

AP2604597

OAH Docket No. \_\_\_\_\_

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR DEPARTMENT OF COMMERCE

In the Matter of the Real Property Appraiser  
License Application of Troy Jackson

**NOTICE OF AND ORDER FOR  
HEARING, ORDER FOR PREHEARING  
CONFERENCE, ORDER TO SHOW  
CAUSE, AND STATEMENT OF CHARGES**

TO: Troy Jackson  
2062 Bush Avenue  
St. Paul, MN 55119

**NOTICE OF HEARING**

Respondent Troy Jackson ("Respondent") is hereby notified that the Department of Commerce ("Department") has initiated this action to provide him with the opportunity to show cause why his application for licensure as a real property appraiser should not be denied.

**ORDER FOR PREHEARING CONFERENCE**

IT IS HEREBY ORDERED that, pursuant to Minn. Rules 1400.5600 and 1400.6500 (2005), a prehearing conference will be held on December 11, 2006 at 2:30 p.m. at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota.

**ORDER TO SHOW CAUSE**

IT IS FURTHER ORDERED that, pursuant to Minn. Stat. § 45.027, subd. 7(b) (2004), Respondent must show cause why his application for licensure as a real property appraiser should not be denied.

## ORDER FOR HEARING

IT IS FURTHER ORDERED that, under Minn. Stat. §§ 82B.07 and 82B.20 (2004), a contested case hearing will be held at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota, on a date to be scheduled at the prehearing conference.

The Chief Administrative Law Judge, Office of Administrative Hearings, has assigned this matter to Administrative Law Judge Eric Lipman, Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 341-7601.

The hearing will be conducted under the contested case procedures set out in Chapters 14 and 45 of Minnesota Statutes (2004) and the Rules of the Office of Administrative Hearings, Minnesota Rules Chapter 1400 (2005). A copy of these materials may be purchased from the Minnesota Book Store, telephone (651) 297-3000, or are available at [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us). Copies of the rules are also available at [www.oah.state.mn.us](http://www.oah.state.mn.us).

The attorney handling this case for the Department is Assistant Attorney General Christopher M. Kaisershot, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, (651) 282-9992. Mr. Kaisershot may be contacted to discuss discovery or informal disposition of this matter.

## STATEMENT OF CHARGES

### ALLEGATIONS

1. On July 6, 2006, Respondent filed a real estate appraiser license application with the Department. Respondent's application disclosed that he had a criminal history.

2. On July 11, 2006, the Department requested Respondent to provide copies of the criminal complaints and sentencing orders for each such criminal charge and conviction.

3. On July 25, 2006, Respondent provided an incomplete response to the Department's information request.

4. Respondent was charged with Felony Criminal Sexual Conduct (2nd Degree) on July 15, 1984. The criminal complaint indicates that Respondent crawled into bed with a 9-year old girl, rubbed her between her legs, and asked "Can I make you feel as good as I do mommy?" Respondent was convicted as charged, and sentenced to 21 months in prison. With his application materials, Respondent provided the following explanation: "Unfortunately I used my daughter to get out of the marriage I was in. I take full responsibility for this incident."

5. On November 28, 1990, Respondent was charged with Fifth Degree Assault. Respondent was convicted of Misdemeanor Disorderly Conduct on January 30, 1991, and sentenced to 90 days in jail (the criminal complaint for this charge was not provided to the Department). With his application materials, Respondent provided the following explanation: "Wife and I had a fight. Pushed back when pushed."

6. On March 29, 1993, Respondent was charged with Malicious Punishment of a Child. The criminal complaint indicates that Respondent became upset with his live-in-girlfriend's daughter and struck her four times, including once with a closed fist. These blows left bruising and marks on each side of the child's face. Respondent was convicted and

sentenced to serve 90 days in the county jail. With his application materials, Respondent provided the following explanation: "Daughter and I had a fight. Grabbed her by the cheeks."

7. On September 1, 2006, the Department recommended the denial of Respondent's license application. On September 14, 2006, Respondent requested a hearing to contest the Department's recommendation.

