

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

COESTER VMS.COM, INC.  
Lic. #2000018  
And  
BRIAN COESTER  
RESPONDENTS

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COMPLAINT CASE NUMBER

19-130, 19-160,-19-161, 19-163, 19-172,  
19-176, and 19-178 through 19-180

### **DEFAULT FINAL ORDER**

On this 6 day of November, 2019, the Texas Appraiser Licensing and Certification Board ("TALCB" or "Board"), through the delegation of authority to the Commissioner, considered the above-noted matter.'

After proper notice was given, COESTER VMS.COM, INC. ("Coester") and BRIAN COESTER (collectively, the "Respondents") failed to respond and request a hearing in this matter.

The Texas Appraiser Licensing and Certification Board through the delegation of authority to the Commissioner, after review and due consideration of the Notice of Violation and Penalty, incorporated by reference and attached hereto as **Exhibit A**, makes the following findings of fact and conclusions of law. All proposed findings of fact and conclusions of law submitted by any party that are not specifically adopted in this Final Order are denied.

### **FINDINGS OF FACT**

1. Respondent Coester, is an appraisal management company (AMC) who held license number 2000018 during all times material to the above-noted complaint case.
2. Brian Coester is the "controlling person" of Coester as that term is defined under the Act (Tex. Oc. Code Chpt. 1104).
3. On or about December 13, 2018, complaints #19-130 and 19-#178 were filed with the Board by a real estate appraiser and alleged Respondents failed to pay him certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.
4. On or about January 10, 2019, complaints #19-160 and #19-161 were filed with the Board by real estate appraisers and each alleged Respondents failed to pay them certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.
5. On or about January 14, 2019, complaint #19-163 was filed with the Board by a real estate appraiser and alleged Respondents failed to pay him certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.

6. On or about January 25, 2019, complaints #19-172 and #19-179 were filed with the Board by a lending institution and alleged Respondents failed to pay real estate appraisers certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.
7. On or about January 28, 2019, complaints #19-176 and #19-180 were filed with the Board by a real estate appraiser and alleged Respondents failed to pay him certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.
8. The Board, in accordance with Tex.Gov't Code Ann. Chpt. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondents of the nature of the accusations involved in the complaints. Respondents were afforded an opportunity to respond to the accusations in the complaints and were also requested to provide certain documentation to the Board.
9. Despite being sent the initial notice of complaint, and a final notice of complaint, the Board never received responsive documents or any written response from Respondents regarding complaints #19-130, 19-160, 19-161, 19-163, 19-172, 19-176 and 19-178 through 19-180.<sup>1</sup>
10. Respondents failed to pay real estate appraisers for a total of 44 completed appraisals.
11. In the aggregate, some \$18,400.00 worth of unpaid appraisal invoices are outstanding and owed by Respondents. This conduct is a violation of Tex. Occ. Code § 1104.157(1).
12. Further, Respondents failed to respond and did not provide any of the requested documentation for numerous complaints (#19-130, 19-160, 19-161, 19-163, 19-172, 19-176 and 19-178 through 19-180) within 20 days of notice in violation of 22 Tex. Admin. Code §§ 159.201(a)(21) and 159.204(g).
13. On June 13, 2019, Board staff sent Respondents a Final Notice of Complaint to the email address Respondent provided to the TALCB: [REDACTED]
14. On October 7, 2019, the Board staff sent the Respondents a Notice of Violation and Penalty ("Notice") to the address Respondents provided to the TALCB: Coester VMS.COM.Inc. [REDACTED]
15. On October 7, 2019, the Board staff also sent the Notice to the email address Respondents provided to the TALCB: [REDACTED]

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<sup>1</sup> Although Coester and Brian Coester did not provide any of the requested documentation for the complaints, an attorney for Coester (Sandra Mayerson) did submit a letter indicating the entity was insolvent and was not able to respond to the complaints. This attorney did also speak with staff to confirm the business entity was defunct and in the process of winding down and attempting to address outstanding creditors.

