

DIVISION OF REAL ESTATE
DEPARTMENT OF COMMERCE
DEANNA D. SABEY, DIRECTOR
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SALT LAKE CITY, UTAH 84114-6711
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BEFORE THE UTAH REAL ESTATE APPRAISER LICENSING AND CERTIFICATION
BOARD

In the Matter of the License
of Peggy McKenzie to Act as a
Certified Residential Appraiser

STIPULATION & ORDER
CASE NO. AP-10-42038
AP-10-43075
AP-10-48913

The Division of Real Estate of the Department of Commerce of the State of Utah (the Division), by and through its Director of Enforcement, Dee Johnson, and Peggy McKenzie (Respondent), a Certified Residential Appraiser, hereby stipulate and agree as follows:

STIPULATION

1. Respondent is a licensee of the Division, licensed as a Certified Residential Appraiser, holding License No. 5491091-CR00.
2. Respondent admits the jurisdiction of the Utah Real Estate Appraiser Licensing and Certification Board (the Board) over Respondent and over the subject matter of this action.
3. Respondent specifically waives the right to an adjudicative proceeding under Utah Code Ann, § 61-2b-8(6) (2010) and the rules promulgated there under. Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G-4-102(4) (2008).

4. The Division and Respondent recognize and agree that this stipulation shall not be binding until the Board reviews it and approves it in a public meeting conducted pursuant to Utah Code Ann. § 52-4 *et seq.*
5. Respondent acknowledges that, as part of the review, the Board may ask the Division investigative staff questions about this stipulation, and the investigative staff may answer such questions and provide factual information in public and on the record.
6. Respondent has the right to be present when the stipulation is presented for consideration and to address the Board about this stipulation or the facts underlying it. If Respondent desires to be present to address the Board, Respondent may contact Renda Christensen at the Division by calling (801) 530-6750 for information about the date, time, and place of the meeting at which this stipulation will be presented for consideration to the Board.
7. If the Board does not approve any part of the stipulated agreement proposed herein, this entire stipulation shall be null and void, and a hearing shall be scheduled for this matter.
8. Should this stipulation be nullified and the matter proceed to hearing, Respondent waives any claim Respondent may have with regard to the Board by virtue of its:
 - a. having reviewed this stipulation;
 - b. having heard any statement made by investigative staff or any statement made by Respondent; and
 - c. having decided the stipulation shall be null and void.

This waiver shall survive any nullification of this stipulation.

9. Respondent acknowledges that upon approval by the Board, this stipulation shall be made a part of the attached final order, and shall be the final compromise and settlement of this matter, and is not subject to reconsideration, renegotiation, modification, appeal, or rehearing.

10. Respondent affirms that Respondent enters into this stipulation voluntarily.
11. Respondent affirms that the only promises, agreements, or understandings the Respondent has obtained from the Division or from any member, officer, agent, or representative of the Division regarding this stipulation are contained herein.
12. Respondent acknowledges that Respondent has been informed of Respondent's right to be represented by legal counsel and that if Respondent has waived this right, Respondent has either sought the advice of an attorney or has voluntarily chosen not to do so.
13. The Division received complaints on 12/30/2008, 469 Glacier Lily, Alpine, Utah, 03/02/2009, 1893 Hickory Ridge, Draper, Utah, and 03/08/2010, West Field Cove Drive, Highland, Utah. The appraisal reports were influenced by the lender and investor to appraise properties at a pre-determined value. The Respondent was provided sales and listings from the Multiple Listing Service. The Respondent was also provided HUD Settlement Documents. This information insured the value of the comparables used would increase the value of the subject property. The Respondent failed to report and analyze a prior sale of the property at 1893 E Hickory Ridge Court. The Respondent used inappropriate comparable properties in the Comparison Approach Section of the URAR and overlooked comparable sales from within the subject's neighborhood.
14. 469 West Glacier Lily Drive, Alpine, Utah, was appraised on 10/05/2008 for a value of \$2,000,000.00. The Sales Comparison Approach Section of the URAR reports 6 comparable sales only one of which was a MLS sale, the rest of the comparables are questionable private sales. Comparable #1, the only MLS sale, sold on 05/09/2009 for \$762,250.00, which was not reported or analyzed by the Respondent. Comparables 2 and 3 were private sales. These comparables fail to meet, in part, the definition of market value being market tested. The Respondent failed to use comparable properties within the

subject's neighborhood that supported a significant lower opinion of value. A review appraisal places the value of this property at \$625,000.00 using comparable properties within the subject's neighborhood.