8. This Order is in the public interest.

#### **VIOLATION**

Respondent has been convicted of Felony Criminal Sexual Conduct (2nd Degree), Disorderly Conduct, and Malicious Punishment of a Child. Two of these incidents involved Respondent abusing his position of authority over children. Respondent's license application materials (a) attempt to minimize the egregiousness of the incidents, (b) indicate that Respondent has not, in fact, accepted responsibility for his actions, and (c) fail to show remorsefulness or evidence of rehabilitation. Indeed, in one instance, Respondent continues to blame his victim. Respondent engaged in acts which demonstrate that he is incompetent or unqualified to act under the license granted by the Commissioner. *See* Minn. Stat. §§ 45.027, subd. 7(a)(4) (2004); *see also* Minn. Stat. 82B.20, subd. 2(3) (2004).

#### **CRIMINAL REHABILITATION ACT DOES NOT PRECLUDE DISQUALIFICATION**

Minnesota Statutes Chapter 364 (2004) does not preclude disqualification from licensure as a real estate property appraiser because Respondent's convictions were based on underlying misconduct that is grounds to censure, suspend, or revoke a real estate property appraiser's license under Minn. Stat. §§ 45.027, subd. 7 and 82B.20, subd. 2(3) (2004). *See* Minn. Stat. § 45.027, subd. 10 (2004).

Additionally, Respondent does not benefit from Minn. Stat. § 364.03, subd. 1 (2004) because Respondent's convictions directly relate to the licensed occupation as a real estate property appraiser. *See* Minn. Stat. § 364.03, subds. 1-2 (2004). Further, Respondent has failed to show competent evidence of sufficient rehabilitation and present fitness to perform the duties of a real estate property appraiser. *See* Minn. Stat. § 364.03, subd. 3 (2004).

#### **ADDITIONAL NOTICE**

1. Respondent's failure to appear at the prehearing conference or hearing may result in a finding that Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and that Respondent's license application may be denied.

2. If any party has good cause for requesting a delay of the prehearing conference or hearing, the request must be made in writing to the Administrative Law Judge at least five days before the prehearing conference or hearing. A copy of the request must be served on the other party.

3. Any party intending to appear at the prehearing conference or hearing must file a Notice of Appearance form and return it to the Administrative Law Judge within 20 days of the date of service of the Statement of Charges. A copy must be served on the Department's attorney. A Notice of Appearance form is enclosed.

4. At the hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. The parties are entitled to the issuance of subpoenas to compel witnesses to attend the hearing. The parties will have the opportunity to be heard orally, to present evidence and

cross-examine witnesses, and to submit evidence and argument. Ordinarily, the hearing is tape-recorded. The parties may request that a court reporter record the testimony at their expense.

5. Persons attending the hearing should bring all evidence bearing on the case, including any records or other documents. Be advised that if data that is not public is admitted into the record, it may become public data unless an objection is made and relief is requested under Minn. Stat. § 14.60, subd. 2 (2004).

6. Requests for subpoenas for the attendance of witnesses or the production of documents at the hearing shall be made in writing to the Administrative Law Judge pursuant to Minn. Rule 1400.7000 (2005). A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at [www.oah.state.mn.us](http://www.oah.state.mn.us) or by calling (612) 341-7600.

7. This case may be appropriate for mediation. The parties are encouraged to consider requesting the Chief Administrative Law Judge to assign a mediator so that mediation can be scheduled promptly.


8. The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court. A publication entitled *A Guide to Participating in Contested Case Proceedings at the Office of Administrative Hearings* is available at [www.oah.state.mn.us](http://www.oah.state.mn.us) or by calling (612) 341-7600.

9. Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, including a foreign language interpreter, the Administrative Law Judge must be

promptly notified. To arrange for an accommodation or an interpreter, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401, or call (612) 341-7610 (voice) or (612) 341-7346 (TTY).

GLENN WILSON  
Commissioner

Dated: 11/7/06, 2006

  
PATRICK L. NELSON  
Deputy Commissioner  
Market Assurance Division

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