

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

IN THE MATTER OF:)	
DOUGLAS A. LEHMAN	)	CASE 99-8
)	
CERTIFICATE NO. CR01526	)	STATEMENT OF CHARGES
)	
RESPONDENT)	

COMES NOW, the Complainant William M. Schroeder, and states:

1. He is the Executive Secretary of the Iowa Real Estate Appraiser Examining Board and files this Statement of Charges solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 543D, 272C(1999).
3. On August 24, 1992, Douglas A. Lehman, the Respondent, was issued an Iowa Real Estate Residential Appraiser Certificate by the Board.
4. The Certificate No. CR01526 is currently in good standing.

COUNT I

The Respondent is charged with violation of the Uniform Standards of Professional Appraisal Practice (USPAP) in connection with the development of a real estate appraisal pursuant to Iowa Code sections 543D.17(1)(d) and 543D.18(1)(1999) and Iowa Administrative Code 193F-7.1(5).

COUNT II

The Respondent is charged with failing to exercise reasonable diligence in the preparation and communication of a real estate appraisal in violation of Iowa Code section 543D.17(1)(e)(1999).

COUNT III

The Respondent is charged with negligence or incompetence in the preparation and communication of a nonresidential real estate appraisal in violation of Iowa Code Section 543D.17(1)(F)(1999).

CIRCUMSTANCES

1. The Respondent prepared and communicated four (4) appraisals for real property identified as 1901 Harris Street, Sioux City, IA; 3623 Transit Avenue, Sioux City, IA; 1420 Lark Avenue, Hampton, IA and 506 East 2nd Street, Remsen, IA.
2. The above appraisals were prepared and communicated after the Respondent was issued Iowa Certified Residential Real Property Certificate No. CR01526.
3. The 1901 Harris Street (dated June 28,1999) report contains deficiencies including but not limited to the following:
 - a. Failure to correctly employ recognized methods [1-1(a)].
 - b. Committed a substantial error of omission or commission [1-1(b)].
 - c. Failure to analyze the effect on use and value of existing land use regulations[1-3(a)].
 - d. Failure to analyze the effect on value, if any, on the assemblage of...component parts of a property [1-4(e)].
 - e. Failure to clearly and accurately set forth the appraisal in a manner that will not be misleading [2-1(a)].
 - f. Failure to include sufficient information to enable intended users to understand the report properly [2-2(b)].
 - g. Failure to state the reporting option utilized[2-2].
 - h. Failure to identify the intended users [2-2(i)].
 - i. Failure to identify the intended use of the appraisal [2-2(ii)].
 - j. Failure to state the property interest appraised [2-2(iv)].

- k. Failure to state the purpose of the appraisal and definition of value [2-2(v)].
 - l. Failure to supply sufficient information to disclose the scope of the work used to develop the appraisal [2-2(vii)].
 - m. Failure to describe the reasoning that supports the analyses, opinions and conclusions [2-2(ix)].
 - n. Failure to describe and support the rationale for the appraiser's opinion of the highest and best use [2-2(x)].
 - o. The appraiser failed to perform the assignment with impartiality, objectivity and independence and without accommodation of personal interests.
4. The 3623 Transit Avenue, Sioux City, Iowa (dated May 21, 1999) report contains deficiencies including but not limited to the following:
- a. Failure to correctly employ recognized methods [1-1(a)].
 - b. Committed a substantial error of omission or commission [1-1(b)].
 - c. Failure to identify the characteristics of the property.....it's physical attributes [1-2(e)(ii)].
 - d. Failure to analyze comparable sales data [1-4(a)].
 - e. Failure to base projections of future rent and expenses on reasonably clear and appropriate evidence [1-4(c)].
 - f. Failure to clearly and accurately set forth the appraisal in a manner that will not be misleading [2-1(a)].
 - g. Failure to contain sufficient information to enable intended users to understand the report properly [2-2(b)].
 - h. Failure to state the reporting option utilized (2-2).
 - i. Failure to identify the intended users [2-2(i)].
 - j. Failure to identify the intended use of the appraisal [2-2(ii)].

