



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**BEFORE THE ARIZONA STATE BOARD OF APPRAISAL**

IN THE MATTER OF:  
  
**JOSHUA HERNANDEZ,**  
**Licensed Residential Appraiser 10453,**  
  
Respondent.

Case No. 07F-2225-BOA  
  
**FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND ORDER OF REVOCATION**

On May 15, 2008, the Arizona Board of Appraisal met to consider the Administrative Law Judge Decision of Diane Mihalsky in the above-captioned matter. Joshua Hernandez did not appear. The State was represented by Jeanne Galvin, Assistant Attorney General. The Board received independent legal advice from Christopher Munns, Assistant Attorney General from the Solicitor General's Office.

The Board, having reviewed the administrative record and the Administrative Law Judge's Findings of Fact, Conclusions of Law and Order in this matter, and having considered the written and/or oral arguments of the parties and fully deliberating the same, takes the following actions on the recommended decision:

1. The Board hereby accepts the Findings of Fact of the Administrative Law Judge with modifications requested by State to correct typographical errors.
2. The Board hereby accepts the Conclusions of Law of the Administrative Law Judge.
3. The Board hereby accepts the Order of the Administrative Law Judge with modifications requested by State to include the Board's standard language regarding revocation decisions.
4. The Findings of Fact, Conclusions of Law and Order shall read as follows:

1  
2 **FINDINGS OF FACT**

3 1. The Arizona Board of Appraisal ("the Board") has been authorized and entrusted  
4 by the Arizona legislature to regulate the appraisal profession in the State of Arizona by issuing  
5 licenses, investigating complaints, and disciplining licensees.

6 2. The Board issued Licensed Residential appraiser Certificate No. 10453 to  
7 Respondent Joshua Hernandez. That license is currently scheduled to expire on August 31,  
8 2009.

9 3. On August 15, 2006, the Board received a complaint that alleged violations of  
10 statutes, administrative regulations, and the Uniform Standards of Professional Appraisal  
11 Practice governing licensed appraisers. As part of the Board's investigation, it held an informal  
12 hearing, which Respondent attended.

13 4. The Board had received information that Respondent's company may have been  
14 involved in the preparation of the appraisal at issue in the complaint.

15 5. During the informal hearing, Respondent testified that he did not recall whether  
16 he had received any money for the appraisal at issue in the complaint.

17 6. On December 31, 2007, the Board issued a subpoena duces tecum to  
18 Respondent pursuant to A.R.S. § 32-3631(C) for "[c]opies of **ANY AND ALL** canceled checks,  
19 bank statements, and receipts for payment for the period from April 1, 2006, to and including  
20 July 31, 2006, for any and all bank accounts maintained by you." [Emphasis in original.]

21 7. The Board sent the subpoena via certified and regular mail to Respondent's  
22 address of record, 2608 W. Elm St., Phoenix, AZ 85017, with a cover letter informing  
23 Respondent that he was required to appear with the requested documents at the Board's office  
24 at 9:00 a.m. on January 14, 2008 or could comply with the subpoena, in lieu of a personal  
25 appearance, by providing the requested documents to the Board on or before January 11, 2008.  
26

1           8.       The copy of the cover letter and subpoena that had been sent to Respondent via  
2 certified mail was returned to the Board as unclaimed on January 22, 2008. The U.S. Post  
3 Office notation indicated that Respondent has been notified of the certified mail on January 3,  
4 2008 and January 12, 2008.

5           9.       The copy of the cover letter and subpoena that had been sent to Respondent via  
6 regular mail was not returned to the Board as undeliverable. The Board's Executive Director  
7 Deborah G. Pearson testified at the hearing that the Board had implemented office procedures  
8 to ensure that complaint-related correspondence was delivered to her.

9           10.      The Board referred the matter to the Office of Administrative Hearings for the  
10 scheduling of a hearing in due course.

11          11.      On March 10, 2008, the Board issued a Complaint and Notice of Hearing, setting  
12 an administrative hearing on April 23, 2008, at 9:00 a.m. and charging Respondent with a  
13 violation of A.R.S. § 32-3631(A)(8) in his failure to respond to or comply with the Board's  
14 subpoena.

15          12.      The Complaint and Notice of Hearing was sent to Respondent via certified and  
16 regular mail to his most recent address of record of 2608 W. Elm St., Phoenix, AZ 85017.

17          13.      On March 11, 2008, one Jose Vallejas sign to acknowledge receipt of the copy of  
18 the Complaint and Notice of Hearing sent via certified mail.

19          14.      The copy of the Complaint and Notice of Hearing sent via regular mail was not  
20 returned to the Board.

21          15.      Although the beginning of the duly noticed hearing was delayed fifteen minutes to  
22 allow Respondent additional travel time, he neither appeared personally or through an attorney,  
23 contacted the Office of Administrative Hearings to request a continuance or that the time for the  
24 hearing be further delayed, nor presented any evidence to defend his license.

25  
26







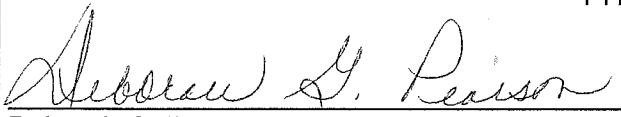
1 Copy of the foregoing mailed via regular U.S.  
& Certified Mail #7006 0100 0002 8652 3851  
2 this 10<sup>th</sup> day of May, 2008, to:

3 JOSHUA HERNANDEZ  
2608 W. ELM ST.  
4 PHOENIX, AZ 85017

5 Copies of the foregoing sent by interagency  
this 10<sup>th</sup> day of May, 2008, to:

6 JEANNE GALVIN  
7 ASSISTANT ATTORNEY GENERAL  
1275 W. WASHINGTON  
8 PHOENIX, AZ 85007

CHRISTOPER MUNNS  
ASSISTANT ATTORNEYS GENERAL  
SOLICITOR GENERAL'S OFFICE  
1275 W. WASHINGTON  
PHOENIX, AZ 85007

9  
10   
11 Deborah G. Pearson

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26