

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

<b>MISSOURI REAL ESTATE APPRAISERS</b>	)	
<b>COMMISSION,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
v.	)	<b>No. 2009-001724PV</b>
	)	
<b>PHILIP MANNINO</b>	)	
	)	
<b>Respondent.</b>	)	

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

At its scheduled meeting on March 16, 2011, 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 Philip Mannino (Mannino) has failed to comply with the terms of his probation.

The Commission appeared at the hearing through Assistant Attorney General Daniel Jacob. Mannino was not present at the hearing and was not 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. Philip Mannino is a natural person and is licensed by the MREAC as a state certified residential real estate appraiser, License No. 2007028502. The MREAC issued Mannino's certification on September 11, 2007. Mannino's license is current and active.

3. On or about January 21, 2010, the MREAC and Mannino entered into a Settlement Agreement placing Mannino's certification on probation for a period of two years as a result of errors in appraisals Mannino performed. The Settlement Agreement became effective on February 5, 2010.

4. The Settlement Agreement, stated, in relevant part in paragraphs 6I and 6J:

6. Mannino's certification is on probation. Mannino's certification as a state-certified residential real estate appraiser, is hereby placed on PROBATION FOR TWO (2) YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Mannino shall be entitled to practice as a state-certified residential real estate appraiser under Sections 339.500 to 339.549, RSMo, as amended, provided Mannino adheres to all the terms of this agreement.

...

I. Mannino shall timely renew his certification and timely pay all fees required for certification renewal and comply with all other MREAC requirements necessary to maintain his certification in a current and active state.

J. During the disciplinary period, Mannino shall comply with all provisions of §§ 339.500 through 339.549, RSMo, all rules and regulations promulgated thereunder, and all federal and state laws. "State"

includes the state of Missouri and all other states and territories of the United States. Any cause to discipline Mannino's certification as a real estate appraiser under § 339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Settlement Agreement.

5. Paragraph 12 of the Disciplinary Order stated:

12. If any alleged violation of this Order occurred during the probationary period, the MREAC may choose to conduct a hearing before it either during the probationary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose disciplinary action.

6. On or about May 5, 2010, Mannino submitted his application to renew his state certification for residential real estate appraiser to the MREAC. On his renewal, Mannino averred that he had completed the mandatory number of hours of continuing education needed to renew his certificate.

7. On or about July 27, 2010, the MREAC mailed Mannino a letter advising him that he would need to submit all of his continuing education course completion certificates for the 2008-2010 renewal period. Mannino's renewal period ran from July 1, 2008 through June 30, 2010.

8. In response to the MREAC's July 27, 2010 letter, Mannino mailed the following three continuing education course completion certificates to the MREAC. The certificates of completion were issued to Mannino after June 30, 2010.

- a. A certificate awarded for successful completion of a 7 credit hour class titled "Sales Comparison Approach" which Mannino completed on August 3, 2010;
- b. A certificate awarded for successful completion of a 7 credit hour class titled "Made in America: Appraising Factory Built Housing" which Mannino completed on August 29, 2010; and
- c. A certificate awarded for successful completion of a 5 credit hour class titled "Environmental Issues for Appraisers" which Mannino completed on August 18, 2010.

9. On or about November 27, 2011, the MREAC sent notice by regular mail and certified mail to Mannino notifying him of the probation violation complaint and of the probation violation hearing in this matter set for February 2, 2011 at 9:15 a.m. at the Missouri Council of School Administrators Building, 3550 Amazonas Drive, Jefferson City, Missouri. The green card from the certified mail copy was signed for by Mannino and returned to the MREAC. The February 2, 2011 hearing was cancelled and rescheduled due to a snowstorm in Jefferson City on February 1, 2011. On or about February 4, 2011 the MREAC sent notice by certified mail to Mannino notifying him of probation violation hearing in this matter rescheduled for March 16, 2011 at 1:00 p.m. at the Missouri Council of School Administrators, 3550 Amazonas Drive, Jefferson City, Missouri. The green return card from the certified mail copy was signed for by Mannino and returned to the MREAC.

### Conclusions of Law

10. The MREAC has jurisdiction in this proceeding, pursuant to the June 19, 2009 Disciplinary Order to determine whether Martin has violated the terms and conditions of the June 19, 2009 Disciplinary Order.

