

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

---

<b>IN THE MATTER OF:</b>	)	
	)	<b>CASE NO. 05-48</b>
<b>DARRYL E. GREEN</b>	)	
<b>CG01380</b>	)	<b>STATE'S APPLICATION</b>
	)	<b>FOR RE-HEARING</b>
	)	
<b>Respondent.</b>	)	

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The State, through Assistant Attorney General Pamela Griebel, requests rehearing pursuant to Iowa Code section 17A.16(2), and 193 Iowa Administrative Code 7.33, as follows:

1. The Board issued its final contested case ruling on February 9, 2006.
2. All matters raised in this petition may be considered on the record previously made.

No further evidence is needed.

3. The ruling states on page 2 that the hearing was open to the public. The hearing was only open to the public for the first 10 minutes, prior to Respondent's late arrival. When the Respondent arrived he requested a closed hearing pursuant to Iowa Code section 272C.6(1). The ruling should be corrected accordingly.

4. While the ruling contains a summary of more than enough evidence to support the conclusions reached and discipline imposed, the summary focuses on the expert opinions of the appraisers who reviewed Respondent's work product. Additional compelling evidence was presented through lay witness J.K. and others, and the State requests that the ruling be modified to add the following factual paragraphs 10-17:

10. J.K. filed a complaint with the Board in October 2005 (State's Exhibit 13-1), in which she alleges appraisal fraud in connection with an appraisal Respondent signed as a supervisory appraiser in October 2004 - shortly after he signed the Consent Order with the Board agreeing to take remedial steps to address appraisal deficiencies.

11. J.K. purchased the property on East 19th Street in Des Moines in May 2003, for the sum of \$79,500. (State's Exhibit 13-3). At the time of purchase, the property was assessed at a value of \$65,200. Id. Approximately a year and a half later, after taking no steps to improve the property's condition, J.K. applied to a local mortgage broker to refinance for the purpose of securing a debt consolidation loan. (J.K. testimony). Respondent and his associate, Gina Jones, appraised the property as of October 22, 2004, at \$111,000. (State's Exhibit 13-1). The assessed value of the property at this time remained \$65,200. (State's Exhibit 13-3). In 2005, the assessed value rose to \$76,200. Id.

12. Nancy Larson, the peer reviewer retained by the Board to review Respondent's appraisal, concluded that Respondent greatly inflated the value of the property by among other means, selecting a comparable property that was not comparable at all. (Larson testimony, State's Exhibit 13-2). Respondent's substantial error in estimating value was not a simple error. Respondent admitted at hearing that he will be more "lenient" in reaching desired value if needed to help low income, minority applicants qualify for a loan. (Respondent's testimony). Based on the testimony of J.K., Nancy Larson, and Respondent, it was apparent that Respondent inflated the value of J.K.'s home to assist the closing of a loan.

13. Based on the strength of Respondent's appraisal, J.K. received a loan of \$99,900. (State's Exhibit 13-3). The HUD statement on the refinancing of J.K.'s home reflects the payoff of the first mortgage, as well as payments to several other creditors. (J.K. testimony, State's Exhibit 13-3). Other than the first mortgage, the debts owed to creditors were not liens against J.K.'s home prior to the debt consolidation loan. (J.K. testimony).

14. J.K. believed Respondent's opinion that her property had increased in value. (J.K. testimony). She was led to believe by the mortgage broker that the low interest rate she could receive on the new adjustable rate mortgage would stay substantially the same for a period of time. Id. Instead, her payments have changed monthly, increasing substantially, and she may now lose her home. (J.K. testimony). While nothing in this record connects the Respondent to the representations made by the mortgage broker, the situation now faced by J.K. vividly demonstrates the adverse collateral consequences to borrowers when appraisers inflate property values to push loan amounts beyond what is reasonable. The complaint reflects that the loan was sold after initially closed, thereby implicating the interests of the secondary market as well.

15. Respondent's self-proclaimed advocacy is also supported by other evidence in the record, including the testimony of Shawna Neal, an appraiser who submitted numerous complaints to the Board in August 2005. (State's Exhibits 9-1 - 9-6). For example, Ms. Neal was first contacted by a mortgage broker to appraise property located at 2200 Elizabeth Ave. (Neal testimony). She was given the target loan amount before physically inspecting the property. Id. While at the property location she contacted the mortgage broker and reported that it would not be possible to appraise the property at any where near the targeted

loan amount. Id. The property was in very poor condition, with water in the basement, noticeable termite damage, an uneven roof, and very close proximity to disruptive freeway construction. Id. Just days after Ms. Neal left the property, the mortgage broker retained Respondent to appraise the property. (Neal testimony, State's Exhibit 9-3). Respondent appraised the property in May 2005, at \$70,000; Ms. Neal felt the property wouldn't sell for more than around \$20,000. Id. As noted in paragraph 7 above, Alan Hummel considered this appraisal along with others in concluding that Respondent was either grossly incompetent or unethical.

16. Respondent claims that he did not complete two of the appraisals submitted by Shawna Neal. While his signature appears on all of the appraisals, Respondent claims two were completed by one or more uncertified appraisers who used his signature without his consent. Respondent did not submit evidence to support his contention other than his own testimony. If true, Respondent has failed to properly secure his signature. Importantly, even if true, Respondent acknowledges that he completed 17 of the 19 appraisals reviewed at hearing, including J.K.'s appraisal, the Elizabeth Avenue appraisal, the appraisal submitted as a complaint in June 2005 (State's Exhibit 8-1), and the 11 appraisals he submitted to the Board in connection with desk review.

17. The evidence overwhelmingly supports the factual conclusion that Respondent has repeatedly demonstrated an inability to appraise in a manner that will protect the public interest - including purchasers, lenders, and others who rely upon the independence and competence of real estate appraisers when making financial decisions.

