

**BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD
OF THE STATE OF IOWA**

IN THE MATTER OF:)	
)	CASE NO. 08-10
DONALD ALLEN)	
)	CONSENT ORDER
Respondent.)	

The Iowa Real Estate Appraiser Examining Board (Board) and Donald Allen (Respondent) enter into this Consent Order (Order), pursuant to Iowa Code section 17A.10 (2007) and 193 Iowa Administrative Code 7.42:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A and 543D (2007).

2. Respondent has never been a licensee or registrant of the Board. For a period of time in advance of July 1, 2007, Respondent practiced real estate appraising as an unregistered trainee of Byron Witt, a former certified real estate appraiser whose certificate has since been revoked by the Board. For a few weeks after July 1, 2007, Respondent also worked as an unregistered trainee of Witt. Thereafter, for a short period of time, Respondent worked under the supervision of Timothy Ellefson, a certified real estate appraiser in good standing with the Board. When it was brought to the attention of Ellefson and Respondent that Respondent could not perform appraisal services as an unregistered appraiser under certain circumstances, Allan ceased such practice.

3. While working with Witt, Respondent (with Witt's approval) placed Witt's electronic signature on multiple appraisals that were performed with no participation by Witt. Some of these appraisals were developed and signed after June 30, 2007.

4. Prior to July 1, 2007, Respondent was allowed to sign appraisal reports as an unlicensed person as long as he was supervised by a certified appraiser and the certified appraiser also signed the report. It has never been proper, however, for a trainee or other person to use the certification of another – whether authorized by the certified appraiser or not – where the certified appraiser failed to exercise responsible control over the appraisal services.

5. Commencing July 1, 2007, unlicensed persons are no longer authorized to assist a certified real estate appraiser in the development or reporting of an appraisal assignment that is required by state or federal law, rule or policy to be performed by a certified real estate appraiser. Iowa Code § 543D.20(1) (Supp. 2007).

6. The Board may impose a civil penalty against Respondent up to \$1,000 per violation of Iowa Code section 543D.20(1) pursuant to Iowa Code section 543D.21(3), (4). The Board may further order Respondent to comply in the future with Iowa Code chapter 543D, pursuant to Iowa Code section 543D.21(3). See also, 193F Iowa Administrative Code 16.2(6).

7. Allen has now applied to register with the Board as an associate real estate appraiser. He understands that the unsupervised experience he received while working with Witt will not be qualifying experience for future certification. He further understands that he

cannot use any experience he received after June 30, 2007, because he was not properly registered.

8. Respondent has partially mitigated the circumstances of his unsupervised activities under Witt by taking a number of steps to teach himself proper appraisal methodology. The Board's investigation also revealed that while the experience is not qualifying toward certification, Respondent has willingly participated in a training environment under Ellefson, and that Respondent now understands the serious nature of his prior unsupervised appraisal practice under Witt. Respondent has now completed all education required for registration as an associate real estate appraiser.

9. Rather than file a Notice of Hearing or serve a Notice of Intent to Impose Civil Penalty, the Board and Respondent have agreed to resolve the Board's pending investigation and to resolve Allen's pending application for registration as an associate real estate appraiser.

10. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights by freely and voluntarily entering into this Order, as the resolution of a disputed matter in which he does not admit wrongdoing. This Order is the final agency order in the contested case.

11. This Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2007).

12. This Order is subject to approval of the Board: (a) If the Board fails to approve this Order, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter; and (b) If the Board approves this Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Civil Penalty: Respondent is assessed a civil penalty in the amount of \$1,000. The penalty shall be stayed for as long as Respondent complies with this Order and shall not be due unless Respondent is provided notice and an opportunity to be heard.

B. Registration: Respondent shall be registered on a probationary basis as an associate real estate appraiser as soon as he completes the following:

1. By September 15, 2008, Respondent shall successfully complete a pre-approved classroom course on business and appraisal ethics which shall be at least 7 hours in length and tested.

2. Respondent's proposed supervisor shall submit a written plan of supervision that complies with Board rules on proper supervision, 193F IAC 4.4 (Supervision of associate appraisers) and chapter 15 (Supervisor Responsibilities).

3. Respondent's supervisor shall be pre-approved by the Board. The Board pre-approves Ellefson as Respondent's supervisor.

4. Respondent shall not change supervisors without pre-approval by the Board. The Board may request that Respondent and his proposed supervisor meet with the Board or a Committee of the Board in advance of the Board's approval of the supervisor. Such approval process may include a review of the proposed supervisor's work product.

C. Progress Reports.

1. Until further order of the Board Respondent shall submit his monthly logs (193F IAC 4.2(3)) to the Board on a quarterly basis within 10 days after the end of each quarter (Jan. 10, April 10, July 10, Sept. 10).

2. Respondent and his supervisor shall submit to the Board semi-annual progress reports, containing the information requested in 193F IAC 4.4(3), starting 6 months after registration and continuing until further order of the Board.

D. Future Compliance. Respondent shall take all steps necessary to become familiar with Iowa Code chapter 543D, the Board's rules (193F IAC), and all appraisal standards applicable to his appraisal practice. Respondent shall comply with all applicable laws and rules in his future practice.

E. Release from Probation. After a one year probationary period, at Respondent's request or upon the Board's own motion, the Board may release Respondent from probation and deem this Consent Order fully satisfied., if he has fully complied with the terms of the Consent Order and there are no disciplinary investigations or cases pending at that time.

AGREED AND ACCEPTED:

The Respondent



Donald Allen

7-24-08

Date

The Iowa Real Estate Appraiser Examining Board



Michael Lara, Chair

8.13.2008

Date

FILED *Aug 17 2009* (Date)
Iowa Real Estate Appraiser Exam Board

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD


Signature, Executive Officer

IN THE MATTER OF:) Case No. 08-10
)
Donald Allen)
Respondent) RELEASE OF PROBATION IN
) A DISCIPLINARY CASE

The Iowa Real Estate Appraiser Examining Board, having reviewed the records in the above captioned files, finds that Respondent has complied with terms of his probation and should be released. The Board voted unanimously to release probation on August 11, 2009.

IT IS THEREFORE ORDERED that the Respondent's probation is released.



Toni A Bright, Executive Director
Iowa Real Estate Appraiser Examining Board
1920 SE Hulsizer Road
Ankeny, IA 50021
Email: toni.bright@iowa.gov