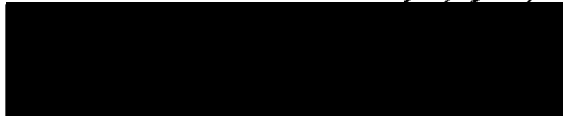
- k. Failure to describe the reasoning that supports the analyses, opinions and conclusions [2-2(ix)]
5. The 1420 Lark Avenue, Hampton, Iowa (dated January 22, 1999) report contains deficiencies including but not limited to the following:
 - a. Failure to correctly employ recognized methods [1-1(a)].
 - b. Committed a substantial error of omission or commission [1-1(b)].
 - c. Failure in the cost approach to analyze data to estimate accrued depreciation [1-4(b)(iii)].
 - d. Failure to clearly and accurately set forth the appraisal in a manner that will not be misleading [2-1(a)].
 - e. Failure to have appraisal contain sufficient information to enable intended users to understand the report properly [2-2(b)].
 - f. Failure to state the reporting option utilized (2-2).
 - g. Failure to identify the intended users [2-2(i)].
 - h. Failure to describe the reasoning that supports the analyses, opinions and conclusions.
 6. The 506 East 2nd Street, Remsen, Iowa (dated February 3, 1999) report contains deficiencies including but not limited to the following:
 - a. Failure to correctly employ recognized methods [1-1(a)].
 - b. Committed a substantial error of omission or commission [1-1(b)].
 - c. Failure to clearly and accurately set forth the appraisal in a manner that will not be misleading [2-1(a)].
 - d. Failure to include sufficient information to enable intended users to understand the report properly [2-2(b)].
 - e. Failure to state the reporting option utilized (2-2).
 - f. Failure to identify the intended users [2-2(i)].

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- g. Failure to describe the reasoning to support the analyses, opinions and conclusions [2-2(ix)].

WHEREAS, the Complainant prays that a hearing be held in this matter and that the Board take such action as it deems appropriate under the law.



William M. Schroeder, Executive Secretary
Complainant

On this 20th day of October, 1999, the Iowa Real Estate Appraisal Examining Board found probable cause to file this complaint and to order a hearing in this case.



Gary Johnson, Chair
Iowa Real Estate Appraiser Examining board

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

IN THE MATTER OF:	)	CASE NO. 99-08
	)	DIA NO. 99DOCRE008
DOUGLAS A. LEHMAN)	
CERTIFICATE NO. CR01526	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
RESPONDENT	)	DECISION AND ORDER

On October 20, 1999, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Statement of Charges against Douglas A. Lehman (Respondent); Said Statement was later amended on November 30, 1999. The Statement alleged that the Respondent prepared and communicated four appraisals for real property which contained deficiencies which violated the Uniform Standards of Professional Appraisal Practice (USPAP). Said Statement further alleged that the Respondent failed to exercise reasonable diligence, and was negligent or incompetent in the preparation and communication of the appraisals. The Respondent was charged in three separate counts. A Notice of Hearing scheduled a prehearing conference for December 2, 1999 and a hearing for December 10, 1999. The Respondent was granted a continuance through his attorney, Duane Hoffmeyer, and the pre-hearing conference was scheduled and held on January 19, 2000. The hearing scheduled for January 27, 2000, was postponed at the request of the Respondent due to his illness.

The hearing was held on February 22, 2000 at 1:10 p.m. The Respondent appeared and was not represented by counsel, as his attorney withdrew with his knowledge and consent. The state of Iowa was represented by Pamela Griebel, Assistant Attorney General. The following Board members were present for the hearing: Gary J. Johnson, Public Member, Chairperson; Sharon Chism, Appraiser; Luther C. Gammon, Appraiser; Jack Seuntjens, Appraiser; Richard Bruce, Appraiser; and Theresa H. Lewis, Public Member. R. L. Stephenson, Administrative Law Judge from the Iowa Department of Inspections and Appeals, Division of Administrative Hearings, presided. A certified court reporter recorded the proceedings.

The hearing was closed to the public, at the Respondent's written request, pursuant to Iowa Code section 272C.6(1)(1997). After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(1997) to deliberate its decision. The Board instructed the administrative law judge to prepare its Findings of Fact, Conclusions of Law, Decision and Order, in conformance with its deliberations.