WHEREFORE, the State requests that the Board:

A. Grant the application within 20 days of the filing date of this Application, which pursuant to 193 Iowa Administrative Code 7.33(4) will be the date received in the Board office. The Board may be assisted by an Administrative Law Judge in all proceedings related to an application for rehearing pursuant to 193 Iowa Administrative Code 7.33(7). If not timely granted within 20 days of the filing of the Application, the Application will be deemed denied by operation of law.

B. Upon timely granting the Application, rule on the requests made in the Application, which can be accomplished at the same time as the State does not request the opportunity to submit new evidence or oral argument.

C. Modify the February 9, 2006, ruling and reissue a revised final order, correctly stating that Respondent elected to close the hearing to the public, and adding paragraphs 10-17, as described above.

Respectfully submitted,

THOMAS J. MILLER  
ATTORNEY GENERAL OF IOWA

[REDACTED]  
PAMELA D. GRIEBEL  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> Fl.  
Des Moines, IA 50319  
Tel. (515) 281-6858  
FAX: (515) 281-7551  
pgriebe@ag.state.ia.us

Original faxed to Board office and placed in mail for filing on February 20, 2006, a national holiday, and will accordingly not be actually processed by U.S. Mail until February 21, 2006.

Copies will be similarly placed in the mail on February 20, 2006, and faxed on February 20, 2006, to :

Administrative Law Judge John Priester  
Department of Inspections and Appeals  
LOCAL

Mr. Darryl Green  
Building & Home Inspection  
& Appraisal  
P.O. Box 1601  
Des Moines, IA 50306  
Tel. (515) 457-7448  
Fax: (515) 225-0134

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties in the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa, on the 20th day of February, 2006.

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

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IN THE MATTER OF:	)	CASE NO. 05-48
	)	DIA NO. 05DOCRE010
DARRYL E. GREEN	)	
CERTIFICATE NO. CG01380	)	FINAL DECISION ON
	)	REHEARING
RESPONDENT.	)	

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On May 24, 2005, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Statement of Charges against Darryl E. Green (Respondent). The Statement of Charges alleged three counts:

Count I: Respondent violated an order of the Board imposing discipline, in violation of Iowa Code section 272C.3(2)(a).

Count II: Respondent engaged in unethical conduct or practice harmful and detrimental to the public in violation of Iowa Code sections 272C.10(3); 543D.17(1)(d), (e) and (f); and 543D.18(1)(2005) and 193F IAC 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 applicable USPAP standards;
- (c) failing to exercise reasonable diligence in the development, preparation and communication of appraisals; and
- (d) demonstrating negligence or incompetence in the development, preparation and communication of appraisals.

Count III: Respondent repeatedly demonstrated, through lack of education, negligence, carelessness or omissions, a lack of qualifications to assure the public a high standard of professional care, in violation of Iowa Code section 272C.3(2)(b).

The hearing was held before the Board on December 15, 2005 at 9:00 a.m. The Respondent initially did not appear and was not

represented by counsel. At 9:20 a.m., after the hearing had begun, the Appellant did appear. Pam Griebel, Assistant Attorney General, represented the state of Iowa. The following Board members presided at the hearing: Richard Koestner, Vice Chairperson, Appraiser; Amy Thorne, Appraiser; Richard Deheer, Appraiser; and Michael Lara, Appraiser. Administrative Law Judge John M. Priestler assisted the Board in conducting the hearing. A certified court reporter recorded the proceedings.

The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2005) and 193 IAC 7.25(2). After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2005) to deliberate its decision. The Board instructed the administrative law judge to prepare these Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

The decision was issued on February 9, 2006. On February 21, 2006 the State filed an Application for Re-Hearing. The Respondent did not file a response to the motion. The Board met on February 27, 2006 in closed session to deliberate the Application. The Board voted to grant the Application for Re-Hearing. The following decision incorporates the language from the Application into the final decision.

#### **THE RECORD**

The record includes the State's Pre-hearing Conference Report, the testimony of the witnesses, and State Exhibits 1-19 and Respondent's Exhibit A.

#### **FINDINGS OF FACT**

1. In 1992, the Respondent was issued Certificate No. CG01380 to practice as a certified general residential real estate appraiser in the state of Iowa. The Respondent's certificate is currently valid and in probationary status and is scheduled to expire on June 30, 2006.
2. On August 25, 2004, the Board charged the Respondent with repeatedly failing to adhere to appraisal standards in the development and communication of appraisals; failure to exercise reasonable diligence in the development, preparation and communication of appraisals; and demonstrating negligence or incompetence in the development, preparation and communication

of appraisals, in violation of Iowa Code sections 543D.17(1)(d), (e) and (f) and 543D.18(1)(2003), and 193F IAC 7.2.

On October 7, 2004, the Board and the Respondent entered into a Consent Order to resolve the charges in Case No. 03-42. Pursuant to the terms of the Consent Order, Respondent was required to complete by March 31, 2005, a 15-hour tested Uniform Standards of Professional Appraisal Practice (USPAP) course and a minimum of 30 pre-approved classroom hours covering the three approaches to value. The Respondent failed to timely forward certificates of completion to the Board.

3. Pursuant to the terms of the October 2004 Consent Order, the Respondent was also required to submit a minimum of 11 appraisals to pre-release desk review by a desk reviewer pre-approved by the Board. The Respondent was late in satisfying this requirement.

4. The Board submitted five of the Respondent's latter appraisals to review by a peer reviewer retained by the Board, requesting opinions as to whether Respondent incorporated into his final appraisal reports the comments made by his desk reviewer, and whether the Respondent's final appraisal reports revealed any patterns of noncompliance with the USPAP or accepted appraisal methods and techniques.

The Board received a peer review report in July 2005, by Alan Hummel, Peer Reviewer with the Board. The review identified a pattern of noncompliance with appraisal standards and reveals several areas in which Respondent failed to make the corrections suggested by his desk reviewer before submitting the final appraisal to the client.

Mr. Hummel found that on four of the five appraisals the Respondent failed to incorporate the desk reviewer's suggestions into the final appraisal. On one appraisal no changes were suggested.

