

STATE OF ARIZONA

DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of:

COESTERVMS.COM, INC.

No. 19F-BD006-BNK

Respondent.

ORDER

On May 22, 2019, the Office of Administrative Hearings through Administrative Law Diane Mihalsky issued an Administrative Law Judge Decision (“Recommended Decision”) received by the Interim Superintendent of the Department of Financial Institutions (“Superintendent”) on May 22, 2019, a copy of which is attached and incorporated by this reference. The Superintendent has reviewed the Recommended Decision and enters the following:

1. The Superintendent adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Superintendent adopts the Recommended Order, and specifies the following:
 - a. The Superintendent orders that the registration of **CoesterVMS.com, Inc.** as an appraisal management company (License No. 40122) is revoked effective immediately.
 - b. The Superintendent orders **CoestarVMS.com, Inc.** to pay to the Department of Financial Institutions, within **thirty (30) days** of the date of this Order a civil penalty in the form of a cashier’s check or money order made payable to the Department of Financial Institutions in the amount of **twenty-five thousand dollars (\$25,000.00)**.

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NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondent may request a rehearing or review with respect to this Order within 30 days after the date this Order has been served on Respondent. A rehearing or review of the Order is requested by serving on the Superintendent a written motion that specifies the grounds upon which the motion is based. Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.

Respondent may appeal the Superintendent's final decision to the Superior Court of Maricopa County for judicial review pursuant to A.R.S. §§ 6-139, 12-904 and 41-1092.08(H).

DATED this 29th day of May, 2019.


Keith A. Schraad, Interim Superintendent
Arizona Department of Financial Institutions

COPY of the foregoing mailed by
U.S. First Class Certified Mail with
Return Receipt Requested,
article/tracking number

7009 2250 0001 3653 2410

this 30th day of May 2019,
to:

Brian Coester
CoesterVMS.com, Inc.
555 Quince Orchard Road, Suite 650
Gaithersburg, MD 20878

1 **COPY** of the foregoing electronically
filed, same date, to:

2 Office of Administrative Hearings
1740 West Adams Street, Lower Level
3 Phoenix, Arizona 85007

4 **COPY** of the foregoing sent by
electronic mail, same date, to:

5 Keith A. Schraad, Interim Superintendent
6 Tammy Seto, Division Manager
Attn: Ana Starcevic
7 Arizona Department of Financial Institutions
100 North 15th Ave., Suite 261
8 Phoenix, Arizona 85007
astarcevic@azdfi.gov

9
10 Erich Schwarz, Assistant Attorney General
Attn: Teresa Carranza
11 Office of the Attorney General
2005 South Central Avenue
12 Phoenix, Arizona 85004
AdminLaw@azag.gov
Eric.Schwarz@azag.gov
13 *Attorney for the Department*

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1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

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3 In the Matter of the Appraiser Management
Company License of:

No. 19F-BD006-BNK

4
5 COESTERVMS.COM, INC., Licensed
Appraisal Management Company, holder of
6 License Number 40122,

**ADMINISTRATIVE LAW JUDGE
DECISION**

7
8 Respondent.

9 **HEARING:** May 8, 2019, at 1:00 p.m.

10 **APPEARANCES:** The Arizona Department of Financial Institutions (“the
11 Department”) was represented by Eric Schwarz, Esq., Assistant Attorney General;
12 Coestervms.com, Inc. (“Respondent”) failed to appear.

13 **ADMINISTRATIVE LAW JUDGE:** Diane Mihalsky

14 **FINDINGS OF FACT**

15 **BACKGROUND AND PROCEDURE**

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- 18 1. Respondent is a corporation authorized to transact business in Arizona as an
19 appraisal management company, License Number 40122.
 - 20 2. The Department referred to the Office of Administrative Hearings (“OAH”), an
21 independent state agency, for an evidentiary hearing on eleven complaints that the
22 Department had received from appraisers whom Respondent had retained to perform
23 appraisals but failed to pay for after the appraisals were performed and an email from
24 Respondent’s surety company that it had cancelled Respondent’s surety bond..
 - 25 3. On March 13, the Department issued a Notice of Hearing and Complaint for
26 Revocation of Registration, setting a hearing on May 8, 2019. The notice set forth the
27 eleven complaints that the Department had received, described the 50 appraisals that
28 Respondent had failed to pay for, and summarized the notice that the Department had
29 received from Respondent’s surety company. The Department mailed the notice via
30 certified mail and email to Respondent’s addresses of record.

1 4. A hearing was held on May 8, 2019. The Department submitted fifteen
2 exhibits and presented the testimony of Kelly Leteijn, the Staff Investigator who was
3 assigned to investigate the complaints.

4 5. Respondent did not request to appear telephonically and did not request that
5 the hearing be continued. Respondent did not appear, through an authorized officer,
6 employee, or attorney. Consequently, Respondent did not present any evidence to
7 defend its license.

8 HEARING EVIDENCE

9 6. Ms. Leteijn testified that Respondent has been licensed by the Department
10 as a Registered Appraisal Management Company since November 19, 2010, and that
11 its license will expire on November 19, 2019.¹

12 7. Ms. Leteijn testified that an appraisal management company is an entity that
13 takes in appraisal orders from lenders and passes the orders on to independent
14 appraisers. An appraisal management company must be licensed to do business in
15 Arizona.