THE RECORD

The record includes the Statement of Charges, and as amended, Notice(s) of Hearing, State's Prehearing Conference Report, Motions, Respondent's response to charges, the testimony of the witnesses, and the following exhibits:

- State Exhibit A: Certified mail receipt
- State Exhibit B: Summary of Review Process by Alan Hummel
- State Exhibit C: Materials Reviewed Concerning 506 E. 2nd Street, Remsen, Iowa, and
- C-1 Complaint
 - C-2 Full Appraisal
 - C-3 Work papers
 - C-4 Hummel's Outline of Charges
- State Exhibit D: Materials Reviewed Concerning 1420 Lark Avenue, Hampton, Iowa, and
- D-1 Complaint
 - D-2 Full Appraisal
 - D-3 Work papers
 - D-4 Hummel's outline of Charges
- State Exhibit E: Materials Reviewed Concerning 3623 Transit Avenue, Sioux City, Iowa, and
- E-1 Complaint
 - E-2 Full Appraisal
 - E-3 Work papers
 - E-4 Hummel's outline of Charges
- State Exhibit F: Materials Reviewed Concerning 1901 Harris Street, Sioux City, Iowa, and
- F-1 Appraisal
 - F-2 Supporting Documents
 - F-3 Hummel's outline of Charges
- State Exhibit G: Uniform Standards of Professional Appraisal Practice (USPAP 1998)

State Exhibit H: Uniform Standards of Professional Appraisal Practice (USPAP 1999)

State Exhibit I: Alan Hummel, Curriculum Vitae

State Exhibit J: Consent Agreement, Nebraska Real Estate Board, 2/9/99

Respondent Exhibit 101: Response to 1901 Harris Street, Sioux City, Iowa property

Respondent Exhibit 102: Response to 3323 Transit Avenue, Sioux City, Iowa, property.

Respondent Exhibit 103: Response to 1420 Lark Avenue, Hampton, Iowa, property.

Respondent Exhibit 104: Response to 506 East 2nd Street, Remsen, Iowa, property.

Respondent Exhibit 105: Affidavit of Robert McNamara

FINDINGS OF FACT

1. On August 24, 1992, the Respondent was issued Iowa Real Estate Appraiser Certificate, No. CR01526, by the Board. Certificate No. CR01526 is currently in good standing.
2. The Board received some complaints regarding appraisal work performed by the Respondent, and assigned Alan Hummel, Investigative Consultant to the Board, to review the complaints and appraisals. Investigator Hummel has worked in this capacity for the Board since 1993, and has performed similar work for the following states, to wit: Kansas, Nebraska, North Dakota, Texas, and Montana (State Exhibit I).
3. Investigator Hummel is currently a Chief Executive Officer of Iowa Residential Appraiser Company, and an approved real estate appraisal education instructor for multiple states.
4. Alan Hummel, a certified general real property appraiser, was to review four appraisals that were prepared and communicated by the Respondent. The reviews of the appraisals were made between February 17, 1999 and October 9, 1999, and were conducted within the context of the applicable standards of appraisal practice that were in effect as of their report date(s). The appraisal reports were subject to a desk

review process, as no inspection of the subject property was made or any comparable sales. Mr. Hummel concluded that all four appraisals contained deficiencies and failed to meet the following Uniform Standards of Professional Appraisal Practice: Standards Rule 1-1(a); 1-1(b); 1-2(e)i; 1-3(a); 1-4(a),(b)ii,(c),(e); Standards Rule 2-1(a) and Standards Rule 2-2(b),(i),(ii),(iv),(v),(vii),(ix),(x). (Testimony of Alan Hummel; State Exhibits C-H)

5. The Uniform Standards of Professional Appraisal Practice (USPAP) are promulgated by the Appraisal Standards Board of The Appraisal Foundation. By federal legislation, the Appraisal Standards Board is authorized to write, promulgate, and interpret these standards. The state of Iowa has chosen to adopt these standards of professional practice. The 1998/99 Editions of USPAP were applicable to the appraisals which are the subject of this hearing. (Testimony of Alan Hummel; State Exhibits G,H; 193F IAC 7.1(5))

