

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

IN THE MATTER OF:

**EDWARD MCCLELLAND
LICENSE NO. 171-G**

Respondent.

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Case No. 26, 14-11-18

STIPULATED SETTLEMENT AGREEMENT

WHEREAS, the State of New Mexico Real Estate Appraisers Board (“Board”) received a complaint on November 18, 2014, from Complainant Elizabeth Furbee (“Complainant”) stating that Edward McClelland (“Respondent”), a licensed appraiser, had not signed or reviewed Complainant’s appraisal experience log, as required by the New Mexico Real Estate Appraisers Act (“Act”) and the Uniform Standards of Professional Appraisal Practice (“USPAP”); and

WHEREAS, on April 8, 2015, the Board found sufficient reason to vote to issue a Notice of Contemplated Action (“NCA”), against licensee, Respondent; and

WHEREAS, the Board did issue the NCA against the Respondent on November 18, 2015;
and

WHEREAS, Respondent is willing to resolve this matter in an amicable fashion and without the need for a formal hearing as required pursuant to the Uniform Licensing Act (“ULA”);
and

WHEREAS, the Board believes this Stipulated Settlement Agreement (“Agreement”) is appropriate and in the best interests of the Board and the Respondent.

THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

1. **Jurisdiction.** The Respondent is licensed under the Real Estate Appraisers Act, NMSA 1978, § 61-30-1 through § 61-30- 24 (2003) and is subject to the jurisdiction of the Board. The Board has jurisdiction over the Respondent and the subject matter.
2. **Violations.** The Respondent acknowledges that this disciplinary action is based on an allegation of a violation of Rule 16.62.1.12(A)(1) of the New Mexico Administrative Code.
3. **Discipline.** This Agreement constitutes disciplinary action by the Board against the Respondent. The complaint and this Agreement shall be reported to the Appraisers Subcommittee ("ASC") National Registry as discipline against Respondent's licensee.
4. **Requirements.** The Board shall take no further action against Respondent with respect to the matters alleged in the complaint, provided that Respondent complies fully with the following:
 - A. Respondent shall successfully complete a Board approved, in-classroom Supervisor Training class, including passing any testing requirements within six (6) months of Respondent's receipt of the Order signed by the Board Chairperson indicating the Board's approval of this Agreement.
 - B. Respondent shall provide documentary proof of successful completion of the required course, provided by the instructor or course provider, to the Board within six (6) months of the Board's approval of this Agreement and Respondent's receipt of this Agreement and the signed Order.
 - C. The course cannot be used toward continuing education credit for renewal of license.

5. **Waivers.** Respondent acknowledges, agrees and stipulates that by signing this agreement he is waiving the following rights as they pertain to the alleged misconduct described herein:

A. Respondent enters into this Agreement voluntarily and waives his right to have these matters heard in the manner described in the Uniform Licensing Act, NMSA 1978, §61-1-1 through §61-1-33 (2003), including the right to a full evidentiary hearing on the charges made in the complaint against him, the right to confront and cross-examine witnesses, and the right to appeal any decision of the Board following such a hearing.

B. Respondent waives any and all time limitations set forth in the ULA, including all rights to have this matter heard within the time frame established by the ULA, in order for the Board to consider this Agreement.

C. Respondent waives his right to assert a claim of bias or move to excuse any Board member based upon the Board member's consideration of this Agreement.

D. Respondent's waiver of these rights contained herein is made knowingly, intentionally, and voluntarily.

6. Respondent acknowledges that the Board has the statutory, administrative and regulatory authority and thereby jurisdiction to investigate and adjudicate allegations of professional misconduct committed by Appraisers. NMSA 1978, § 61-30-4, (1990 as amended through 2003) and NMSA 1978, § 61-30-7, (1990 as amended through 2003). Upon execution of this Agreement, Respondent releases the Board from any and all claims arising out of the Board's decision to investigate the complaint, refer the matter for issuance of a Notice of Contemplated Action, and take the actions described herein.

7. This Agreement is subject to approval by the Board. If the Board rejects this Agreement, the Board may proceed with a formal hearing. If the Board rejects this Agreement, the terms of this Agreement or statements made by the Respondent in support of this Agreement shall **not** be used against Respondent in a subsequent proceeding if such concerns the claims alleged in this complaint.
8. This Agreement is binding upon the Board and the Respondent when it is signed by the Respondent and the attending Order, validating the terms of the Agreement, is signed by the Board Chairperson.
9. Upon the Board Chairperson affixing his signature to the Order indicating the Board's approval of this Agreement, copies of both documents shall be mailed to Respondent by Certified Mail. Mailing shall fulfill the Board's obligation to notify Respondent of the Board's acceptance of the agreement. The time limitations for Respondent's compliance with the requirements of this agreement shall commence five (5) days after said mailing by the Board as such date shall be deemed receipt by the Respondent of this Agreement and the signed Order.
10. Upon fulfillment of the above requirements, the Board will consider this matter closed and resolved and will contemplate no further action against Respondent's license for the conduct made the subject matter of this Agreement. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar or other misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed through this Agreement and the accompanying Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.
11. This Agreement is a settlement of Board case number 26, 14-11-18 and only for the specific allegations contained therein. The Board reserves the right to initiate proceedings for any other

violations of the New Mexico Real Estate Appraisers Act, USPAP violations and/or the Rules and Regulations adopted by the Board pursuant to the act. Respondent understands and acknowledges that his action in entering this Agreement is a final act and not subject to reconsideration, judicial review or appeal.

12. Respondent understands, acknowledges and stipulates that any violation(s) by Respondent of this Agreement and/or failure to comply with the terms and conditions of this Agreement shall be a separate and independent ground for disciplinary action by the Board against Respondent and at the discretion of the Board shall constitute a violation of the Act. Such action will immediately result in the filing of an Order to Show Cause as to why the Board should not find the Respondent in violation of the Agreement and impose any and all lawful sanctions at its disposal including but not limited to revocation, suspension or denial of a license, restrictions on scope of practice, imposition of fees, penalties and costs and/or taken any other disciplinary action authorized pursuant to the Act and/or the ULA.

13. Respondent acknowledges that he has the right to be represented by an attorney and has been given the opportunity to have counsel of his choice review this agreement.

14. The complaint and this Agreement are public records within the meaning of the Inspection of Public Records Act, NMSA 1978, § 14-2-6(E) (1993). Other data, communications, and information acquired by the Board relating to this matter shall be public as provided by the New Mexico Real Estate Appraisers Act. This document may be posted on the Board's website.

15. Respondent affirmatively states that he has read this entire document and understands his responsibilities and duties in reference to settlement of this matter. Respondent knowingly, intentionally and voluntarily enters into and executes this Agreement and affirms that no promises

or representations have been made to him other than the terms and conditions expressly stated herein.



Edward McClelland
Respondent
500 North Main, Suite 606
Roswell, NM 88201

12-14-2015

Date

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ORDER

This matter having come before the New Mexico Real Estate Appraisers Board, and with a quorum being present and a majority voting for the action designated below, this Stipulated Agreement is:

Accepted

Rejected



Dean Zantow, Chairperson
New Mexico Real Estate Appraisers Board
P.O. Box 25101
Santa Fe, New Mexico 87505
(505) 476-4622



Date