Mr. Hummel determined that none of the reports indicated that appraiser Linda Busick provided significant assistance as required by S.R. 2-3. Also, the date of the original report provided for review and the "revised" report were the same, even though the revisions were made at a later date. The revised report should carry a date concurrent with when that report was signed, as required by S.R. 2-2(b)(vi).

The site values and size adjustments were not developed and supported with market information, but taken from assessor's

records. Comments in the addenda as to site adjustments are conflicting (per county records in one comment, based on front footage in another comment) though the actual adjustments made in the sales comparison approach and the site value opinions do not appear to be reflective of either of these comments. This is not in compliance with S.R.s 1-1(a), 1-4(a) and 2-2(b)(ix).

Mr. Hummel also found that many adjustments made in sales comparison approach appeared to be "boiler plate" rather than analyzed with respect to property being appraised. Many of the adjustments (size, basement finish, age) and comments (prior sales) are the same for all properties, even though they are in different locations, with significantly different value ranges (\$53,500 to \$378,000). Several comments in the addenda are contrary to what actually was reported in the analysis. S.R. 1-4(a), 2-2(a) and 2-2(b)(ix) require sufficient analysis to support the opinions and sufficient reporting for the intended users to understand the report.

5. Nancy Larson, Peer Reviewer with the Board, was asked to review the Respondent's appraisal of property at 717 S.E. Kensington Road, Ankeny, Iowa. In Larson's opinion, the Respondent's appraisal report for the Kensington Road property was a poor report. The Respondent prominently stated the report option used, but it appears to be the wrong report option. The appraisal contains conflicting statements; Respondent states property is "detached" but it is "attached," Respondent states there is no slab, crawl and no basement in the improvements section but then goes on to say "Down the stairs is a fully furnished basement that is the same size as the main floor," the Respondent uses a total of 1605 square feet in the grid, but his floor plan shows 1570 square feet, and the garage appears to be built-in versus attached. The Respondent lists physical depreciation based on a 70-year life expectancy, but then he lists remaining economic life is 70 years. This would only be correct if the subject were a new construction. This property was over 6 years old and a total of \$9824 was taken for physical depreciation. Additionally the cost approach did not appear to have been developed with the proper methodology.

The peer reviewer also noted that none of the comparison sales used were reported correctly. All had basements, but no adjustments made. The fireplace information was incorrect and the total grid lacks credibility. Aside from showing a sale price of \$146,000 on the front page that carried over to the grid, there was no analysis of any pending offer, listing, etc. on the subject property. Additionally, the buyer and the seller



were listed as the same- David N. Johnson. Per the courthouse records the homeowner is Jacklyn Crowl.

The reviewer determined that the report lacked credence throughout. There were so many reporting errors and misinformation within the report that one could not possibly rely on any of the information rendered. The reviewer questioned if the Respondent even knew what style and or type of dwelling he was in. (State's Exh. 8-3, testimony of Nancy Larson).

6. In August of 2005, the Board received five complaints raising serious concerns about the Respondent's compliance not only with applicable appraisal standards, but also with his exercise of independent judgment in arriving at value. Respondent is alleged to have improperly increased value errors, improvidently selecting comparable properties, downplaying or ignoring obvious problems with subject property that would have an adverse impact on market value, and otherwise manipulating factual information and judgment to attain an estimate of market value exceeding the value supportable through use of appropriate appraisal methodology.

7. The five appraisals that resulted in the filing of complaints were submitted to peer review, again by Alan Hummel. After reviewing the properties associated with the complaints Mr. Hummel provided a review. It was Mr. Hummel's opinion that the reports contain substantially the same areas of noncompliance with the USPAP found in the reports reviewed by Hummel on July 7, 2005. Additionally, Hummel reported that under the extraordinary assumption that the comments made by the complainant for the appraisals are correct, the Respondent appears to have, at a minimum, exhibited gross incompetence in the completion of several of the reports, and has acted in an unethical manner if done so knowingly.

8. The Board requested an independent appraisal of two of the properties subject to the August 2005 complaints. In both instances, the independent appraiser's estimated market value was significantly less than that estimated by the Respondent.

Reviewer Nancy Larson appraised the property at 1001 E. King, Des Moines, Iowa and the property at 1713 8<sup>th</sup> Street, Des Moines, Iowa. Ms. Larson's appraisal estimated a market value of \$76,000 for the E. King property and \$63,000 for the 8<sup>th</sup> Street property. The Respondent's appraisals estimated the properties to be valued at \$108,000 and \$85,000 respectively.

9. The Respondent testified in the hearing and provided a written statement in support of his appeal. The Respondent admitted that he did not drop his associates as the Consent Order required. He also admitted that he did not complete the educational requirements of the Consent Order.

The Respondent challenged the process of both desk reviewers and peer reviewers. The Respondent believes that this process is unfair and has a conflict of interest as the reviewers are his competitors. The Respondent believes that this Board action is some sort of trap. He believes that he is in compliance with USPAP.

10. J.K. filed a complaint with the Board in October 2005 (State's Exhibit 13-1), in which she alleges appraisal fraud in connection with an appraisal Respondent signed as a supervisory appraiser in October 2004—shortly after he signed the Consent Order with the Board agreeing to take remedial steps to address appraisal deficiencies.

11. J.K. purchased the property on East 19<sup>th</sup> Street in Des Moines in May 2003, for the sum of \$79,500. (State's Exhibit 13-3). At the time of the purchase, the property was assessed at a value of \$65,200. Id. Approximately a year and a half later, after taking no steps to improve the property's condition, J.K. applied to a local mortgage broker to refinance for the purpose of securing a debt consolidation loan. (J.K. testimony). Respondent and his associate, Gina Jones, appraised the property as of October 22, 2004, at \$111,000. (State's Exhibit 13-1). The assessed value of the property at this time remained \$65,200. (State's Exhibit 13-3). In 2005, the assessed value rose to \$76,200. Id.