16 8. Ms. Leteijn testified that, in late September or early October, 2018, the
17 Department started receiving complaints against Respondent from appraisers who had
18 not been paid. The appraisers provided invoices and communications from
19 Respondent regarding the appraisal engagements. Ms. Leteijn reached out to
20 Respondent and received a delayed response, stating that Respondent was not in a
21 position to respond directly to the complaint allegations, but that was insolvent and not
22 accepting new orders for appraisals.² Ms. Leteijn testified that Respondent never
23 denied owing money to the appraisers who had filed complaints with the Department.

24 9. Ms. Leteijn testified that she had prepared a summary of the complaints that
25 the Department received from the eleven appraisers, setting forth each invoice, the
26 amount of each invoice, and the date that the invoice had been transmitted to
27 Respondent from each complaining appraiser.³

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29 ¹ See Exhibit 1.

² See Exhibit 15.

30 ³ See Exhibit 2.

1 10. The Board submitted the complaints, invoices, and other documents that it
2 had received from the eleven appraisers.⁴

3 11. Ms. Leteijn testified that Respondent had failed to pay a total of 50 invoices
4 that had all been transmitted to Respondent more than 45 days before the Department
5 issued the Complaint for Revocation of Registration. Ms. Leteijn testified that
6 Respondent never claimed that any of the appraisals for which it failed to pay were
7 substandard or not prepared according to Respondent's contract with the appraiser.

8 12. On January 22, 2019, the Department was received notification from
9 International Fidelity Insurance Company ("International") that, on November 15, 2018,
10 it had cancelled Respondent's \$20,000.00 surety bond.⁵ Ms. Leteijn testified that she
11 contacted International and confirmed that the bond had not been reinstated.

12 **CONCLUSIONS OF LAW**

13 1. The Superintendent of the Department is vested with the authority to regulate
14 entities engaged in business as an appraisal management company and has the duty
15 to enforce statutes and rules relating to appraisal management companies.⁶

16 2. The Notice of Hearing that the Department mailed to Respondent at its
17 address of record was reasonable and it is deemed to have received notice of the
18 hearing.⁷

19 3. The Department bears the burden of proof to establish that cause to sanction
20 Respondent's license by a preponderance of the evidence.⁸ "A preponderance of the
21 evidence is such proof as convinces the trier of fact that the contention is more
22 probably true than not."⁹

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27 ⁴ See Exhibits 3 through 13.

28 ⁵ See Exhibit 14.

29 ⁶ See A.R.S. § 36-3601 et seq.

30 ⁷ See A.R.S. §§ 41-1092.04; 41-1092.05(D).

⁸ See A.R.S. § 41-1092.07(G)(2); A.A.C. R2-19-119; see also *Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

⁹ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

1 4. The Department established that Respondent violated A.R.S. § 32-3275¹⁰
2 fifty times by failing to pay fifty invoices issued by eleven appraisers pursuant to their
3 contracts with Respondent.

4 5. The Department established that Respondent failed to maintain a surety
5 bond as required by A.R.S. § 32-3267(B).¹¹

6 6. By failing to make any attempt to remedy the complaints or to attend the
7 hearing, Respondent has shown that it cannot be regulated.

8 7. The Department has established grounds to revoke and impose a civil
9 penalty against Respondent's appraisal management company license under A.R.S. §
10 32-3678(1).¹²

11 **ORDER**

12 Based on the foregoing, on the effective date of the final order in this matter,
13 **IT IS ORDERED** revoking License No. 40122 previously issued to Respondent
14 Coestervms.com, Inc.

15 **IT IS FURTHER ORDERED** imposing a civil penalty in the amount of \$25,000.00
16 against Respondent Coestervms.com, Inc.

17 *In the event of certification of the Administrative Law Judge Decision by the*
18 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
19 *five days from the date of that certification.*

20 *////*

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22 ¹⁰ A.R.S. § 32-3675 provides that, "[e]xcept in cases of breach of contract or substandard performance of
23 services, each appraisal management company shall make payment to an independent appraiser for the
24 completion of an appraisal or valuation assignment within forty-five days after the date on which the
independent appraiser transmits or otherwise provides the completed appraisal or valuation study to the
appraisal management company or its assignee."

25 ¹¹ A.R.S. § 32-3267(B) provides that "[t]he appraisal management company shall show proof of a surety
26 bond of at least twenty thousand dollars but not more than fifty thousand dollars."

27 ¹² A.R.S. § 32-3678(1) provides as follows:

28 The superintendent may censure an appraisal management company,
29 conditionally or unconditionally suspend or revoke any registration
issued under this article or impose civil penalties not to exceed fifteen
thousand dollars per violation if, in the opinion of the superintendent, an
appraisal management company is attempting to perform, has
performed or has attempted to perform any of the following acts:

30 1. Committing any act in violation of this article.

Done this day, May 22, 2019.

/s/ Diane Mihalsky
Administrative Law Judge

Transmitted electronically to:

Keith A. Schraad, Interim Director
Arizona Department of Financial Institutions

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