11. The MREAC also has jurisdiction pursuant to § 324.042, RSMo to determine whether Martin has violated the terms and conditions of the June 19, 2009 Disciplinary Order. 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.

12. Section 339.530.1, RSMo states:

As a prerequisite of renewal of certification or licensure, a state-certified real estate appraiser or state-licensed real estate appraiser shall present evidence satisfactory to the commission of having met the continuing education requirements as provided in this section. The basic continuing education requirements for renewal of certification or licensure shall be the completion by the state-certified real estate appraiser or state-licensed real estate appraiser, during the immediately preceding term of certification or licensure, of continuing education as prescribed by the appraiser qualifications board and approved by the commission.

13. Regulation 20 CSR 2245-8.010(1) and (2) states:

(1) Each licensee who holds a certificate or license shall complete, during the two year license period prior to renewal, as a condition precedent to certification or license renewal, the required number of hours of real estate appraisal

instruction approved for continuing education credit by the Missouri Real Estate Appraisers Commission as specified in section (2) of this rule. Licensees shall maintain their evidence of course participation or course completion certificates for the period set for appraisal file retention. Such evidence shall be submitted upon request by the commission.

(2) Licensees are required to complete twenty-eight (28) hours of continuing education during the two (2)-year renewal cycle. The commission may require specific courses of continuing education. A licensee shall provide verification of completion of continuing education by affidavit at the time of renewal. The affidavit shall contain a truthful statement of approved courses by the commission of continuing education taken by the licensee.

14. Section 339.532.2, RSMo states, in relevant part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any state-certified real estate appraiser, state-licensed real estate appraiser, or any person who has failed to renew or has surrendered his or her certificate or license for any one or any combination of the following causes:

(1) Procuring or attempting to procure a certificate or license pursuant to section 339.513 by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or licensure, or through any form of fraud or misrepresentation;

(2) Failing to meet the minimum qualifications for certification or licensure or renewal established by sections 339.500 to 339.549;

...

(5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of any

profession licensed or regulated by sections 339.500 to 339.549;

...

(10) Violating, assisting or enabling any person to willfully disregard any of the provisions of sections 339.500 to 339.549 or the regulations of the commission for the administration and enforcement of the provisions of sections 339.500 to 339.549;

...

(14) Violation of any professional trust or confidence;

...

(19) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or certification, or for license or certification renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision[.]

15. Mannino's failure to complete the continuing education courses before June 30, 2010 is in violation of § 339.530.1, RSMo and 20 CSR 2245-8.010(1) and (2) and provides cause to discipline his certificate pursuant to § 339.532.2(2) and (10), RSMo and the January 21, 2010 Settlement Agreement.

16. Mannino's statement on his renewal application that he had completed the necessary continuing education courses when he had not done so provides cause to discipline his certificate pursuant to § 339.532.2(1) and (19), RSMo and the January 21, 2010 Settlement Agreement.

17. Mannino's statement on his renewal application that he had completed the necessary continuing education courses when he had not done so constitutes misconduct, dishonesty, fraud, and/or misrepresentation in the performance of the functions or duties and provides cause to discipline his certificate pursuant to § 339.532.2(5), RSMo and the January 21, 2010 Settlement Agreement.

18. Mannino's statement on his renewal application that he had completed the necessary continuing education courses when he had not done so is a violation of his professional trust and confidence and provides cause to discipline his certificate pursuant to § 339.532.2(14), RSMo and the January 21, 2010 Settlement Agreement.

19. The January 21, 2010 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 January 21, 2010 Settlement Agreement.

### **Decision and Order**

It is the decision of the MREAC that Mannino has violated the terms of the January 21, 2010 Settlement Agreement, and that his license is, therefore, subject to further disciplinary action.

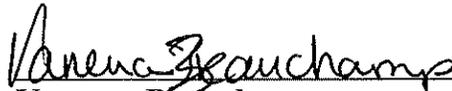
The MREAC orders that Philip Mannino's state certification for residential real estate appraiser, number 2007028502, be and is hereby REVOKED.

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 18<sup>th</sup> day of March, 2011.

**MISSOURI REAL ESTATE APPRAISERS  
COMMISSION**

  
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Vanessa Beauchamp,  
Executive Director