6. Standard 1 of USPAP outlines the analysis that an appraiser should go through in developing their methodology, in order to produce an appraisal that is not misleading. Standard 2 of USPAP gives the minimum guidelines to the appraiser for reporting the analysis. Because of the fiduciary responsibilities inherent in professional appraiser practice, the appraiser must observe the highest standards of professional ethics. (Testimony of Alan Hummel; State Exhibits G,H)

7. Mr. Hummel identified more than four (4) violations of the minimum USPAP standards in each of the (4) four appraisals prepared and communicated by the Respondent. He concluded that the Respondent failed to exercise reasonable diligence and was negligent or incompetent in the preparation and communication of the four appraisals. (Testimony of Alan Hummel; State Exhibits C,D,E,F,G, and H)

8. There are specific guidelines within USPAP which the appraiser and his or her client may determine are not necessary in order for the appraiser to complete the analysis for the particular assignment. If a specific guideline is departed from, the appraisal is called a "limited appraisal." The appraiser must specify the departures from Standard 1 in a limited appraisal. A "complete appraisal" indicates that the appraiser has not invoked the departure provisions of USPAP, and the appraiser has abided by all of the rules under Standard 1. (Testimony of Alan Hummel)

9. Under USPAP Standard 2, the appraiser has three options for reporting: the self-contained report, summary report, and the restricted report.

- a) The self-contained report does not require the reader to go outside the document to understand the appraiser's analysis and how conclusions were reached.
- b) The summary report is a summarization of the data, some of which may be retained in the appraiser's files. However, if the reader requires clarification, the appraiser must be able to show this information to support his report. The appraiser must be careful that the summary report is not so summarized that it is misleading to the reader. The appraiser has a fair amount of discretion as to what information to put in the report, but once included, the information should be understandable in the form presented.
- c) The restricted report is a series of statements which would give the reader conclusions only, with no explanation of how the conclusions were reached.

(Testimony of Alan Hummel)

10. The first appraisal (Remsen property), which was prepared and communicated by the Respondent to Hearthside Lending on February 3, 1999, was not specified by type or reporting option for the residential property. Mr. Hummel identified the following specific deficiencies in the first appraisal:

- a) Failure to correctly employ recognized methods (1-1(a));
- b) Committed a substantial error of omission or commission (1-1b);
- c) Failed to clearly and accurately set forth the appraisal in a manner that will not be misleading (2-2(b));
- d) Failure to include sufficient information to enable intended users to understand the report properly (2-2)b);
- e) Failure to state the reporting option utilized (2-2);
- f) Failure to identify the intended users (2-2(i));
- g) Failure to describe the reasoning to support the analyses, opinions and conclusions (2-2(ix)).

(Testimony of Alan Hummel; State Exhibits C, G, H,)

11. The second appraisal (Hampton property), which was prepared and communicated by the Respondent on January 22, 1999 to Hearthside Lending, did not specify the recording option for the residential property. Mr. Hummel identified the following deficiencies in this appraisal:

- a) Failure to correctly employ recognized methods (1-1(a));
- b) Committed a substantial error of omission or commission (1-1(b));
- c) Failure in the cost approach to analyze data to estimate accrued depreciation (1-4(b)ii);
- d) Failure to clearly and accurately set forth the appraisal in a manner that will not be misleading (2-1(a));
- e) Failure to have appraisal contain sufficient information to enable intended users to understand the report properly (2-2(b));
- f) Failure to state the reporting option utilized (2-2);
- g) Failure to identify the intended users (2-2(i));
- h) Failure to describe the reasoning that supports the analyses, opinions, and conclusions.

(Testimony of Alan Hummel; Respondent; State Exhibits D, G, H,)

12. The third appraisal (Transit Avenue property), which was prepared and communicated by the Respondent on May 21, 1999 to Mortgage Express, did not specify the reporting form or format for the multi-family property. Mr. Hummel identified the following deficiencies:

- a) Failure to correctly employ recognized methods (1-1(a));
- b) Committed a substantial error of omission or commission (1-1(b));
- c) Failure in the cost approach to analyze data to estimate accrued depreciation (1-4(b)ii);
- d) Failure to clearly and accurately set forth the appraisal in a manner that will not be misleading (2-2(b));

- e) Failure to have appraisal contain sufficient information to enable intended users to understand the report properly (2-2(i));
- f) Failure to state the reporting option utilized (2-2);
- g) Failure to identify the intended users (2-2(i));
- h) Failure to describe the reasoning that supports the analyses, opinions, and conclusions.