16. The Notice recommended the imposition of a \$132,500.00 administrative penalty.
17. In the Notice, Respondents were informed that failure to respond, no later than the 20th day after the date of receiving the Notice, would result in the submission of an order imposing the above recommendation to the Board.
18. Respondents failed to request a hearing on this matter.

### **CONCLUSIONS OF LAW**

1. The TALCB has jurisdiction over this matter pursuant to the Texas Appraisal Management Company Registration and Regulation Act (the "Act"), TEX. OCC. CODE § 1104 et. seq.
2. The TALCB is authorized to send Notice pursuant to TEX. OCC. CODE § 1104.209.
3. Respondents violated 22 TEX. ADMIN. CODE §§ 159.201(a)(1), (a)(21) and 159.204(g).
4. Respondents violated Tex. Occ. Code § 1104.157(1).
5. The Notice recommended the imposition of a \$132,500.00<sup>2</sup> administrative penalty.
6. Pursuant to TEX. OCC. CODE § 1104.209, no later than the 20th after the date of receiving the Notice, Respondents may accept the Board's determination or make a written request for a hearing.
7. Pursuant to TEX. OCC. CODE § 1104.210, if the Respondent fails to respond to the Notice in a timely manner, the TALCB is authorized to approve the determinations in the Notice, order payment of the recommended penalty and impose the recommended sanction.
8. Respondents are jointly and severally liable for these violations as authorized by TEX. OCC. CODE §§ 1104.202 & 1104.204.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board through the delegation of authority to the Commissioner that COESTER VMS.COM, INC. and BRIAN COESTER are hereby assessed an administrative penalty of \$132,500.00, for which they are jointly and severally liable, effective twenty days after the date they are notified of this Final Order.

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<sup>2</sup> Under the Board's penalty matrix, a 1<sup>st</sup> Time Discipline Level 3 (serious deficiencies done with knowledge) violation calls for a "minimum of \$2,500 in administrative penalties per act or omission which constitutes a violation(s)". 22 TEX. ADMIN. CODE § 159.204(l)(3)(C). These complaints demonstrate at least 44 instances of failure to pay fees owed to appraisers and 9 violations that Respondents failed to respond and provide documentation to the Board in connection with these complaints. 53 separate violations x \$2,500.00 equals a minimum administrative penalty of \$132,500.00.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this order shall become effective upon a final determination by said court or appellate court in favor of the Texas Appraiser Licensing and Certification Board.

Approved by the Texas Appraiser Licensing and Certification Board through the delegation of authority to the Commissioner and Signed this   6   day of NOVEMBER, 2019.

**Douglas E. Oldmixon** Digitally signed by Douglas E. Oldmixon  
DN: cn=Douglas E. Oldmixon, o=TREC/TALCB, ou=AMS,  
email=douglas.oldmixon@trec.texas.gov, c=US  
Date: 2019.11.06 16:45:10 -06'00'

Douglas Oldmixon, Commissioner

Date

Or

Tony Slagle, Deputy Commissioner

Texas Appraiser Licensing and Certification Board

## **RIGHT TO REHEARING AND JUDICIAL REVIEW OF FINAL ORDER**

You are entitled to apply for a rehearing of this Final Order. A rehearing may be obtained by filing an application for rehearing within 25 days of being notified either in person or by certified mail, return receipt requested, of the Final Order. The application for rehearing must state the specific grounds for rehearing and the relief sought. The application for rehearing will be denied if the Board does not act on it before the 55th day after the date the Commissioner is served with the application. In the absence of a timely application for rehearing, the Final Order will be final on the expiration of the period for filing an application for rehearing. A decision becomes final and appealable on the date of rendition of the order overruling application for rehearing, or on the date the application for rehearing is overruled by operation of law.

An application for rehearing is a prerequisite to judicial review. Judicial review may be obtained by filing in the Travis County, Texas, District Court, within 30 days after the order of the board is final and appealable.