12. Nancy Larson, the peer reviewer retained by the Board to review Respondent's appraisal, concluding that Respondent greatly inflated the value of the property by among other means, selecting a comparable property that was not comparable at all. (Larson testimony, State's Exhibit 13-2). Respondent's substantial error in estimating value was not a simple error. Respondent admitted at the hearing that he will be more "lenient" in reaching a desired value if needed to help low income, minority applicants qualify for a loan. (Respondent's testimony). Based on the testimony of J.K., Nancy Larson, and the Respondent, it was apparent that Respondent inflated the value of J.K.'s home to assist the closing of a loan.

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15. Respondent's self-proclaimed advocacy is also supported by other evidence in the record, including the testimony of Shawna Neal, an appraiser who submitted numerous complaints to the Board in August 2005. (State's Exhibits 9-1 to 9-6). For example, Ms. Neal was first contacted by a mortgage broker to appraise property located at 2200 Elizabeth Ave. (Neal testimony). She was given the target loan amount before physically inspecting the property. Id. While at the property location she contacted the mortgage broker and reported that it would not be possible to appraise the property at anywhere near the targeted loan amount. Id. The property was in very poor condition, with water in the basement, noticeable termite damage, an uneven roof, and very close proximity to disruptive freeway construction. Id. Just days after Ms. Neal left the property, the mortgage broker retained Respondent to appraise the property. (Neal testimony, State's Exhibit 9-3). Respondent appraised the property in May 2005, at \$70,000; Ms. Neal felt the property would not sell for more than around \$20,000. Id. As noted in paragraph 7 above, Alan Hummel considered this appraisal along with others in concluding that Respondent was either grossly incompetent or unethical.

16. Respondent claims that he did not complete two of the appraisals submitted by Shawna Neal. While his signature appears on all of the appraisals, Respondent claims two were completed by one or more uncertified appraisers who used his signature without his consent. Respondent did not submit evidence to support his contention other than his testimony. If true, Respondent has failed to properly secure his signature. Importantly, even if true, Respondent acknowledges that he completed 17 of the 19 appraisals reviewed at hearing, including J.K.'s appraisal, the Elizabeth Avenue appraisal, the appraisal submitted as a complaint in June 2005 (State's Exhibit 8-1), and the 11 appraisals he submitted to the Board in connection with desk review.

17. The evidence overwhelmingly supports the factual conclusion that Respondent has repeatedly demonstrated an inability to appraise in a manner that will protect the public interest - including purchasers, lenders, and others who rely upon the independence and competence of real estate appraisers when making financial decisions.

#### **CONCLUSIONS OF LAW**

##### ***Count I***

Iowa law provides that a licensing board may revoke or suspend a licensee's license "upon failure of the licensee to comply with a decision of the board imposing licensee discipline." Iowa Code § 272C.3(2)(a).

The preponderance of the evidence established that the Respondent violated Iowa Code section 272C.3(2)(a) when he failed to complete by March 31, 2005, a 15-hour tested USPAP course and a minimum of 30 pre-approved classroom hours covering the three approaches to value. The evidence clearly established that the Respondent has not completed the requirements of the Consent Order, an order that he himself signed and agreed to on October 7, 2004.

##### ***Count II***

Iowa law provides that a licensing board shall promulgate rules to govern the revocation of a licensee's license for acts including "knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful

or detrimental to the public. Proof of actual injury need not be established." Iowa Code § 272C.10(3).

Iowa Code sections 543D.17(1)(d),(e) and 543D.18(1) provide, in relevant part:

**543D.17 Disciplinary proceedings.**

1. The rights of a holder of a certificate as a certified real estate appraiser may be revoked or suspended, or the holder may be otherwise disciplined in accordance with this chapter. The board may investigate the actions of a certified real estate appraiser and may revoke or suspend the rights of a holder or otherwise discipline a holder for violation of a provisions of this chapter, or chapter 272C, or of a rule adopted under this chapter or commission of any of the following acts or offenses:

...

d. Violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter.

e. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

f. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.

**543D.18 Standards of Practice**

1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter.

193F IAC 7.2 provides, in relevant part:

**193F-7.2(543D) Grounds for disciplinary actions against certificate holders and associate registrants.** The grounds for revocation and suspension of certificates and associate registrations and other

disciplinary action are set out in Iowa Code section 543D.17 in both specific and general terms. The general terms of that provision of the Code include the following particular grounds for such disciplinary action:

...

7.2(2) Dishonesty, fraud or gross negligence in the development of an appraisal within the meaning of Iowa Code section 543D.17(1)"f," includes making misleading, deceptive or untrue representations in preparing or in communicating an appraisal.

...

7.2(5) Failure to comply with the USPAP applicable at the time of the development and communication of the real estate appraisal.

...

7.2(8) A violation of Iowa Code chapter 272C shall be grounds for discipline.

The preponderance of the evidence established that the Respondent violated Iowa Code sections 272C.10(3), 543D.17(1)(d), (e), and (f); 543D.18(1); and 193F IAC 7.2(2), (5) and (8), when he repeatedly failed to adhere to the USPAP appraisal standards in the development and communication of the appraisals identified in the hearing and when he failed to exercise reasonable diligence and demonstrated negligence or incompetence in the development, preparation and communication of the appraisals.

Experienced certified real estate appraisers reviewed the Respondent's appraisals and concurred that they failed to comply with the applicable USPAP standards. The Board's peer reviewer reviewed appraisal reports that the Respondent submitted as representing his best work. The appraisal reports contained the same types of errors and deficiencies that were noted in all the Respondent's appraisal reports.

**Count III**

Iowa law provides that a licensing board has the authority to "revoke, or suspend either until further order of the board or for a specified period, the privilege of a licensee to engage in . . . the practice of the profession, if pursuant to hearing . . . the board finds that because of lack of education or experience, or because of negligence, or careless acts or omissions, or because of one or more intentional acts or

omissions, the licensee has demonstrated a lack of qualifications which are necessary to assure the residents of this state a high standard of professional and occupational care." Iowa Code §272C.3(2)(b).