(Testimony of Alan Hummel; State Exhibits D,G,H)

13. The fourth appraisal (Harris Street property), which was prepared and communicated by the respondent on June 28, 1999, to Phillip D. Furlong on behalf of Owner, Robert McNamara, purports to be a broker's price opinion which fails to establish the methodology used and comply with USPAP standards. Mr. Hummel identified the following deficiencies in the appraisal:

- a) Failure to correctly employ recognized methods (1-1(a));
- b) Committed a substantial error of omission or commission (1-1(b));
- c) Failure to analyze the effect on use and value of existing land use regulations (1-3(a));
- d) Failure to analyze the effect on value, if any, on the assemblage of ... component parts of property (1-4(e));
- e) Failure to clearly and accurately set forth the appraisal in a manner that will not be misleading (2-1(a));
- f) Failure to include sufficient information to enable intended users to understand the report properly (2-2(b));
- g) Failure to state the reporting option utilized (2-2);
- h) Failure to identify the intended users;
- i) Failure to identify the intended use of the appraisal (2-2(ii));
- j. Failure to state the property interest appraised (2-2(iv));

- k) Failure to state the purpose of the appraisal and definition of value (2-2(v));
- l) Failure to supply sufficient information to disclose the scope of the work used to develop the appraisal (2-2(viii));
- m) Failure to describe the reasoning that supports the analyses, opinions and conclusions (2-2(ix));
- n) Failure to describe and report the rationale for the appraiser's opinion of the highest and best use (2-2(x));
- o) The appraiser failed to perform the assignment with impartiality, objectivity, independence, and without accommodation of personal interests (Ethics Rule of USPAP).

13. Mr. Hummel expressed concern for both the manner in which these four appraisals were developed and the manner in which they were reported. Mr. Hummel did not attempt to establish whether the values reached by the Respondent were correct; rather, his concern was whether the values were supportable by the information in the report. (Testimony of Alan Hummel)

14. As to the Remsen property, the Respondent failed in his cost approach to make a deduction for physical depreciation on the 5 year-old home, and the cost was substantially less than the market and final opinion of value, with no reconciliation. There were inconsistent and non-market supported adjustments made in the sales comparison approach for such items as: design, appeal, age, room count and laundry. Further, the Respondent reported over 20 sales in the community of the subject property, but used 2 sales from the outside and one not an arms length transaction in his comparison. (Testimony of Hummel, State Exhibit C)

15. As to the Hampton property, the cost and income approaches are poorly developed due to inconsistencies such as site size (5+ acres versus legal description showing 9+ acres), and garage size. The report contains inconsistencies as to the existence of amenities, and condition of property, as well as adjustments for site size, age, room counts, and amenities. (Testimony of Hummel, State Exhibit D)

16. As to the Transit Avenue property, the rents in the rental comparison are not properly developed, and the cost figures given the finish in the basement and number of separate units, is not reasonable. The Property is a (5) unit building, not (4) four units as described in the appraisal by Respondent; this distortion makes the sales comparison approach questionable as to gross building size, and number of unit differences. The income approach is not based on a reasonably developed

income or gross rent multiplier basis. The report contains inconsistent information as to rents in the comparisons and the sales approach is based on faulty factors as to age, site, size, and number of units. (Testimony of Hummel, State Exhibit E)

17. As to the Harris Street property, the Respondent eliminates all methodology approaches to valuation without then stating what approaches he relies upon in determining valuation. The report fails to disclose that it is not zoned industrial, and has a residential improvement on it. Valuation is based on a non-permitted use. No consideration is given to costs associated with development, and the report contains inconsistent, and inaccurate information. The Respondent states he has no interest in the subject property, yet it was listed the same day of the issued appraisal by his business (brokerage firm - Lehman Realty). (Testimony of Hummel, State Exhibit F)

18. Although the Respondent was disciplined by the Appraisal Board of the State of Nebraska on January 12, 1999, he made no disclosure to the Iowa Board of Appraisers.

