

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

IN THE MATTER OF:)	
)	
MARK S. WALLACE)	CASE NO. 03-05, 03-06, 03-27,
CR01539)	03-35, 03-38, 03-44
)	
RESPONDENT)	CONSENT ORDER

The Iowa Real Estate Appraiser Examining Board (Board) and Mark S. Wallace (Respondent) enter into this Consent Order (Order), pursuant to Iowa Code section 17A.10 (2003) and 193 Iowa Administrative Code 7.42:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543D, and 272C (2003).
2. Mark S. Wallace is a certified residential real estate appraiser in Iowa. He was issued Certificate No. CR01539 on June 6, 1993.
3. On February 3, 2003, the Board charged Respondent with repeated failure to adhere to appraisal standards, failure to exercise reasonable diligence, and negligence, careless acts and omissions, or incompetence in the development, preparation, and communication of numerous appraisals.
4. On May 20, 2003, the Board entered a Consent Order, and on October 23, 2003, the Board charged Respondent in four counts as follows:

COUNT I

Respondent has failed to demonstrate minimum qualifications for continued licensure pursuant to Iowa Code sections 272C.2(1), 272C.10(8), 543D.16, and 543D.17(1)(b) and (g); and 193F Iowa Admin. Code sections 7.2, 7.2(8), and chapters 9 and 11.

COUNT II

Respondent violated a Consent Order imposing discipline, in violation of Iowa Code section 272C.3(2)(a) (2003).

COUNT III

Respondent engaged in a practice harmful or detrimental to the public in violation of Iowa Code sections 272C.2(b), 272C.10(2), (3), 543D.17(1)(d),

(e), and (f), and 543D.18(1) (2001, 2003), and 193F Iowa Admin. Code 7.2(2), (5), and (8), by:

- (a) making false, misleading, or deceptive representations in preparing and communicating appraisals;
- (b) failing to adhere to the USPAP Ethics and Competency Rules, and in particular, those provisions relating to honesty, impartiality, objectivity, independence, avoiding advocacy, and only performing appraisal assignments within Respondent's sphere of competency;
- (c) failing to exercise reasonable diligence, and committing careless acts in the development, preparation and communication of appraisals; and,
- (d) demonstrating negligence or incompetence in the development, preparation and communication of appraisals.

COUNT IV

Respondent repeatedly failed to adhere to appraisal standards in the development and communication of appraisals, in violation of Iowa Code sections 543D.17(1)(d), (e), and (f), and 543D.18(1) (2001, 2003), and 193F Iowa Admin. Code 7.2(2) and (5).

5. Respondent does not admit the allegations of the Statement of Charges. 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. This Consent Order is the final agency order in the contested case.

6. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

7. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

8. This Order and the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2003).

9. Failure to comply with the provisions of this Order shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2003). However, no action may be taken against Respondent for violations of these provisions without a hearing, or

waiver of hearing.

10. 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. (b) If the Board approves this Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Voluntary Surrender

Respondent shall voluntarily surrender his certificate by physically returning the certificate to the Board office no later than ten (10) calendar days following the date this Order is signed by the Board. Respondent may not seek reinstatement for a period of at least six months. The Board does not interpret 193 Iowa Admin. Code 7.38 (3) as precluding Respondent from applying for reinstatement following a voluntary surrender prior to the expiration of one year. Respondent shall comply with 193 Iowa Admin. Code 7.30(3) regarding client notification of the voluntary surrender.

B. Civil Penalty

Respondent is assessed a civil penalty in the amount of \$1,000, \$500 of which is due on or before April 15, 2004. The remaining \$500 must be paid as a condition of reinstatement in the event Respondent should seek to reinstate his certificate.

C. Reinstatement

1. Any application to reinstate must satisfy the requirements of 193 Iowa Admin. Code 7.38 and 193F Iowa Admin. Code 8.17. The Board is under no obligation to reinstate Respondent if the Board determines that reinstatement would not be in the public interest. The following provisions outline minimum conditions for reinstatement in the event an application to reinstate is granted in the future.

2. Respondent must demonstrate that he has successfully passed the examination described in 193F Iowa Admin. Code 3.2, and has satisfied the 120-hour education requirement described in 193F Iowa Admin. Code 5.1, during the period of time after the date of this Consent Order and prior to seeking reinstatement.

3. Respondent may only be reinstated as an associate real estate appraiser under such probationary conditions as the Board deems appropriate to protect the public interest. At a minimum, the Board must pre-approve Respondent's supervising appraiser. Respondent and any proposed supervisor shall make a personal appearance before the Board, or a committee of the Board prior to the Board's approval of the proposed supervisor. Any proposed supervisor shall provide the Board with a written plan of

supervision. The Board may request a log of appraisals from any proposed supervisor and select two or more appraisals for review before approving the appraiser as Respondent's supervisor. Any proposed supervisor must be in good standing with the Board and must have practiced as a certified appraiser in Iowa for a minimum of five years. Respondent may not change supervisors without prior written approval by the Board.

4. Respondent must serve as a probationary associate appraiser for a period of at least 6 months before seeking reinstatement as a certified residential real estate appraiser. While performing services as a probationary associate appraiser, Respondent shall submit written reports to the Board, by the 10th days of each month outlining for the prior calendar month a detailed log of all appraisals completed, if any. The log shall state the following information for each appraisal:

- a. Property address
- b. Client name, address and phone number
- c. Supervisory appraiser
- d. Purpose of appraisal
- e. Date of inspection
- f. Date of report
- g. Type of report
- h. Estimated market value

5. The Board may select appraisals for Board review from Respondent's log. Respondent shall submit to the Board all appraisals and work papers requested within ten business days of the date of the Board's written request to Respondent's address on records at the Board office.

6. As a condition of reinstatement as a certified residential real estate appraiser, the Board may impose such conditions as are reasonably necessary to protect the public interest, including a desk review requirement.

7. Following voluntary surrender and prior to reinstatement, Respondent may perform such appraisal services as may lawfully be performed by a noncertified appraiser, as long as he does not represent himself as a certified appraiser.

8. This settlement shall not preclude the Board from filing additional charges if one or more of the appraisals subject to supervision or desk review demonstrate probable cause to take such an action, or upon other good cause. Respondent agrees Board member or Board staff participation in the review of reports or appraisals submitted under the terms of this Consent Order shall not constitute "personal investigation" or otherwise disqualify a Board member from acting as a presiding officer, or disqualify a staff member from advising the Board, in any subsequent contested case.

FROM : MARK WALLACE

FAX NO. : 515-223-2642

Jan. 22 2004 09:52AM P2

JAN-20-2004 TUE 08:11 AM BRADSHAW LAW FIRM

FAX NO. 515 246 5808

P. 06

01/13/04 18:55 FAX 5152617351

IOWA ATT'Y GENERAL

Quus

AGREED AND ACCEPTED:

The Respondent

[Redacted Signature]

Mark S. Wallace

Date

1/21/04

The Iowa Real Estate Appraiser
Examining Board

[Redacted Signature]

By: Richard Bruce, Chair

Date

2-12-04