

STATE OF NEW YORK
DEPARTMENT OF STATE

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In the Matter of the Complaint of

DEPARTMENT OF STATE
DIVISION OF LICENSING SERVICES,

Complainant,

DECISION

-against-

JAMES A. LILLY,

Respondent.

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Pursuant to the designation duly made by the Hon. Gail S. Shaffer, Secretary of State, the above noted matter came on for hearing before the undersigned, Roger Schneier, on March 16, 1994 at the office of the Department of State located at 270 Broadway, New York, New York.

The respondent, of Rinald USA, 49 Emmett Terrace, New Rochelle, New York 10805, did not appear.

The complainant was represented by Supervising License Investigator Michael Coyne.

COMPLAINT

The complaint alleges that the respondent failed to indicate a sufficient number of appraisals on an experience log to substantiate the claim of experience upon which his certification as a residential real estate appraiser was based.

FINDINGS OF FACT

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail.

2) The respondent is, and has been since December 7, 1992, duly certified as a residential real estate appraiser based on his application dated October 29, 1992. On that application the respondent claimed credit for sufficient experience to qualify for certification according to the requirements of Executive Law §160-k and 19 NYCRR 1102.1 and the scheme established by 19 NYCRR 1102.2 and 1102.3.

By letters dated February 26 and March 31, 1993 the respondent was requested, as part of an audit of his claimed qualifying experience, to submit an appraisal experience log on a form supplied by the complainant. By letter dated April 14, 1993 the respondent replied that he was attempting to collect copies of his appraisals. On April 21, 1993 the complainant received from the respondent a log dated April 12, 1993. Other than information identifying the respondent, the log contained no entries.

OPINION

Pursuant to Executive Law §160-k[3], an applicant for certification as a real estate appraiser must establish that he has sufficient experience to qualify. So as to implement that requirement, the State Board of Real Estate Appraisal, acting pursuant to authority granted to it by Executive Law §160-d[1], promulgated 19 NYCRR 1102.2[d], which provides:

"Upon request by the Department of State, either prior to certification or after certification, an applicant must provide documentation or other proof, satisfactory to the Department of State, to substantiate any or all of the experience claimed by the applicant. Failure to provide the requested documentation or proof promptly shall be grounds for the Department of State....to suspend or revoke the certification."

The respondent was asked to provide proof of his claimed experience in the form of an experience log. In response he submitted a form on which no experience was listed. He has, therefore, failed to establish his entitlement to certification as a residential real estate appraiser.

CONCLUSIONS OF LAW

The respondent has failed to provide proof, as required by 19 NYCRR 1102[d], that he has acquired the required experience to qualify for certification as an appraiser pursuant to Executive Law §160-k and 19 NYCRR 1102.1, 1102.2, and 1102.3. It is concluded, therefore, that he has not met the minimum qualifications for certification as a residential real estate appraiser.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT James A. Lilly has failed to meet the minimum qualifications for certification as a residential real estate appraiser as established by Executive Law Article 6-E, and accordingly, pursuant to Executive Law §160-u[b], his certification as residential real estate appraiser is revoked, effective immediately.

These are my findings of fact together with my opinion and conclusions of law. I recommend the approval of this determination.

Roger Schneier
Administrative Law Judge

Concur and So Ordered on:

GAIL S. SHAFFER
Secretary of State
By:

James N. Baldwin
Executive Deputy Secretary of State