19. The Respondent admitted during the hearing that he was guilty as charged, but otherwise minimized the statement of charges, and showed contempt for this proceeding by stating in his response that "...this allegation is a catch-all assertion which is impossible to refute due to the principle of change clause, and guarantees that the Board can save face and justify their complaint through smoke and mirrors." The Respondent estimates that he has regularly performed about 100 to 110 appraisals each month during the period he performed the four (4) appraisals under review in this case. (Testimony of Respondent, Respondent's Exhibit 102)

CONCLUSIONS OF LAW

COUNT I

1. Iowa Code sections 543D.17(1)(d) 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.

543D.18 Standards of Practice

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

2. 193F IAC 7.1(5) provides, in relevant part:

193F-7.1(543D) Grounds for disciplinary actions against certificates, licenses, and associates. The grounds for revocation and suspension of certificates, licenses and associate registrations and other disciplinary action against appraisers 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:

7.1(5) Failure to comply with the USPAP applicable at the time of the development and communication of the real estate appraisal.

3. The 1998/99 USPAP contained the following relevant standards:

ETHICS RULE:

To promote and preserve the public trust inherent in professional appraisal practice, and appraiser must observe the highest standards of professional ethics.

Standards Rule 1-1

In developing a real property appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal. In developing a real property appraisal, an appraiser must:

- (a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

...

- (b) not commit a substantial error of omission or commission that significantly affects an appraisal;

...

Standards Rule 1-2

In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines:

- (e) identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal, including:
 - (i) its location and physical, legal, and economic attributes;

Standards Rule 1-3

In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines:

- (a) consider the effect on use and value of the following factors: existing land use regulations, reasonably probable modifications of such land use regulations, economic demand, the physical adaptability of the real estate, market area trends, and the highest and best use of the real estate.

Standards Rule 1-4

In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines, when applicable:

- (a) value the site by an appropriate appraisal method or technique;
- (c) base projections of future rent and expenses on reasonably clear and appropriate evidence;
- (e) consider and analyze the effect on value, if any, of the assemblage of the various estates or component parts of a property and refrain from estimating the value of the whole solely by adding together the individual values of the various estates or component parts;

Standard Rule 2-1

Each written or oral real property appraisal report must:

- (a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

Standards Rule 2-2

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Appraisal Report.

The content of a Self-Contained Appraisal Report must be consistent with the intended use of the appraisal, and at a minimum:

- (i) state the identity of the client and any intended users, by name or type,
- (ii) state the intended use of the appraisal,
- (iv) state the real property interest appraised,
- (v) state the purpose of the appraisal, including the type and definition of value and its source,
- (vii) describe sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop the appraisal,
- (ix) describe the information analyzed, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions,
- (x) state the use of the real estate existing as of the date of value, and the use of the real estate reflected in the appraisal; and, when the purpose of the assignment is market value, describe the support and rationale for the appraiser's opinion of the highest and best use of the real estate.

4. The Board agrees with the analysis and conclusions of the expert witness who reviewed the four appraisals. The preponderance of the evidence established that the Respondent violated Iowa Code sections 543D.17(1)(d) and 543D.18(1) and 193F IAC 7.1(5) when he prepared and

communicated four real estate appraisals which violated USPAP standards as set forth in paragraph 3. Although the Respondent violated more than one standard in each of the four appraisals that he communicated, the Board finds that he committed not less than one violation for each appraisal, for a total of four (4) violations pursuant to Count I of the Statement of Charges, as amended.

COUNT II

5. Iowa Code section 543D.17(1)(e) provides, in relevant part:

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

6. The preponderance of the evidence established that the Respondent violated Iowa Code section 543D.17(1)(e) by failing to exercise reasonable diligence in the preparation and communication of four real estate appraisals.

COUNT III

7. Iowa Code section 543D.17(1)(f) provides, in relevant part:

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

8. The preponderance of the evidence established that the Respondent negligently developed four real estate appraisals, negligently prepared the appraisal reports and negligently communicated the appraisals, in violation of Iowa Code section 543D.17(1)(f).