The preponderance of the evidence established that the Respondent violated Iowa Code section 272C.3(2)(b) by providing appraisal services that evidence a lack of education, negligence, carelessness or omissions to assure the public a high standard of professional care.

The Respondent appears to lack a complete understanding of the role of the appraiser. The Respondent testified that he advocates for his clients when preparing an appraisal. In fact, the Respondent's obligation and duty is to prepare a complete and accurate appraisal without regard to the client. The Respondent's actions put the public in jeopardy.

#### ·DECISION AND ORDER

The Respondent's failure to comply with the Board's October 7, 2004 Consent Order; the serious and repetitive nature of the USPAP violations; and the Respondent's lack of qualification warrant the suspension of his certificate.

**IT IS THEREFORE ORDERED** that Iowa Real Estate Appraiser Certificate No. CG01380, issued to Darryl E. Green, is hereby **INDEFINITELY SUSPENDED**, effective immediately upon service of this Decision and Order.

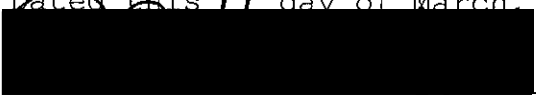
**IT IS FURTHER ORDERED** that the Respondent may not apply for reinstatement of his certificate for at least one year from the date of this Decision and Order. **IT IS FURTHER ORDERED** that the Respondent will be required to redo all of the education, examination, and experience requirements required for initial licensure. The required education, examination, and experience must be completed following the issuance of this Decision and Order and prior to filing an application for reinstatement.

**IT IS FURTHER ORDERED** that before any application for reinstatement is granted, the Respondent will be required to establish that the reason for the revocation no longer exists and it is in the public interest for his license to be reinstated. 193 IAC 7.38(5). The Board retains the right to set conditions of probation in connection with any order reinstating the Respondent's license.

**IT IS FURTHER ORDERED**, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that the Respondent shall pay \$75.00 within thirty (30) days of receipt of this decision for fees associated with conducting the disciplinary hearing.

**IT IS FURTHER ORDERED** that the Respondent shall notify all clients of the fact that his certification has been suspended within fifteen (15) days of receipt of this final decision, in accordance with 193 IAC 7.30(3). Within thirty days of receipt of this final order, the Respondent shall provide the Board with copies of the notice sent to clients.

Dated this 17<sup>th</sup> day of March, 2006.

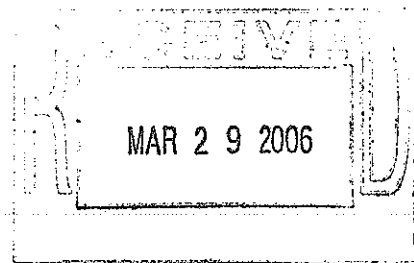
  
Richard Koestner, Appraiser  
Vice-Chairperson  
Iowa Real Estate Appraiser Examining Board

Cc: DARRYL E GREEN  
153 HOLIDAY CIRCLE  
WEST DES MOINES IA 50265  
(PERSONAL SERVICE)

Pamela Griebel  
Assistant Attorney General  
800 Lincoln Way  
Ames, IA 50010

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A. 193 IAC 7.37.





**BEFORE THE STATE APPRAISERS EXAMINING BOARD  
OF THE STATE OF IOWA**

---

<b>IN THE MATTER OF:</b>	)	
	)	<b>CASE NO. 05-48</b>
<b>Darryl E. Green</b>	)	
<b>CGO1380</b>	)	<b>RESPONDENT'S APPLICATION</b>
	)	<b>FOR RE-HEARING &amp; STAY</b>
<b>RESPONDENT.</b>	)	

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**The respondent Darryl Green, request a re-hearing & stay pursuant to Iowa Code**

**Section 17A.16(2), and Iowa Code 7.33, & 7.34, as follows:**

- 1. The Board issued its final contested case ruling on February 9, 2006.**
- 2. The ruling states on page 9 that, It Is Therefore Ordered that Iowa Real Estate Appraiser Cert. No. CGO1380, issued to Darryl E Green, is hereby Indefinitely Suspended, effective immediately upon service of this Decision and Order.**
- 3. It is further Ordered that the respondent may not apply for reinstatement of his certificate for at least one year from the date of this Decision or Order. That the respondent will be required to redo all of the education, examination, and experience requirements required for initial licensure. The required education, examination, and experience must be completed following the issuance of this Decision and Order and prior to filing an application for reinstatement.**
- 4. It Is Further Ordered that before any application for reinstatement is granted, the Respondent will be required to establish that the reason for the revocation no longer exists and it is in the public interest for his license to be reinstated. 193 IAC 7.38(5). The Board retains the right to set conditions of probation in connection with any order reinstating the Respondent's license.**

5. **The Order is contradictory and confusing in terms of whether or not it is a suspension of Respondents certificate or a revocation. The Order as noted above states both.**
6. **In addition while it appears that the intention of the Board was for it to be a suspension, the terms and conditions effectively make it a revocation because it makes it impossible for Respondent to earn a living or to comply with order without undue hardship and duress. This punishment appears to be more severe and restrictive than other orders meted out in similar situations.**
7. **The Board may have over looked Respondents age 61 years, experience 30 years, (14 under USPAP), initial training and Education prior to original certification as a state Certified General Appraiser and the "passing" of the exam for the State "certified general" designation and the fact that new USPAP education requirements 4 year college degree and 2 years experience will make it impossible for Respondent to "ever renew" and have his License reinstated.**
8. **Respondent has contacted over 15 appraisers and no one is willing to or knows anyone willing to, provide suspension supervision, mainly because of the Boards requirement (as explained by Susan Griffel) that the supervisory appraiser must inspect all properties appraised by the Respondent and that the Respondent be treated as a novice appraiser. All appraisers felt this requirement was far too restrictive for someone with Respondents experience. The State/Board has no list of appraiser peer reviewers available for respondent to access again making it impossible to recertify. Susan Griffel did provide a couple of name but neither was interested.**
9. **A notice of suspension was posted on the Internet prior to receipt of certified notice of suspension that was received on approximately March 2<sup>nd</sup> or 3<sup>rd</sup>.**

