

**BEFORE THE NEW MEXICO REAL ESTATE APPRAISERS BOARD**

**In the Matter of:**

**Elizabeth Furbee  
License No. 03072-A  
  
Respondent.**

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**No. REA 15-14-COM**

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**DEFAULT ORDER**

**THIS MATTER** came before the New Mexico Real Estate Appraisers Board (the “Board”) on June 9, 2017, for a decision pursuant to provisions of the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 through 61-1-33 (“ULA”).

**FINDINGS OF FACT**

1. In accordance with NMSA 1978, § 61-1-4(D), the Board sent its Notice of Contemplated Action (“NCA”) in Case number 15-14 –COM to Respondent at her last known address of record on February 16, 2016 via United States Postal Service Certified Mail, Return Receipt Requested, Article No.9171 9690 0935 0079 1564 38. Exhibit 1.

2. The NCA notified Respondent that the Board had before it sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, justified revoking Respondent’s license.

3. The NCA notified Respondent that, unless Respondent requested a formal hearing by mailing a certified, return receipt requested letter requesting a hearing within twenty (20) days after service of the NCA dated February 16, 2016, the Board could take disciplinary action against her, including revocation of her license.

**CONCLUSIONS OF LAW**

4. NMSA 1978, § 61-1-4(E) authorizes the Board to take the action contemplated in the NCA if a person does not mail a request for a hearing within the time and in the manner prescribed by law. It further provides that such action taken by the Board shall be final and not subject to judicial review.

5. Respondent did not request a hearing within the time and in the manner prescribed. See Exhibit 2 (Affidavit of Marcus Erickson).

6. Respondent has not otherwise communicated with the Board or offered any evidence rebutting or explaining the violations alleged in the NCA.

7. After due deliberation, a quorum of the Board voted on June 9, 2017 to issue a default order revoking Respondent's license No. 03072-A.

8. Revocation of a real estate appraiser license is disciplinary action, is a public record subject to inspection, and shall be reported to other state real estate appraiser boards and other appropriate entities.

The Board, therefore, issues the following **DEFAULT ORDER**:

The real estate appraiser license of Respondent Elizabeth Furbee, License No. 03072-A is hereby revoked.

Pursuant to NMSA 1978, Section 61-1-4(E), this action shall be final and IS not subject to judicial review.

FOR THE NEW MEXICO REAL ESTATE  
APPRAISERS BOARD

Date: June 15, 2017

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/s/ e-signed  
Dean Zantow, Chair  
*electronic signature executed via-email  
authorization dated 06/15/2017*

CERTIFICATE OF SERVICE BY CERTIFIED MAIL

I, Sheila Harris, do hereby certify that I mailed a true and correct copy of the above Default Order in Case No. 15-14 COM before the New Mexico Real Estate Appraisers Board to Respondent at her last known address of 1304 South Michigan  
Roswell, NM 88203 as shown by the records of the New Mexico Real Estate Appraisers Board this 19 day of June, 2017.

PRINTED NAME OF INDIVIDUAL CERTIFYING SERVICE

Sheila Harris

Sheila Harris

Signature

Return Receipt Request No: 917196900935 007117156



EXHIBIT 1

**BEFORE THE REAL ESTATE APPRAISERS BOARD  
FOR THE STATE OF NEW MEXICO**

**IN THE MATTER OF:**

**ELIZABETH FURBEE,  
LICENSE NO. 03072-A**

**Respondent.**

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**Case No. 15-14-COM**

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**NOTICE OF CONTEMPLATED ACTION**

1. Elizabeth Furbee ("Respondent") is a licensed Apprentice Appraiser under the New Mexico Real Estate Appraisers Act, NMSA 1978, §§61-30-1 to 61-30-24 (2005), and as such, was subject to the jurisdiction of the Board at the time of the violations alleged in this Notice of Contemplated Action and is currently subject to the jurisdiction of the Board.

2. Respondent is hereby notified that the Board has before it sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, will justify the Board in taking action to fine, and/or deny, revoke, suspend, stipulate or otherwise limit or take other disciplinary action against Respondent's license to practice as an appraiser in New Mexico pursuant to NMSA 1978, Section 61-30-15.

3. **Authority:** Action is contemplated to impose disciplinary measures pursuant to the following statutes and regulations.

**Statutes:** The New Mexico Real Estate Appraisers Act, NMSA 1978, Sections 61-30-1 to 61-30-24, empowers the Board to discipline appraisers for violations of the Real Estate Appraisers Act and rules adopted pursuant to this Act in order to protect the public who

will be relying upon real estate appraisals. NMSA 1978, Sections 61-30-7 (M) & 61-30-2

(B). More specifically:

**NMSA 1978, § 61-30-7. Board; powers; duties.**

The board shall:

C. establish the administrative procedures for processing applications and issuing registrations, licenses and certificates to persons who qualify to be real estate appraiser trainees, state licensed residential real estate appraisers or state certified real estate appraisers.