### CERTIFICATE OF SERVICE

I certify that on November \_\_\_\_, 2019, in accordance with 1 TEX. ADMIN. CODE §155.251 a true and correct copy of the foregoing Default Final Order was mailed certified mail, return receipt requested, faxed and/or hand delivered to:

COESTER VMS.COM, INC.  
and  
BRIAN COESTER  
INDIVIDUALLY

VIA CMRR: 91 7199 9991 7032 9862 1918  
VIA EMAIL: [REDACTED]

[REDACTED]

←  
Troy Beaulieu

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Troy Beaulieu



Troy Beaulieu  
Director, Standards and Enforcement  
Services  
(512) 936-3621  
enforcement@talcb.texas.gov

October 7, 2019

**VIA CMRRR: #91 7199 9991 7032 9862 1949 and VIA EMAIL:** [REDACTED]

COESTER VMS. COM, INC.  
AND  
BRIAN COESTER, INDIVIDUALLY  
[REDACTED]

Re: Texas Appraiser Licensing and Certification Board vs. COESTER VMS.COM, INC.  
TALCB Complaint #19-130,19-60-19-161,19-163,19-172,19-176,19-178-19-180:  
NOTICE OF VIOLATION AND PENALTY

COESTER VMS.COM, INC:

As detailed in the attached Notice of Violation and Penalty, you have failed to comply with Texas Appraiser Licensing and Certification Board rules in connection with the above-noted complaint matter. The totality of this conduct indicates either gross neglect or intentional disregard for your obligations as a certified real estate appraiser. Based upon these violations, our office is recommending the sanctions and penalty outlined in the attached Notice of Violation and Penalty.

**Within 20 days from your receipt of this notice**, please advise our office whether you wish to dispute the violations and recommended sanctions and penalty. If you elect to dispute the violations, or the recommended penalty, or both, please send a written request for a hearing. Please provide our office with dates in October, November, or December 2016 when you are available to hold a hearing before the State Office of Administrative Hearings in Austin. **If you do not wish to dispute the violations and recommended sanctions and penalty, please send our office written acceptance of the violation, sanctions and penalty.** You can email us at [enforcement@talcb.texas.gov](mailto:enforcement@talcb.texas.gov), send us a fax to 512-936-3966, or mail it to TALCB SES, P.O. Box 12188, Austin, Texas, 78711-2188.

**You have the right to a hearing to contest the alleged violation, the recommended sanction, or both. However, please be aware that in accordance with the provisions of TEX. OCC. CODE §§ 1103.5011 and 1103.5012, if you fail to respond to this notice and do not affirmatively request in writing a hearing within 20 days of your receipt of this notice, the Board will approve an order imposing the proposed sanctions and penalty.**

Respectfully,

Troy Beaulieu

cc: Sandra Mayerson (VIA E-MAIL)





[REDACTED], and whose e-mail address as last provided to the Board is:  
[REDACTED]

## **II. SUMMARY OF ALLEGED VIOLATIONS**

5. On or about December 13, 2018, complaints #19-130 and 19-#178 were filed with the Board by a real estate appraiser and alleged Respondents failed to pay him certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.

6. On or about January 10, 2019, complaints #19-160 and #19-161 were filed with the Board by real estate appraisers and each alleged Respondents failed to pay them certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.

7. On or about January 14, 2019, complaint #19-163 was filed with the Board by a real estate appraiser and alleged Respondents failed to pay him certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.

8. On or about January 25, 2019, complaints #19-172 and #19-179 were filed with the Board by a lending institution and alleged Respondents failed to pay real estate appraisers certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.

9. On or about January 28, 2019, complaints #19-176 and #19-180 were filed with the Board by a real estate appraiser and alleged Respondents failed to pay him certain appraisal fees for appraisal assignments within 60 days of completion of the assignments.

10. The Board, in accordance with Tex.Gov't Code Ann. Chpt. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondents of the nature of the accusations involved in the complaints. Respondents were afforded an opportunity to respond to the accusations in the complaints and were also requested to provide certain documentation to the Board.

11. Despite being sent the initial notice of complaint, and a final notice of complaint, the Board never received responsive documents or any written response from Respondents regarding complaints #19-130, 19-160, 19-161, 19-163, 19-172, 19-176 and 19-178 through 19-180.<sup>1</sup>

12. Respondents failed to pay real estate appraisers for a total of 44 completed appraisals.

13. In the aggregate, some \$18,400.00 worth of unpaid appraisal invoices are outstanding and owed by Respondents. This conduct is a violation of TEX. OCC. CODE § 1104.157(1).

