

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

IN THE MATTER OF:

Case No. REA-18-17-COM

CoesterVMS, Inc.,
Registration No. AMC 1121,

Respondent.

FINAL DECISION AND DEFAULT ORDER

THIS MATTER came before a quorum of the New Mexico Real Estate Appraisers Board (the "Board") at an open public meeting held on September 27, 2019, at 5500 San Antonio Dr. NE, Albuquerque, NM, based on a complaint filed with the Board alleging that CoesterVMS (hereinafter "Respondent") violated the Appraisal Management Company Registration Act, NMSA 1978, Sections 47-14-1 through -23 (2009, as amended through 2019) (the "Act"). Respondent did not request a hearing and the matter was presented to the Board as a default action. Upon review of the matter, the Board voted to revoke Respondent's registration. Pursuant to the Act, and the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2017) ("ULA"), the Board issues the following:

FINDINGS OF FACT

1. Respondent is registered as an Appraisal Management Company under the Act and is therefore subject to the jurisdiction and discipline of the Board.
2. The Board voted to issue a Notice of Contemplated Action (NCA) against Respondent stating that the Board had sufficient evidence to justify revoking or taking other disciplinary action against Respondent's registration based on alleged violations of the Act.
3. The NCA alleged that Respondent had failed to make payment to an independent appraiser, Metro-West Appraisal Company, LLC, for the completion of an appraisal. The appraisal

report was alleged by the NCA to have been delivered to Respondent on or about July 17, 2018, and that as of November 26, 2018, more than sixty (60) days later, Respondent had not made payment to Metro-West Appraisal Company, LLC.

4. The NCA stated that, unless explained or rebutted at a formal hearing, the alleged conduct justified the Board in taking disciplinary action, including suspending or revoking Respondent's registration.
5. The Board mailed the NCA to Respondent, via certified mail, return receipt requested, to the address on file with the Board.
6. All registrants are required to maintain a current address with the Board, and pursuant to the ULA, notice "shall be deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery of the notice." NMSA 1978, § 61-1-5.
7. The ULA provides if a registrant "does not mail a request for a hearing within the time and in the manner required by this section, the board may take the action contemplated in the notice and such action shall be final and not subject to judicial review." NMSA 1978, § 61-1-4(E).
8. Respondent failed to request a hearing in response to the NCA.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondent, Respondent's registration, and the subject matter of this proceeding pursuant to the Act and the ULA.
2. In accordance with Sections 61-1-4 and -5 of the ULA, Respondent was deemed to be served with the NCA on the date of delivery or last attempted delivery of the notice.


3. The Board has complied with all notice and other procedural requirements of the Act and the ULA.
4. The Board may proceed to take the action contemplated in the NCA and such action shall be final and not subject to judicial review, as provided by Section 61-1-4 of the ULA.
5. The Board finds by a preponderance of the evidence that Respondent violated Section 47-14-18 and Section 47-14-21 by failing to make payment to an independent appraiser for the completion of an appraisal or valuation assignment within sixty (60) days of the date upon which the appraiser had provided the appraisal or valuation study to Respondent.
6. Having reviewed the matter, the Board finds there is sufficient evidence to justify taking disciplinary action against Respondent as contemplated in the NCA.

ORDER

Based on these Findings of Fact and Conclusions of Law, a quorum of the Board voted to revoke Respondent's registration as an Appraisal Management Company.

IT IS THEREFORE ORDERED that Respondent's registration as an Appraisal Management Company, Registration Number AMC 1121, is hereby REVOKED. This Order constitutes formal disciplinary action by the Board and may be reported to the applicable professional licensing national database, if any.

IT IS SO ORDERED.



Dean Zantow, Chair
New Mexico Real Estate Appraisers Board

12/17/2019

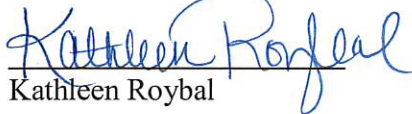
Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed by certified mail on the date below to:

CoesterVMS.com, Inc
Brian Coester
555 Quince Orchard Blvd Suite 650
Gaithersburg, MD 20878

Certified Mail No. 7018 1130 0001 5733 7689


Kathleen Roybal

12/17/2019

Date

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

IN THE MATTER OF:

Case No. REA-18-17-COM

**COESTERVMS.COM, INC.,
License No. AMC 1121,**

Respondent.