D. receive, review and approve applications for real estate appraiser trainees, state licensed residential real estate appraisers and each category of state certified real estate appraisers;

L. establish procedures for disciplinary action in accordance with the Uniform Licensing Act [61-1-1 NMSA 1978] against any applicant or holder of a registration, license or certificate for violations of the Real Estate Appraisers Act and any rules adopted pursuant to provisions of that act;

M. establish procedures for disciplinary action in accordance with the Uniform Licensing Act against any applicant or holder of registration, license or certificate for violations of the Real Estate Appraisers Act and any rules adopted pursuant to provisions of that act;

**NMSA 1978, § 61-30-12. Qualifications for certified residential and general real estate appraisers.**

A. Certified classification shall be granted only to persons who are deemed by the board to be of good repute and competent to render appraisals.

C. Each applicant for a residential certificate as a state certified real estate appraiser shall have performed actively as a real estate appraiser and shall have additional experience and education requirements as established for the residential certification classification issued by the appraiser qualifications board of the appraisal foundation and adopted by rule pursuant to the Real Estate Appraisers Act.

**NMSA 1978, § 61-1-15. Refusal, suspension or revocation of registration, license or certificate.**

A. The board, consistent with Section 61-30-7 NMSA 1978, shall refuse to issue or renew a registration, license or certificate or shall suspend or revoke a registration, license or certificate at any time when the applicant, real estate appraiser trainee, state licensed residential real estate appraiser or state certified real estate appraiser, in performing or attempting to perform any of the actions set forth in the Real Estate Appraisers Act, is determined by the board to have:

- (1) Procured or attempted to procure a registration, license or certificate by knowingly making a false statement or submitting false information or through any form of fraud or misrepresentation;
- (2) Refused to provide complete information in response to a question in an application for registration, a license or certificate or failed to meet the minimum qualifications established by the Real Estate Appraisers Act;
- (9) committed any other conduct that is related to dealings as a real estate appraiser trainee, a state licensed residential real estate appraiser or a state certified real estate appraiser and that constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, dishonesty or any unlawful act.

**NMSA 1978, § 61-30-22. Civil and criminal penalties; injunctive relief.**

C. The board may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for each violation of the Real Estate Appraisers Act and assess administrative costs for any investigation and administrative or other proceedings against a real estate appraiser trainee, a state licensed residential real estate appraiser or a state certified real estate appraiser or against any person who is found, through an administrative proceedings, to have acted without a license. Appeals from decisions of the board shall be taken as provided in Section 39-3-1.1 NMSA 1978.

**Regulations:** Title 16, Chapter 62, Part 13, of the New Mexico Administrative Code delineates the procedures for disciplinary actions by the Board in regard to persons acting in the capacity of a real estate appraiser in New Mexico. It is alleged that Respondent has violated the following regulations:

**Part 13 – Disciplinary Proceedings. 16.62.13.14: Refusal, Suspension or Revocation:**

B. In accordance with the procedures contained in the Uniform Licensing Act, the board may deny, revoke or suspend any trainee, license or certificate held or applied for upon finding, after a hearing, that the trainee appraiser, licensee, certificate holder or applicant has violated any provision of the Real Estate Appraisers Act or the regulations or continually or repeatedly or persistently or willfully violated any of the prohibitions found hereinafter:

- (9) making false statements in any application for trainee, licensure or certification.

**Part 4 – Application for Residential Certificate. 16.62.4.8: Residential Certification: (08/21/2010 – 12/31/2014)**

D. Experience: applicants for state residential certification must have a minimum of 2,500 hours of experience in real property appraisal obtained during no fewer than twenty-four (24) months as defined in 16-62.1 NMAC, submitted on a form prescribed by

the board and attested to by the supervising appraiser under whose supervision the experience was obtained.

**Part 1 – General Provisions. 16.62.1.12: Supervising Appraiser/Trainee: (8/21/2010 – 12/31/2014)**

**B. Trainee.** All trainees shall perform all real estate appraisal and related activities under the immediate, active, and personal supervision of a certified real estate appraiser. All appraisal reports must be signed by the trainees declared supervisor. By signing the appraisal report, the certified appraiser accepts responsibility with the trainee for the content of and conclusions of the report. A trainee may assist in the performance of real estate appraisals provided the trainee:

(1) maintains a log on a form prescribed by the board that includes, but is not limited to, each appraisal performed by the trainee, the type of the property appraised, type of appraisal performed, complete street address of the subject property, the date the report was signed, the number of hours claimed, the name of the supervisor for that appraisal, the supervisor's certificate number, and whether the supervisor accompanied the trainee on the inspection of the subject; the log must show all appraisals and related activities performed by the trainee and must be updated and signed by the supervisor at least every 30 days; a trainee can only receive credit for half of the hours claimed within the performed appraisal.

