really shouldn't have done it, but I did

it, and I really don't regret doing it because I enjoyed the hell out of it. These people were just remarkable. I just loved working for them. That's all I have to say to you, sir.

Tr. at 49.

1. While the above-cited statements were made by Respondent in his role as a pro-se party questioning a Board witness (Barber), such statements are found to be admissible, credible, and probative evidence in this matter as admissions against interest by the Respondent.

CONCLUSIONS OF LAW

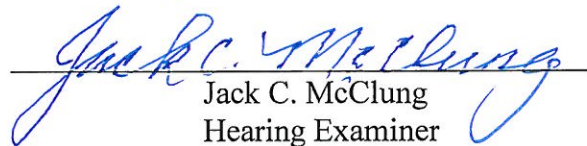
1. The West Virginia Real Estate Appraiser Licensing and Certification Board has jurisdiction over this matter. W. Va. Code § 30-38-1 *et seq.*
2. The Respondent is a licensee of the Board and is subject to the license requirements of the Board.
3. Pursuant to the provisions of W. Va. Code § 30-38-1 *et seq.* and the rules promulgated thereunder, the Board has the power to revoke a license, place a licensee on probation, suspend a license, reprimand licensees or take other disciplinary action.
4. The factual record of this matter establishes that Respondent failed to use diligence, or was negligent or incompetent in developing and preparing the subject appraisal in this matter, all of which are grounds for disciplinary action.
5. In statements made at the hearing of this matter, Respondent acknowledged that he violated the Practice Act.
6. It is therefore concluded that Respondent Joe Holt has violated W. Va. Code § 30-38-4, 12(11) and 17, all as alleged in the Statement of Charges filed by Complainant West Virginia Real Estate Appraiser Licensing and Certification Board.

7. It is therefore concluded that the allegations of Complainant Board as stated in the said Statement of Charges in this matter should be affirmed in all respects, that any objection or defense thereto by Respondent Holt should be denied, and that the Board should discipline Respondent's license accordingly.

RECOMMENDED ORDER

It is therefore recommended as to the Statement of Charges filed in this matter by Complainant West Virginia Real Estate Appraiser Licensing and Certification Board. that the allegations stated in the said Statement of Charges as to Respondent Joe Holt be SUSTAINED, that any objections or defenses thereto by Respondent be DENIED, and that the Board act under authorization of law to discipline the license of Respondent Joe Holt accordingly.

RECOMMENDED THIS 10TH DAY OF August, 2015.



Jack C. McClung
Hearing Examiner