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Real Estate Appraisers Board ("Board") is contemplating taking disciplinary action against the certificate of registration held by CoesterVMS.com, Inc. ("Respondent"). The Board has before it sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Board revoking, suspending or taking other disciplinary action against Respondent's certificate of registration. If Respondent does not request a hearing within twenty (20) days after service of this Notice of Contemplated Action ("Notice"), the Board will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review.

APPLICABLE LAW

1. Respondent is an "appraisal management company" as that term is defined under the New Mexico Appraisal Management Company Registration Act, NMSA 1978, Sections 47-14-1 to -23 (as amended through 2013) ("Act"), and as such is subject to the jurisdiction of the Board.
2. This Notice is based upon the following alleged violations of the Act:
 - a. § 47-14-18(E): An appraisal management company shall, except in cases of breach of contract or substandard performance of services, make payment to an independent appraiser for the completion of an appraisal or valuation assignment within sixty (60) days of the date on which the independent appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.
 - b. § 47-14-21(A): The Board may censure an appraisal management company, conditionally or unconditionally suspend or revoke any registration issued under the Act, levy fines or impose civil penalties not to exceed twenty-five thousand dollars (\$25,000) per violation if, in the opinion of the Board, an appraisal management company is attempting to perform, has performed or has attempted to perform any of the following acts:

- (1) Committing any act in violation of the Act;
 - (2) Violating any rule or regulation adopted by the Board in the interest of the public and consistent with the provisions of the Act.
- c. 16.65.4.8(C) NMAC: The registrant shall have an opportunity to respond to the complaint in writing. Failure to respond may be deemed waiver of any defenses.
- d. 16.65.2.8(G)(1)(c) NMAC: A bond of twenty-five thousand dollars (\$25,000) shall be underwritten by a corporate surety authorized to transact business in New Mexico; such bond shall meet the following conditions: . . . bonds shall be construed so that the corporate surety may pay claimants directly, upon approval by the Board.

SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

3. The general nature of the evidence before the Board is as follows:
 - a. On or about November 26, 2018, the Board received a complaint from Metro-West Appraisal Company, LLC (“Metro-West”) alleging that Respondent engaged Metro-West to complete a residential appraisal; that the appraisal was completed and the report was delivered to Respondent on July 17, 2018; and that, as of November 26, 2018, Respondent had not made payment to Metro-West for these services.
 - b. On or about December 20, 2018, the Board send a letter to Respondent, with a copy of the complaint enclosed, requesting that Respondent file a written response with the Board within ten (10) days addressing the allegations in the complaint. No such response was received. The same communication was sent a second time on or about January 15, 2019, by certified mail, and Respondent signed the return receipt acknowledging delivery. To date, a written response to the complaint has not been received by the Board.

RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Board is sufficient to justify the Board in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing Act 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 hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Board or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 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 (10) days after the mailing or delivery of the request. No request shall be made less than fifteen (15) days before the hearing.
 - C. 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.
6. **If Respondent does not request a hearing in this matter, the Board will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
7. In order to request a hearing in this matter, Respondent must deposit in the mail a certified return receipt requested letter addressed to the Board containing a request for a hearing within twenty (20) days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

New Mexico Real Estate Appraisers Board
Regulation and Licensing Department
P.O. Box 25101
Santa Fe, NM 87504



Dean Zantow, Chair
New Mexico Real Estate Appraisers Board

Prepared by:

Olga Serafimova

Olga Serafimova, Esq.

Assistant Attorney General

New Mexico Attorney General's Office

P.O. Drawer 1508

Santa Fe, NM 87504

(505) 490-4060 – Telephone

(505) 490-4881 – Facsimile

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Contemplated Action was mailed by United States Postal Service Certified Mail, return receipt requested, on June 14, 2019, to:

CoesterVMS.com, Inc.
555 Quince Orchard Blvd. Suite 650
Gaithersburg, MD 20878

Certified Mail No. 7011 0470 0001 1515 5732


Kathleen Roybal, Compliance Liaison

State of New Mexico
Regulation & Licensing Department
Real Estate Appraisers Board
PO Box 25101
Santa Fe, NM 87504

CERTIFIED MAIL™



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06/17/2019

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By _____

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AUG 12 2019
By _____

CoesterVMS.com, Inc.
555 Quince Orchard Blvd. Suite 650
Gaithersburg, MD 20878

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RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

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