4. **Evidence:** The general nature of the evidence before the Board is summarized and explained as follows:

- A. Elizabeth Furbee ("Respondent") was an applicant for a Certified Residential appraiser's license with the New Mexico Real Estate Appraisers Board, and submitted said application on September 23, 2014.
- B. Respondent failed to submit a complete application, and one month later on October 23, 2014, Respondent submitted a second application.
- C. The second application was deficient in that Respondent submitted an experience log that did not conform to the requirements of the Real Estate Appraisers Act. The log had numerous deficiencies, including failure to obtain the supervisors signature every thirty (30) days.



- D. Respondent and her supervising appraiser, Edward McClelland, submitted experience logs dating back to 2006, most of which were prepared and signed by the Respondent and Mr. McClelland in 2014.
- E. Respondent's application was denied, and is currently pending an evidentiary hearing in case number 15-04-APP.
- F. Respondent filed a disciplinary complaint against Edward McClelland with the Board in case number 26, 14-11-18. That case was resolved by Settlement Agreement on February 1, 2016.
- G. The Board initiated this complaint against Respondent's real estate appraisers apprentice license based on the above stated allegations. This is a separate matter from the pending application case.
- H. The Board voted to issue this Notice of Contemplated Action at its August 2015 meeting.
- I. Respondent attempted to resolve this matter prior to the issuance of an NCA with a Settlement Agreement that mirrored the Settlement Agreement in Mr. McClelland's case, however, the Board rejected said agreement and did not offer any terms under which a new Settlement Agreement would be acceptable, necessitating this NCA and an evidentiary hearing.

5. The Respondent has violated the above listed statutes in a manner detailed above. Unless rebutted or explained at a formal hearing, the evidence before the Board is sufficient to justify the taking disciplinary action to include fines and/or other disciplinary action.

6. The formal hearing, if requested, will be conducted pursuant to all provisions of NMSA

NMSA 1978, §61-1-4 B (4) and pursuant to all relevant provisions of the New Mexico Real Estate Appraisers Act, the New Mexico Real Estate Appraisers Board Appraisal Management Company Registration Act and the Board's Rules and Regulations promulgated pursuant to the Acts. Pursuant to NMSA 1978, §61-1-3 and §6-1-8, the licensee is specifically advised as follows:

**NMSA 1978, §61-1-3 (1993) Opportunity for licensee or applicant to have hearing.**

Every licensee or applicant shall be afforded notice and an opportunity to be heard, before the board has authority to take any action, which would result in:

- E. suspension of license;
- F. revocation of a license;
- G. restrictions or limitations on the scope of a practice;
- H. the requirement that the applicant complete a program of remedial education or treatment;
- I. monitoring of the practice by a supervisor approved by the board;
- J. the censure or reprimand of the licensee or applicant;
- K. compliance with conditions of probation or suspension for a specific period of time;
- L. payment of a fine for a violation not to exceed one thousand dollars (\$1,000) for each violation, unless a greater amount is provided by law;
- M. corrective action, as specified by the board;
- N. a refund to the consumer of fees that were billed to and collected from the consumer by the licensee;

**NMSA 1978, §61-1-8 (1981) Rights of person entitled to hearing.**

A. A person entitled to be heard under the Uniform Licensing Act [NMSA 1978, § §61-1-1 to 61-1-31] shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the board or the hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the

discretion of the board or hearing officer. All notices issued pursuant to NMSA 1978, § 61-1-4 shall contain a statement of these rights.

B. Upon written request to another party, any party is entitled to:

(1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No such request shall be made less than fifteen days before the hearing.

A. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

7. Unless the foregoing evidence is explained or rebutted at a formal hearing, it constitutes justification and cause for the Real Estate Appraisers Board to take the contemplated action as stated herein. Revocation of a certificate of registration or other remedies available to the New Mexico Real Estate Appraisers Board will occur unless you request a formal hearing by mailing a certified, return receipt requested letter requesting a hearing within twenty (20) days after service of this Notice of Contemplated Action to:

New Mexico Real Estate Appraisers Board  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
ATTN: Sheila Harris, Compliance Liaison

Dated this 16<sup>th</sup> day of February, 2016.

STATE OF NEW MEXICO  
REAL ESTATE APPRAISERS BOARD

By:   
Dear Zantow, Board Chairman

Prepared by:

David Murphy /s/  
David Murphy  
Assistant Attorney General  
Administrative Prosecutor  
111 Lomas Blvd N.W. Alb, NM 87102  
Telephone: (505) 222-9087  
Facsimile: (505) 222- 9006

CERTIFICATE OF SERVICE BY CERTIFIED MAIL

Return Receipt Request No: 9171 9690 0935 0079 1564 38

I, Sheila Harris, do hereby certify that I mailed a true and correct copy of the above provided Notice of Contemplated Action in Case No. 15-14-COM before the State of New Mexico Real Estate Appraisers Board to the Respondent at the registrant's address on file with the Board, as shown by the records of the Real Estate Appraisers Board this 16th day of February, 2016.

Sheila Harris  
Print the Name of Individual Certifying Service

Compliance Liaison  
Title/Organization

Sheila Harris  
Signature