**WHEREFORE, the respondent request that the Board:**

- A. **The Board grant a temporary Stay of the Boards Order while an appeal is made to District Court.**
- B. **The Board grant a temporary Stay of the Boards Order pending a review by the Board.**
- C. **The Board allow review of certain evidence and testimony because Respondent was not notified of certain evidence and testimony prior to the hearing as required by statue, and therefore was not prepared to defend against at the time of the hearing.**
- D. **Grant application within 20 days of the filling of this application, which pursuant to 193 Iowa Administrative Code 7.33(4) will be the date receive in the Board office. The Board may be assisted by an administrative Law Judge in all**

**proceedings related to an application for rehearing pursuant to 193 Iowa Administrative Code 7.33(7). Upon timely granting the application, rule on the request made in the Application. The Respondent does request opportunity to submit new evidence or oral arguments.**

**Respectfully submitted**

**Darryl E. Green, Appraiser/Respondent  
POB 792 Des Moines Ia. 50303  
(515) 457-7448**

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

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IN THE MATTER OF:	)	CASE NO. 05-48
	)	DIA NO. 05DOCRE010
DARRYL E. GREEN	)	
CERTIFICATE NO. CG01380	)	RULING ON RESPONDENT'S
	)	APPLICATION FOR
RESPONDENT.	)	REHEARING AND STAY


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The Board issued the final decision in this matter on February 9, 2006. On February 21, 2006 the State filed an Application for Rehearing. The Board granted the motion on February 27, 2006 and issued a new final decision on March 17, 2006.

The Respondent filed an Application for Rehearing and Stay on March 29, 2006. The Board met on April 5, 2006, to deliberate the Application.

The Board hereby DENIES the Respondent's Application for Rehearing and Stay. The Board does amend its decision of March 17, 2006 to replace the word "revocation" with "suspension" when referring to the terms of reinstatement.

Dated this *10<sup>th</sup>* day of *April*, 2006.

  
Richard Koestner, Appraiser  
Vice-Chairperson  
Iowa Real Estate Appraiser Examining Board

Cc: DARRYL E GREEN  
153 HOLIDAY CIRCLE  
WEST DES MOINES IA 50265  
(PERSONAL SERVICE)

Pamela Griebel  
Assistant Attorney General  
800 Lincoln Way  
Ames, IA 50010

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A. 193 IAC 7.37.

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

---

<b>IN THE MATTER OF:</b>	)	<b>CASE NO. 05-48</b>
	)	<b>DIA NO. 05DOCRE010</b>
<b>DARRYL E. GREEN</b>	)	
<b>CERTIFICATE NO. CG01380</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
<b>RESPONDENT.</b>	)	<b>DECISION AND ORDER</b>

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On May 24, 2005, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Statement of Charges against Darryl E. Green (Respondent). The Statement of Charges alleged three counts:

Count I: Respondent violated an order of the Board imposing discipline, in violation of Iowa Code section 272C.3(2)(a).

Count II: Respondent engaged in harmful and detrimental to the public in violation of Iowa Code sections 272C.10(3); 543D.17(1)(d), (e) and (f); and 543D.18(1)(2005) and 193F IAC 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 applicable USPAP standards;
- (c) failing to exercise reasonable diligence in the development, preparation and communication of appraisals; and
- (d) demonstrating negligence or incompetence in the development, preparation and communication of appraisals.

Count III: Respondent repeatedly demonstrated, through lack of education, negligence, carelessness or omissions, a lack of qualifications to assure the public a high standard of professional care, in violation of Iowa Code section 272C.3(2)(b).

The hearing was held before the Board on December 15, 2005 at 9:00 a.m. The Respondent initially did not appear and was not represented by counsel. At 9:20 a.m., after the hearing had

begun, the Appellant did appear. Pam Griebel, Assistant Attorney General, represented the state of Iowa. The following Board members presided at the hearing: Richard Koestner, Vice Chairperson, Appraiser; Amy Thorne, Appraiser; Richard Deheer, Appraiser; and Michael Lara, Appraiser. Administrative Law Judge John M. Priester assisted the Board in conducting the hearing. A certified court reporter recorded the proceedings.

The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2005) and 193 IAC 7.25(2). After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2005) to deliberate its decision. The Board instructed the administrative law judge to prepare these Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

#### **THE RECORD**

The record includes the State's Pre-hearing Conference Report, the testimony of the witnesses, and State Exhibits 1-19 and Respondent's Exhibit A.

#### **FINDINGS OF FACT**

1. In 1992, the Respondent was issued Certificate No. CG01380 to practice as a certified general residential real estate appraiser in the state of Iowa. The Respondent's certificate is currently valid and in probationary status and is scheduled to expire on June 30, 2006.
2. On August 25, 2004, the Board charged the Respondent with repeatedly failing to adhere to appraisal standards in the development and communication of appraisals; failure to exercise reasonable diligence in the development, preparation and communication of appraisals; and demonstrating negligence or incompetence in the development, preparation and communication of appraisals, in violation of Iowa Code sections 543D.17(1)(d), (e) and (f) and 543D.18(1)(2003), and 193F IAC 7.2.

On October 7, 2004, the Board and the Respondent entered into a Consent Order to resolve the charges in Case No. 03-42. Pursuant to the terms of the Consent Order, Respondent was required to complete by March 31, 2005, a 15-hour tested Uniform Standards of Professional Appraisal Practice (USPAP) course and a minimum of 30 pre-approved classroom hours covering the three

approaches to value. The Respondent failed to timely forward certificates of completion to the Board.

3. Pursuant to the terms of the October 2004 Consent Order, the Respondent was also required to submit a minimum of 11 appraisals to pre-release desk review by a desk reviewer pre-approved by the Board. The Respondent was late in satisfying this requirement.