SUMMARY

The Respondent displayed contempt for Appraisal law and standards by his derisive response to the Statement of Charges, and testimony in this hearing. The sheer number of Appraisals produced by the Respondent (on average according to his testimony) during the review period show a reckless disregard for the requirement to perform quality work. The Dispensation of the Board in this decision constitutes both a measure of penalty for the numerous offenses committed, but, also, a means whereby the Respondent may regain his Appraisal certification by taking the appropriate, corrective action.

DECISION AND ORDER

IT IS THEREFORE ORDERED, that Douglas A Lehman, Certificate No. CR01526, shall:


1. Have his Certified Residential Real Estate Appraiser Certificate, REVOKED, for a period of two years from the effective date of this decision and order. (543D.17 IA Code)
2. Pay a civil penalty of \$12,000.00 for twelve (12) offenses (or \$1,000.00 for each of twelve offenses), four (4) in each of Counts I, II, and III, pursuant to the four (4) appraisals communicated by the Respondent. (543D.17(3) and 193F IAC 8.29)
3. Pay a disciplinary hearing fee of \$75.00 (272C.6(6)).
4. Upon payment of the civil penalty and hearing fee (\$12,075.00) and completing the two year revocation, be eligible to apply to the Board as an initial candidate for appraiser certification; including a completion of the required education and passing the examination for certification.
5. Begin his experience for new certification upon completion of the education and examination; said experience to be obtained under the supervision of an Iowa Certified Appraiser pre-approved by the Board.
6. Upon completion of the experience requirement, the Respondent shall develop a desk review consultation agreement with an Iowa certified real estate appraiser in good standing, pre-approved by the Board, on the following terms and conditions:
 - a) submit an executed copy of the desk review consultation agreement which must then be approved by the Board prior to implementation of said order; the terms of the order shall be incorporated within and attached to the agreement to ensure compliance;
 - b) submit all appraisals for pre-release desk review until said condition is removed upon Respondent's petition to the Board;
 - c) have the Review Appraiser perform the desk review of each appraisal before it is signed, certified, and submitted to the client;

d) such additional terms and conditions as the Board may then prescribe.

7. The desk review shall be for a period of one year from the execution of the consultation agreement; the Respondent may then petition the Board for a release from the desk review which shall be granted unless there is a record of significant deviations from minimum appraisal standards, whereupon the Board may extend the review period. The Board's review of appraisals, desk review comments, and related documents in connection with this ORDER shall not constitute "personal investigation" under 1998 Iowa Acts, Chapter 1202.

8. If the Respondent violates the terms of this Order in any respect, the Board may institute further disciplinary proceedings.

Entered this 22 day of March, 2000.


Gary J. Johnson, Public Member &
Chairperson
Iowa Real Estate Appraiser Examining Board

cc: Douglas A. Lehman
710 14th Street
Sioux City, Iowa 51105-1211

Pamela Griebel
Assistant Attorney General
Hoover Building - 2nd Floor
Des Moines, Iowa 50319

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

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

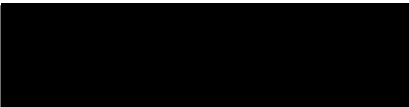
IN THE MATTER OF:	)	CASE NO. 99-8
	)	DIA NO. 99DOCRE008
Douglas A. Lehman)	
CERTIFICATE NO. CR01526	)	ORDER AND NOTICE
	)	FOR REHEARING
RESPONDENT)	

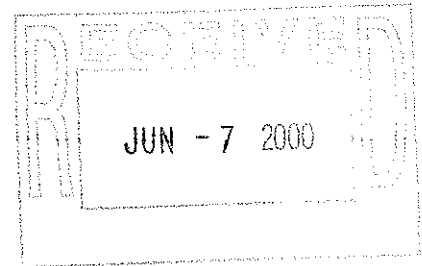
The Board established at its meeting on May 24, 2000 that the State's Petition for Rehearing shall be heard by telephone conference call on Monday, July 31, 2000 at 9:00 a.m. The State, Respondent, and the Board may call the Administrative Law judge at the telephone number provided below upon receipt of this notice, and provide a telephone number to be called on the date and time for hearing in order to participate.

