

FILED 12/20/11 (Date)
IABE Appr. Ex. Board

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

Signature, Executive Officer

IN THE MATTER OF:

**Matt Johnson
CG02149**

RESPONDENT

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Case No. 11-19, 11-26

**COMBINED STATEMENT OF
CHARGES AND CONSENT ORDER**

A. Statement of Charges

1. The Iowa Real Estate Appraiser Examining Board ("Board") has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543D (2011).

2. Respondent is a certified general real estate appraiser in Iowa. He was issued Certificate No. CG02149 on March 31, 2006.

3. Certificate No. CG02149 is currently valid and in good standing, and is scheduled to expire on June 30, 2012.

4. The Board received a complaint in May 2011 raising questions about Respondent's compliance with USPAP in the development and reporting of an appraisal assignment in which he supervised the work product of a registered associate. The Board received a second complaint in June, 2011 raising questions about Respondent's compliance with USPAP in the development and reporting of a second appraisal assignment in which he supervised the work product of a second registered appraiser. The Board also received appraisals from Respondent's log, including two appraisal assignments Respondent completed without the professional assistance of registered associates. The Board submitted the appraisals to Standard Three USPAP review.

5. The reviewed appraisals revealed concerns about Respondent's compliance with USPAP standards in the application of the income approach and the lack of market support for adjustments in the sales comparison approach. Additionally, in at least two instances, Respondent signed appraisal reports as supervisor when the appraisal assignments involved commercial or agriculture property and the associates performing the appraisal assignments were registered as residential appraisers.

6. Following investigation, the Board charges Respondent with (a) failure to adhere to appraisal standards in the development and communication of appraisals; (b) failure to exercise reasonable diligence in the development, preparation and communication of appraisals; (c) and failure to properly supervise associate appraisers,

in violation of Iowa Code sections 543D.17(1)(d), (e), and (f), and 543D.18(1) (2009, 2011), and 193F Iowa Admin. Code 7.2, 7.3(2)(c), (d), 7.3(6)(a), (b), and 7.3(7)(a).

7. The Board and Respondent have agreed to fully resolve these charges through the following Consent Order, rather than proceed to contested case hearing.

8. The Respondent denies the allegations, but does agree to comply with the Consent Order to resolve disputed matters.

B. Settlement Agreement and Consent Order

9. Respondent has a right to a hearing on the charges, but waives Respondent's right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order.

10. This Consent Order constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4.

11. 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.

12. 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 future disciplinary action to be imposed in the event of any future violations.

13. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2011).

14. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2011). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

15. 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. Education

1. Respondent shall successfully complete by May 15, 2012, the following courses, which shall be AQB approved qualifying courses, which Respondent may take in person or on-line, and may apply to his continuing education requirements for renewal:

a. A 15-hour, tested USPAP course, relating to the 2012-13 edition of USPAP. Respondent is cautioned that the 15-hour course will not satisfy the requirement that he complete a 7-hour USPAP update course for his 2012 renewal.

b. A 30-hour tested course entitled, "Residential Sales Comparison and Income Approaches."

c. A 60-hour tested course entitled, "General Appraiser Income Approach."

2. Respondent shall forward to the Board a certificate of completion for each course within 10 calendar days of completion.

3. Respondent shall be excused from taking the 60-hour tested course on the income approach for general appraisers if he notifies the Board by December 1, 2011 that he will voluntarily restrict his appraisal practice to residential appraisals, which is limited to the appraisal of to 1-4 residential units.

B. Probation, Logs and Desk Review

1. Respondent shall be on probationary status until he is expressly released from probation by Board order.

2. Within 90 days of completing all education, Respondent shall submit a log to the Board of all appraisals completed for the two month period after the completion of all education. The Board shall select at least two appraisals for review. If Respondent does not notify the Board of a voluntary restriction of his appraisal practice, as provided in Section A(3), the Board shall select at least three appraisals for review.

3. Section A provides the deadline within which education must be completed. Respondent is free to escalate the time frame by completing the education earlier than the deadline. Until Respondent has complied with all terms of the Consent Order he shall send the Board appraisal logs on the 10th day of each month for the prior month's appraisals.