15. 1893 E. Hickory Ridge Court, Draper, Utah, was appraised 12/18/2007 for a value of \$2,700,000.00. This property sold 12/28/2006, as per MLS #638812, for \$1,225,000.00 with \$21,000.00 concession. The Respondent failed to report this information as per URAR 1004 form requiring the appraiser to report any prior sales or transfers of the subject property for the prior 3 years. The Respondent failed to analyze the listing history of the comparable properties. The comparable sales are questionable reporting 0 days on the market. Public records may indicate the possibility of these properties being flipped by the excessive activity reported. The Respondent used questionable comparable properties and elected to pass over comparable sales within the subject's neighborhood. Review appraiser valued this property at \$1,250,000.00.
16. 11892 West Field Cove Drive, Highland, Utah, was appraised 03/15/2009, for a value of \$1,750,000.00. The Respondent reports the housing trends as stable property values, supply and demand as in balance and the marketing time as 3-6 months. The investigation shows the prices have bottomed out or near the bottom, and there remains an over-supply of homes for sale. This would be an indication that value and prices were decreasing. The price range is inflated and not supported by sales data. The predominate price in the area is around \$450,000.00. Comparable sales 2 and 3 are unverifiable and questionable sales that did not go over the MLS. The Respondent used superior comparable properties from superior neighborhoods and overlooked comparable sales within the subject's neighborhood.
17. Respondent admits that in the appraisals that are the subject of this Stipulation,

Respondent violated the following USPAP Standards:

- a. Ethics Rule (Conduct): An appraiser must not advocate the cause or interest of any party or issue.
- b. USPAP Standard 1-1 (a); in developing a real property appraisal, an appraiser must; be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.
- c. USPAP Standard 1-1 (b); not commit a substantial error of omission or commission that significantly affects an appraisal.
- d. USPAP Standard Rule 1-4 (a); an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.
- e. USPAP Standard Rule 1-5 (b); analyze all sales of the subject property that occurred within the 3 years prior to the effective date of the appraisal.
- f. USPAP Standard Rule 2-1 (a); clearly and accurately set forth the appraisal in a manner that will not be misleading.

18. As full settlement of all of the issues raised in this stipulation, Respondent agrees as follows:

- a. The Respondent's Certified Residential Appraiser License, number 5491091-CR00, is hereby revoked. Respondent may not apply for a new license for a period of 2 years following the date of this Order.
- b. Respondent shall pay a civil penalty of \$10,000.00 to the Division in payments of \$1,000.00 per quarter beginning 90 days from the date that the Board signs the final Order in this matter.

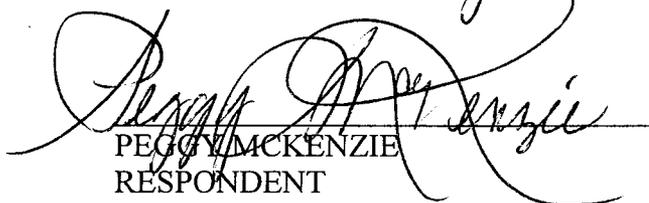
19. This document and all other documents incorporated herein by reference constitute the

entire agreement between the parties herein. This stipulated agreement supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements that modify, interpret, construe, or affect this agreement.

20. Respondent acknowledges that this stipulation does not foreclose the possibility that Respondent may be prosecuted criminally or investigated by other government agencies on the basis of the facts herein admitted.

21. Respondent acknowledges that this stipulation and order, once adopted, will be classified as a public document and will be provided to the public. Respondent acknowledges that the Division may inform other state and federal agencies of any action taken on the Respondent's license and the terms of this stipulation and order.

Dated this 9 day of August, 2010.


PEGGY MCKENZIE
RESPONDENT

Dated this 17th day of August, 2010.


DEE JOHNSON
DIRECTOR OF ENFORCEMENT
DIVISION OF REAL ESTATE

ORDER

The Board approves and adopts the foregoing stipulation of the parties. Based upon the foregoing stipulation and for good cause appearing, the Board orders that, in lieu of the filing of a complaint and the holding of a hearing:

- a. The Respondent's Certified Residential Appraiser license, number 5491091-CR00, is hereby revoked. Respondent may not apply for a new license for a period of 2 years following the date of this Order.
- b. Respondent shall pay a civil penalty of \$10,000.00 to the Division in payments of \$1,000.00 per quarter beginning 90 days from the date that the Board signs the final Order in this matter.

This order shall be effective on the signature date below.

Dated this 25th day of August, 2010.

UTAH REAL ESTATE APPRAISER LICENSING
AND CERTIFICATION BOARD

CRAIG MORLEY, CHAIR

PAUL W. THRONDSSEN, VICE CHAIR

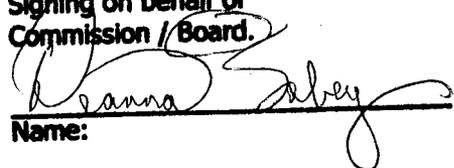
DEBRA SJOBLOM

JEANETTE PAYNE

Absent

DANIEL V. BRAMMER

**Motion to sign on behalf of
Commission / Board.
Signing on behalf of
Commission / Board.**


Name:

Division / Acting Director