4. The Board submitted five of the Respondent's latter appraisals to review by a peer reviewer retained by the Board, requesting opinions as to whether Respondent incorporated into his final appraisal reports the comments made by his desk reviewer, and whether the Respondent's final appraisal reports revealed any patterns of noncompliance with the USPAP or accepted appraisal methods and techniques.

The Board received a peer review report in July 2005, by Alan Hummel, Peer Reviewer with the Board. The review identified a pattern of noncompliance with appraisal standards and reveals several areas in which Respondent failed to make the corrections suggested by his desk reviewer before submitting the final appraisal to the client.

Mr. Hummel found that on four of the five appraisals the Respondent failed to incorporate the desk reviewer's suggestions into the final appraisal. On one appraisal no changes were suggested.

Mr. Hummel determined that none of the reports indicated that appraiser Linda Busick provided significant assistance as required by S.R. 2-3. Also, the date of the original report provided for review and the "revised" report were the same, even though the revisions were made at a later date. The revised report should carry a date concurrent with when that report was signed, as required by S.R. 2-2(b)(vi).

The site values and size adjustments were not developed and supported with market information, but taken from assessor's records. Comments in the addenda as to site adjustments are conflicting (per county records in one comment, based on front footage in another comment) though the actual adjustments made in the sales comparison approach and the site value opinions do not appear to be reflective of either of these comments. This is not in compliance with S.R.s 1-1(a), 1-4(a) and 2-2(b)(ix).

Mr. Hummel also found that many adjustments made in sales comparison approach appeared to be "boiler plate" rather than analyzed with respect to property being appraised. Many of the adjustments (size, basement finish, age) and comments (prior sales) are the same for all properties, even though they are in different locations, with significantly different value ranges (\$53,500 to \$378,000). Several comments in the addenda are contrary to what actually was reported in the analysis. S.R. 1-4(a), 2-2(a) and 2-2(b)(ix) require sufficient analysis to support the opinions and sufficient reporting for the intended users to understand the report.

5. Nancy Larson, Peer Reviewer with the Board, was asked to review the Respondent's appraisal of property at 717 S.E. Kensington Road, Ankeny, Iowa. In Larson's opinion, the Respondent's appraisal report for the Kensington Road property was a poor report. The Respondent prominently stated the report option used, but it appears to be the wrong report option. The appraisal contains conflicting statements; Respondent states property is "detached" but it is "attached," Respondent states there is no slab, crawl and no basement in the improvements section but then goes on to say "Down the stairs is a fully furnished basement that is the same size as the main floor," the Respondent uses a total of 1605 square feet in the grid, but his floor plan shows 1570 square feet, and the garage appears to be built-in versus attached. The Respondent lists physical depreciation based on a 70-year life expectancy, but then he lists remaining economic life is 70 years. This would only be correct if the subject were a new construction. This property was over 6 years old and a total of \$9824 was taken for physical depreciation. Additionally the cost approach did not appear to have been developed with the proper methodology.

The peer reviewer also noted that none of the comparison sales used were reported correctly. All had basements, but no adjustments made. The fireplace information was incorrect and the total grid lacks credibility. Aside from showing a sale price of \$146,000 on the front page that carried over to the grid, there was no analysis of any pending offer, listing, etc. on the subject property. Additionally, the buyer and the seller were listed as the same- David N. Johnson. Per the courthouse records the homeowner is Jacklyn Crowl.

The reviewer determined that the report lacked credence throughout. There were so many reporting errors and misinformation within the report that one could not possibly rely on any of the information rendered. The reviewer



questioned if the Respondent even knew what style and or type of dwelling he was in. (State's Exh. 8-3, testimony of Nancy Larson).

6. In August of 2005, the Board received five complaints raising serious concerns about the Respondent's compliance not only with applicable appraisal standards, but also with his exercise of independent judgment in arriving at value. Respondent is alleged to have improperly increased value errors, improvidently selecting comparable properties, downplaying or ignoring obvious problems with subject property that would have an adverse impact on market value, and otherwise manipulating factual information and judgment to attain an estimate of market value exceeding the value supportable through use of appropriate appraisal methodology.

7. The five appraisals that resulted in the filing of complaints were submitted to peer review, again by Alan Hummel. After reviewing the properties associated with the complaints Mr. Hummel provided a review. It was Mr. Hummel's opinion that the reports contain substantially the same areas of noncompliance with the USPAP found in the reports reviewed by Hummel on July 7, 2005. Additionally, Hummel reported that under the extraordinary assumption that the comments made by the complainant for the appraisals are correct, the Respondent appears to have, at a minimum, exhibited gross incompetence in the completion of several of the reports, and has acted in an unethical manner if done so knowingly.

8. The Board requested an independent appraisal of two of the properties subject to the August 2005 complaints. In both instances, the independent appraiser's estimated market value was significantly less than that estimated by the Respondent.

Reviewer Nancy Larson appraised the property at 1001 E. King, Des Moines, Iowa and the property at 1713 8<sup>th</sup> Street, Des Moines, Iowa. Ms. Larson's appraisal estimated a market value of \$76,000 for the E. King property and \$63,000 for the 8<sup>th</sup> Street property. The Respondent's appraisals estimated the properties to be valued at \$108,000 and \$85,000 respectively.

9. The Respondent testified in the hearing and provided a written statement in support of his appeal. The Respondent admitted that he did not drop his associates as the Consent Order required. He also admitted that he did not complete the educational requirements of the Consent Order.

The Respondent challenged the process of both desk reviewers and peer reviewers. The Respondent believes that this process is unfair and has a conflict of interest as the reviewers are his competitors. The Respondent believes that this Board action is some sort of trap. He believes that he is in compliance with USPAP.

### CONCLUSIONS OF LAW

#### **Count I**

Iowa law provides that a licensing board may revoke or suspend a licensee's license "upon failure of the licensee to comply with a decision of the board imposing licensee discipline." Iowa Code § 272C.3(2)(a).

