ORIGINAL

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

In the Matter of the License of:	)	
	)	
MONTY EGBERT,	)	Case No. REA-L3-04-99-019
License No. LRA-58,	)	
	)	**CONSENT ORDER** ORIGINAL
Respondent.	)	
	)	

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WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Monty Egbert (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraisers in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent Monty Egbert is a licensee of the Idaho State Board of Real Estate Appraisers and holds License No. LRA-58 to practice real estate appraisals in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. On or about April 19, 1997, Respondent conducted an appraisal of the property located at 7291 South Caulebra Rio Circle in Idaho Falls, Idaho (hereinafter the "subject property"), and valued the subject property at $775,000.

4. On or about June 30, 1998, Respondent received a breakdown of costs by Skidmore Construction on the subject property which reflected costs of $1,072,530.

5. On or about July 13, 1998, Respondent conducted a second appraisal which valued the property at $1,075,000.

6. Respondent, as a licensed residential real estate appraiser, is restricted to appraising noncomplex residential real property having a transaction value of less than $1 million.

7. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of real estate appraisals, specifically Idaho Code § 54-4104(14) and IDAPA 24.18.01.300. Violations of these laws would further constitute grounds for disciplinary action against Respondent's license to practice real estate appraisals in the State of Idaho.

8. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

B.

I, Monty Egbert, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice real estate appraisals in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraisals in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent shall pay an administrative fine of One Hundred and No/100 Dollars ($100.00) to the Board. Payment must be postmarked no later than fifteen (15) days from the date of entry of the Board's Order.

2. Respondent shall pay investigative costs and attorney's fees in the amount of Two Hundred Seventy-five and No/100 Dollars ($275.00) to the Board, postmarked no later than thirty (30) days of the date of entry of the Board's Order.

3. Respondent's License No. LRA-58 shall be placed on probation for a period of six (6) months from the date of entry of the Board's Order. The conditions of probation are as follows:

a. Respondent shall fully cooperate with the Board and its agents and shall submit any documents or other information within a reasonable time after a request is made for such documents or information;

b. Respondent shall comply with all laws and rules governing the practice of real estate appraisals in the State of Idaho; and

c. In the event Respondent should leave Idaho to reside or to practice outside of the state, Respondent shall provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of residence or practice outside of Idaho will not apply to the reduction of the probation period or excuse compliance with the terms of this Stipulation.

4. At the conclusion of the 6-month term of probation, Respondent may request termination of this Stipulation and Consent Order and request removal of the above-stated restrictions from his license.

5. The violation of any of the terms of this stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board based solely upon the Board's review of this Stipulation. However, in the event of a hearing, Respondent retains disqualification rights under Idaho Code § 67-5252.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing, and this Stipulation shall not be admissible.

4. The Stipulation shall not become effective until it has been approved by a majority of the board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107(1)(d). If Respondent violates or fails to comply with

this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information, pursuant to any applicable provisions of the Idaho Public Records Act.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the

Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 3rd day of November, 1999.

Monty Egbert
Respondent

Approved as to form.

DATED this 3rd day of November, 1999.

FULLER & CARR

By Mark R. Fuller
Mark R. Fuller
Of Attorneys for Respondent

I concur in this stipulation and order.

DATED this 14th day of November, 1999.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Roger L. Gabel
Roger L. Gabel
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 15th day of November, 1999. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By _____
Paul Morgan, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of November, 1999, I caused to be served a true and correct copy of the foregoing by placing a copy thereof in the United States Mail, postage prepaid, addressed to:

Monty Egbert
240 S. Holmes Avenue
Idaho Falls, ID 83401

Mark R. Fuller
FULLER & CARR
P.O. Box 50935
Idaho Falls, ID 83405-0935

Roger L. Gabel
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

_____
Thomas Limbaugh, Chief
Bureau of Occupational Licenses