

**BEFORE THE MISSOURI
STATE REAL ESTATE APPRAISERS COMMISSION**

MISSOURI REAL ESTATE APPRAISERS COMMISSION,)	
)	
)	
Petitioner,)	
)	
v.)	No. 2009-005207PV1
)	
MICHAEL NICHOLS)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DISCIPLINARY ORDER**

At its scheduled meeting on February 10, 2010, and pursuant to notice described in the Findings of Fact, the Missouri State Real Estate Appraisers Commission (MREAC) took up the probation violation complaint alleging that Michael Nichols (Nichols) has failed to comply with the terms of his probation.

The Commission appeared at the hearing through Assistant Attorney General Craig Jacobs. Nichols was not present at the hearing nor was he represented by counsel. Division of Professional Registration Legal Counsel Sarah Ledgerwood served as the MREAC's legal advisor at the hearing, during deliberations, and in the preparation of this order.

Findings of Fact

1. The MREAC was established pursuant to § 339.507, RSMo Cum. Supp. 2009, for the purpose of executing and enforcing the provisions of §§ 339.500 through 339.549, RSMo, as amended, the Missouri Certified Licensed Real Estate Appraisers Act.

2. Michael Nichols is a natural person and is licensed by the MREAC as a state licensed real estate appraiser, License No. 2002003005. The MREAC issued Nichols' license on February 14, 2002. Nichols' license expired June 30, 2008. Nichols' license was also on probation from September 18, 2009 to September 18, 2011.

3. On or about September 18, 2009, Nichols and the MREAC entered into a Settlement Agreement through which the MREAC placed Nichols' license on probation for a period of two years, effective September 18, 2009 through September 18, 2011.

4. The Settlement Agreement resolved the question of whether Nichols' license was subject to discipline as a result of the United States Department of House and Urban Development's (HUD) removal of Nichols from the Federal House Authority's approved roster for a period of six months, effective November 6, 2007. HUD's removal of Nichols from the approved roster was a result of its review of Nichols' appraisal reports for six properties in the Kansas City, Missouri area. Each of the six appraisal reports had numerous deficiencies in violation of the Uniform Standards of Professional Appraisal (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation. The MREAC based the discipline imposed in the Settlement Agreement on Nichols' violation of §§ 339.532.2 (7), (10), and (18), RSMo.

5. The Settlement Agreement Part III, ¶ 2(A) required that Nichols "submit written reports to the MREAC by no later than January 1 and July 1,

during each year of the disciplinary period stating truthfully whether there has been compliance with all terms and conditions of this Settlement Agreement.”

The first written report was due to the MREAC on January 1, 2010.

6. Nichols failed to submit a written report to the MREAC by January 1, 2010 stating whether there was compliance with the Settlement Agreement. To date, the MREAC has not received a written report pursuant to the Settlement Agreement from Nichols.

7. The Settlement Agreement Part III, ¶ 2 (B) required that Nichols “maintain a log of all appraisal assignments as required by 20 CSR 2245-2.050” and submit “a true and accurate copy of the log” to the MREAC “by no later than January 1 and July 1 during each year of the disciplinary period.” The first log was required to be submitted by January 1, 2010.

8. Nichols failed to submit his appraisal log to the MREAC by January 1, 2010. To date, the MREAC has not received an appraisal log pursuant to the Settlement Agreement from Nichols.

9. The Settlement Agreement, Part III, ¶ 2(H) required that Nichols “timely renew his license and timely pay all fees required for license renewal and comply with all other MREAC requirements necessary to maintain his license in a current and active state.”

10. The MREAC gave Nichols opportunity to renew his license during the resolution and signing of the September 18, 2009 Settlement Agreement.

Nichols failed to renew but signed the Settlement Agreement. To date, Nichols has not renewed his license.

11. The Settlement Agreement also stated:
 - a. “[I]n the event the MREAC determines that Nichols has violated any term or condition of the Agreement, the MREAC may, in its discretion, vacate and set aside the discipline therein imposed and impose such further discipline as it shall deem appropriate.” Part III, ¶ 3.
 - b. “[N]o additional discipline shall be imposed by the MREAC without notice and opportunity for hearing before the MREAC as a contested case in accordance with the provisions of Chapter 536, RSMo.” Part III, ¶ 4.
 - c. “[T]he Agreement does not bind the MREAC or restrict the remedies available to it concerning any future violations by Nichols of Chapter 339, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of the Agreement.” Part III, ¶ 5
 - d. “[I]f any alleged violation of the Agreement occurs during the disciplinary period, the MREAC may choose to conduct a hearing before it to determine whether a violation occurred and may impose further discipline, as the MREAC maintains continuing jurisdiction to hold [] a hearing for this purpose.” Part III, ¶ 7.

12. On or about January 12, 2010 the MREAC sent notice by U.S. mail and certified mail to Nichols notifying him of the probation violation complaint and of the disciplinary hearing in this matter set for February 10, 2010 at 3:00 p.m. at the Missouri Council of School Administrators, 3550 Amazonas Drive, Jefferson City, Missouri, 65106. The MREAC sent the Notice by certified mail and U.S. Mail to Nichols’ last known addresses:

5 W 109th Terrace
Kansas City, MO 64114

217 E. Gregory Blvd.
Kansas City, MO 64114

446 S. Cherry St.
Olathe, KS 66061

8400 W, 110th St., Suite 605
Overland Park, KS 66210

The green return card from the certified mail copy sent to 446 S. Cherry St., Olathe, KS 66061 was signed for and returned to the MREAC. Additionally, the MREAC's e-mail containing the Notice of Hearing and Probation Violation complaint was not returned.

Conclusions of Law

13. The MREAC has jurisdiction in this proceeding, pursuant to the September 18, 2009, Order to determine whether Nichols has violated the terms and conditions of the September 18, 2009 Settlement Agreement.

14. The MREAC also has jurisdiction pursuant to § 324.042, RSMo to determine whether Nichols has violated the terms and conditions of the September 18, 2009 settlement agreement. Section 324.042 states, in pertinent part:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

15. Nichols violated the terms of the Settlement Agreement, Part III, ¶¶ 2(A), (B) and (H) when he: 1) failed to submit a written report due January 1, 2010; 2) failed to submit an appraisal log due January 1, 2010; and 3) failed to renew his license after signing the Settlement Agreement.

16. The September 18, 2009 Settlement Agreement and § 324.042 allow the MREAC to take such disciplinary action that the MREAC deems appropriate for failure to comply with the terms of the September 18, 2009 Settlement Agreement.

17. Reasonable attempts were made to notify Nichols of the probation violation complaint and the date of the hearing; there is no reason to believe that Nichols did not receive the board's notice.

Decision and Order

It is the decision of the MREAC that Nichols has violated the terms of the September 18, 2009 Settlement Agreement, and that his license is, therefore, subject to further disciplinary action.

The MREAC orders that the state real estate appraiser license of Michael Nichols, number 2002003005, be and is hereby REVOKED.

Respondent shall immediately return all indicia of licensure to the Board.

The Board will maintain this Order as an open and public record of the Board as provided in Chapters 339, 610, and 324, RSMo.

SO ORDERED this 23rd day of February, 2010.

MISSOURI REAL ESTATE APPRAISERS COMMISSION

Vanessa Beauchamp
Vanessa Beauchamp,
Executive Director