14. Further, Respondents failed to respond and did not provide any of the requested documentation for numerous complaints (#19-130, 19-160, 19-161, 19-163, 19-172, 19-176 and 19-178 through 19-180) within 20 days of notice in violation of 22 TEX. ADMIN. CODE §§ 159.201(a)(21) and 159.204(g).

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<sup>1</sup> Although Respondent Coester VMS did not provide any of the requested documentation for the complaints, an attorney for Respondent Coester VMS (Sandra Mayerson) did submit a letter indicating the entity was insolvent and was not able to respond to the complaints. This attorney did also speak with staff to confirm the business entity was defunct and in the process of winding down and attempting to address outstanding creditors.

### **III. RECOMMENDED SANCTION AND PENALTY**

15. Respondents have no prior discipline with the Board. However, due to the seriousness, number and extent of the violations, as well as Respondents' intentional non-compliance with the Board regarding providing responsive documents, Petitioner recommends the revocation of Respondent Coester VMS's license and the imposition of an administrative penalty in the amount of \$132,500.00<sup>2</sup> (the minimum amount provided by applicable law) against both Respondent Coester VMS and Respondent Brian Coester, individually, for which they are jointly and severally liable under TEX. OCC. CODE §§ 1104.202 & 1104.204.

### **IV. RESPONDENT'S RIGHT TO A HEARING**

Pursuant to TEX. OCC. CODE § 1104.209, Respondents have the right to a hearing to contest:

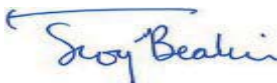
- a. the alleged violations;
- b. the recommended sanctions and penalty; or
- c. both the alleged violations and recommended sanctions and penalty.

However, if Respondents fail to respond to this notice and do not affirmatively request in writing a hearing within the next 20 days, a final order, imposing the recommended sanctions and penalty outlined above will be automatically entered and imposed against Respondents by default.

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<sup>2</sup> Under the Board's penalty matrix, a 1<sup>st</sup> Time Discipline Level 3 (serious deficiencies done with knowledge) violation calls for a "minimum of \$2,500 in administrative penalties per act or omission which constitutes a violation(s)". 22 TEX. ADMIN. CODE § 159.204(l)(3)(C). These complaints demonstrate at least 44 instances of failure to pay fees owed to appraisers and 9 violations that Respondents failed to respond and provide documentation to the Board in connection with these complaints. 53 separate violations x \$2,500.00 equals a minimum administrative penalty of \$132,500.00.

Respectfully Submitted,

By: \_\_\_\_\_

Troy Beaulieu, Director

Standards and Enforcement Services Division  
Texas Appraiser Licensing and Certification Board  
Texas Bar No. 24044518  
P.O. Box 12188  
Austin, TX 78711-2188  
Telephone : (512) 936-3623  
Fax: (512) 936-3966  
Email: [troy.beaulieu@talcb.texas.gov](mailto:troy.beaulieu@talcb.texas.gov)  
ATTORNEY FOR PETITIONER

**CERTIFICATE OF SERVICE**

I certify that on October 7, 2019, in accordance with TEX. OCC. CODE § 1104.5011, a true and correct copy of the foregoing Notice of Violation and Penalty was mailed certified mail, return receipt requested, emailed, faxed and/or hand delivered to:

<p>COESTER VMS.COM, INC. and BRIAN COESTER INDIVIDUALLY</p> <p>[REDACTED]</p> <p>SANDRA MAYERSON MAYERSON &amp; HARTHEIMER, PLLC 845 THIRD AVE., 11<sup>TH</sup> FLOOR NEW YORK CITY, NY 10022</p>	<p><b><u>VIA CERTIFIED MAIL: 91 7199 9991 7032 9862 1949</u></b> <b><u>VIA FIRST CLASS MAIL</u></b> <b><u>VIA EMAIL:</u></b> [REDACTED]</p> <p><b><u>VIA EMAIL:</u></b> Sandy@mhlaw-ny.com</p>
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Troy Beaulieu