The preponderance of the evidence established that the Respondent violated Iowa Code section 272C.3(2)(a) when he failed to complete by March 31, 2005, a 15-hour tested USPAP course and a minimum of 30 pre-approved classroom hours covering the three approaches to value. The evidence clearly established that the Respondent has not completed the requirements of the Consent Order, an order that he himself signed and agreed to on October 7, 2004.

#### **Count II**

Iowa law provides that a licensing board shall promulgate rules to govern the revocation of a licensee's license for acts including "knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established." Iowa Code § 272C.10(3).

Iowa Code sections 543D.17(1)(d), (e) and 543D.18(1) provide, in relevant part:

#### **543D.17 Disciplinary proceedings.**

1. The rights of a holder of a certificate as a certified real estate appraiser may be revoked or suspended, or the holder may be otherwise disciplined in accordance with this chapter. The board may investigate the actions of a certified real estate appraiser and may revoke or suspend the rights of a holder or otherwise discipline a holder for violation of a provisions of this chapter, or chapter 272C, or of a rule adopted under this chapter or commission of any of the following acts or offenses:

...  
d. Violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter.

e. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

f. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.

**543D.18 Standards of Practice**

1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter.

193F IAC 7.2 provides, in relevant part:

**193F-7.2(543D) Grounds for disciplinary actions against certificate holders and associate registrants.** The grounds for revocation and suspension of certificates and associate registrations and other disciplinary action are set out in Iowa Code section 543D.17 in both specific and general terms. The general terms of that provision of the Code include the following particular grounds for such disciplinary action:

...  
**7.2(2)** Dishonesty, fraud or gross negligence in the development of an appraisal within the meaning of Iowa Code section 543D.17(1)"f," includes making misleading, deceptive or untrue representations in preparing or in communicating an appraisal.

...  
**7.2(5)** Failure to comply with the USPAP applicable at the time of the development and communication of the real estate appraisal.

...  
**7.2(8)** A violation of Iowa Code chapter 272C shall be grounds for discipline.

The preponderance of the evidence established that the Respondent violated Iowa Code sections 272C.10(3), 543D.17(1)(d), (e), and (f); 543D.18(1); and 193F IAC 7.2(2), (5) and (8), when he repeatedly failed to adhere to the USPAP appraisal standards in the development and communication of the appraisals identified in the hearing and when he failed to exercise reasonable diligence and demonstrated negligence or

incompetence in the development, preparation and communication of the appraisals.

Experienced certified real estate appraisers reviewed the Respondent's appraisals and concurred that they failed to comply with the applicable USPAP standards. The Board's peer reviewer reviewed appraisal reports that the Respondent submitted as representing his best work. The appraisal reports contained the same types of errors and deficiencies that were noted in all the Respondent's appraisal reports.

**Count III**

Iowa law provides that a licensing board has the authority to "revoke, or suspend either until further order of the board or for a specified period, the privilege of a licensee to engage in . . . the practice of the profession, if pursuant to hearing . . . the board finds that because of lack of education or experience, or because of negligence, or careless acts or omissions, or because of one or more intentional acts or omissions, the licensee has demonstrated a lack of qualifications which are necessary to assure the residents of this state a high standard of professional and occupational care." Iowa Code §272C.3(2)(b).

The preponderance of the evidence established that the Respondent violated Iowa Code section 272C.3(2)(b) by providing appraisal services that evidence a lack of education, negligence, carelessness or omissions to assure the public a high standard of professional care.

The Respondent appears to lack a complete understanding of the role of the appraiser. The Respondent testified that he advocates for his clients when preparing an appraisal. In fact, the Respondent's obligation and duty is to prepare a complete and accurate appraisal without regard to the client. The Respondent's actions put the public in jeopardy.

**DECISION AND ORDER**

The Respondent's failure to comply with the Board's October 7, 2004 Consent Order; the serious and repetitive nature of the USPAP violations; and the Respondent's lack of qualification warrant the suspension of his certificate.

**IT IS THEREFORE ORDERED** that Iowa Real Estate Appraiser Certificate No. CG01380, issued to Darryl E. Green, is hereby **INDEFINITELY SUSPENDED**, effective immediately upon service of this Decision and Order.


**IT IS FURTHER ORDERED** that the Respondent may not apply for reinstatement of his certificate for at least one year from the date of this Decision and Order. **IT IS FURTHER ORDERED** that the Respondent will be required to redo all of the education, examination, and experience requirements required for initial licensure. The required education, examination, and experience must be completed following the issuance of this Decision and Order and prior to filing an application for reinstatement.

**IT IS FURTHER ORDERED** that before any application for reinstatement is granted, the Respondent will be required to establish that the reason for the revocation no longer exists and it is in the public interest for his license to be reinstated. 193 IAC 7.38(5). The Board retains the right to set conditions of probation in connection with any order reinstating the Respondent's license.

**IT IS FURTHER ORDERED**, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that the Respondent shall pay \$75.00 within thirty (30) days of receipt of this decision for fees associated with conducting the disciplinary hearing.

**IT IS FURTHER ORDERED** that the Respondent shall notify all clients of the fact that his certification has been suspended within fifteen (15) days of receipt of this final decision, in accordance with 193 IAC 7.30(3). Within thirty days of receipt of this final order, the Respondent shall provide the Board with copies of the notice sent to clients.

Dated this 9<sup>th</sup> day of FEBRUARY 2006.

  
Richard Koestner, Appraiser/  
Vice-Chairperson  
Iowa Real Estate Appraiser Examining Board

Cc: DARRYL E GREEN  
153 HOLIDAY CIRCLE  
WEST DES MOINES IA 50265  
(PERSONAL SERVICE)

Pamela Griebel

Assistant Attorney General  
Hoover Building  
Des Moines, IA

Judicial review of the board's decision may be sought  
in accordance with the terms of Iowa Code chapter 17A.  
193 IAC 7.37.