4. The Board will retain one or more certified appraisers to complete Standard Three reviews on the appraisals selected for review. The Respondent shall provide the Board, within 10 days of request, five copies of the appraisals and associated work files. If Respondent restricts his practice to residential appraisals, he shall pay the sum of \$300 to be paid by the Board to the retained appraiser. If Respondent does not restrict his practice, he shall pay the sum of \$650 to be paid by the Board to the retained appraiser or appraisers. If Respondent does not restrict his practice, he shall not be released from probation until he has completed at least 4 commercial or agricultural appraisals after completing the 60-hour course on the income approach for general appraisers so that the Board has a fair sampling of appraisals to select from Respondent's log.

5. The reviewing appraiser shall complete a comprehensive Standard Three review for each appraisal. The review shall be for facial compliance with USPAP. The reviewer will not perform inspections or warrant the accuracy of Respondent's work product, but will review work papers, calculations and any other documents reasonably needed. Along with appraisal reports and work files, Respondent shall provide the reviewing appraiser copies of all documents verifying the accuracy of factual representations in each appraisal. The reviewer may request additional information, if needed, such as documentation of paired sales analysis, documentation of support for site values, market rents, and the like. The costs associated with desk review are the responsibility of the Respondent, but are capped at the amounts noted in paragraph 3.

6. The reviewer shall prepare written comments on each appraisal's compliance with USPAP, and shall provide copies of the written comments to the Board and the Respondent.

7. At the next meeting following the Board's receipt of the review appraisals, the Board shall enter an order releasing Respondent from probation, or, if the desk review comments and appraisals reveal significant USPAP violations, the Board shall defer final ruling and may order additional education or desk reviews, or other rehabilitative measures. No such order will be issued without affording Respondent reasonable notice and an opportunity to request hearing.

8. This settlement shall not preclude the Board from filing additional charges if one or more of the appraisals submitted for desk review demonstrate probable cause to take such an action. Respondent agrees Board review of desk review reports or appraisals subject to desk review shall not constitute "personal investigation" or otherwise disqualify a Board member from acting as a presiding officer in any subsequent contested case.

C. Associate Appraisers

1. Starting January 1, 2012, Respondent shall supervise a maximum of two associate appraisers until he is released from probation. Starting with the date this Consent Order is signed by all parties, Respondent shall not supervise any associate he is not currently supervising, until Respondent is released from probation.

2. If Respondent continues to supervise one or more associates while on probation, he shall require that any such associate complete the following core criteria courses described in 193F IAC 5.2(2) by May 15, 2012, with certificates of completion due to the Board office within 10 days of completion:

a. 30-hour course entitled "Residential sales comparison and income approaches."

b. 15-hour course entitled "Residential report writing and case studies."

c. At least one additional course of not less than 15 hours in length.

3. If Respondent continues to supervise one or more associates while on probation, he shall require that any such associate submit a log to the Board within 90 days of the completion of the coursework described in Section C(2), including appraisals completed in the two-month period following completion of the education. The Board shall select one or two appraisals for review under the provisions of 193F IAC 5.6(9) for work product review. The purpose of the work product review is education for Respondent's associates and exposure to review in advance of future application for certification.

4. Respondent shall comply with 193F IAC chapter 15 and, in particular, shall assure he is geographically competent to supervise all appraisals performed with associates and that he provides sufficient oversight and review to certify all appraisals co-signed as a supervisor as if the appraisal were in all respects representative of his own work product. Respondent shall also assure that the combination of his own work assignments and those he supervises is reasonably manageable for diligent, competent performance by him and his associates.

AGREED AND ACCEPTED:

The Respondent

Iowa Real Estate Appraiser Examining Board

Matt Johnson

Judy Zwanziger, Chair

12/3/11

December 20, 2011

Date

Date

FILED 9/25/12 (Date)

~~Iowa Real Estate Appraiser Exam Board~~

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD

[Redacted Signature]

Signature, Executive Officer

IN THE MATTER OF:) Case No. 11-19 & 11-26
)
Matt Johnson)
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 September 25, 2012.

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

[Redacted Signature]

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