The purpose and scope of the rehearing is to determine whether the Board should revise the decision in this case issued on March 22, 2000, at the request of the State. No party shall introduce any new or additional evidence into the record.

IT IS THEREFORE ORDERED that the State's Petition for rehearing shall come on for hearing before the Board by telephone conference call on July 31, 2000 at 9:00 a.m.

Dated this 5th day of June, 2000.


R. L. Stephenson
Iowa Department of Inspections and Appeals
Administrative Hearings Division
Lucas State Office Building - 3rd Floor
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cc: Douglas Lehman
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BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD
OF THE STATE OF IOWA

IN THE MATTER OF:	)	CASE NO. 99-8
	)	DIA NO. 99DOCRE008
Douglas A. Lehman)	
CERTIFICATE NO. CR01526	)	AMENDED FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
RESPONDENT	)	DECISION AND ORDER

A Decision and Order were issued in this matter on March 22, 2000. The State filed a Petition for Rehearing on April 4, 2000. The Board granted the State's Petition at its regular meeting on May 24, 2000, and an Order was entered on June 5, 2000, setting a hearing date for July 31, 2000.

The hearing was scheduled and held on July 31, 2000 at 9:00 a.m. in Ankeny, Iowa. The Respondent participated. The State of Iowa was represented by Pamela Griebel, Assistant Attorney General. The following Board members were present for the hearing: Richard Bruce, Appraiser, Chairperson; Jack Seuntjens, Appraiser; Luther Gammon, Appraiser; Beth Weeks, Appraiser; Sandra Glenn, Public Member; Sharon Chism, Appraiser; David Erickson, Public Member. R. L. Stephenson, Administrative Law Judge from the Iowa Department of Inspection and Appeals, Division of Administrative Hearings, presided. A certified court reporter recorded the proceedings.

The hearing was closed to the public in furtherance of the Respondent's written request to do so from the prior hearing pursuant to Iowa Code section 272C.6(1)(1997). After hearing the arguments of the State and the Respondent, the Board convened in a closed executive session, pursuant to Iowa Code section 21.5(1) to deliberate its decision. A motion was made to amend the Decision in accordance with the State's Petition, and approved by the Board. The Board instructed the administrative law judge to prepare an amended Decision and Order, in conformance with its deliberations.

IT IS THEREFORE ORDERED that the FINDINGS OF FACT in the DECISION of the Board is amended, as follows, to wit:

Paragraph 10.e and Paragraph 11.f:

The Respondent failed to prominently state the reporting option used in the customary manner for each appraisal, but did so designate in the "neighborhood" section on page one, in accord with USPAP standards.

IT IS FURTHER ORDERED that the CONCLUSIONS OF LAW in the DECISION of the Board is amended, as follows, to wit:

COUNT I Paragraph 3 - Standards Rule 2-2:

(b) The Summary Appraisal Report must:

- (i) identify and provide a summary description of the real estate being appraised;
- (ii) state the real property interest being appraised;
- (iii) state the purpose and intended use of the appraisal;
- (iv) define the value to be estimated;
- (v) state the effective date of the appraisal and the date of the report;
- (vi) summarize the extent of the process of collecting, confirming, and reporting data;
- (vii) state all assumptions and limiting conditions that affect the analyses, opinions, and conclusions;
- (viii) summarize the information considered, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions;
- (ix) summarize the appraiser's opinion of the highest and best use of the real estate, when such an opinion is necessary and appropriate;
- (x) Explain and support the exclusion of any of the usual valuation approaches;
- (xi) summarize any additional information that may be appropriate to show compliance with, or clearly identify and explain permitted departures from the specific guidelines of Standard 1;
- (xii) include a signed certification in accordance with Standards Rule 2-3.

COUNT III New Paragraph

9. The preponderance of the evidence established that the Respondent demonstrated incompetency in the development of the four real estate appraisals, preparation of the appraisal reports, and the communication of those appraisals, in violation of Iowa Code section 543D.17(1)f. Such a conclusion is supported by, but not limited to, the following evidence, to wit:

(a) The nature, number, breadth, and severity of the USPAP violations found in all four appraisals - particularly given the fact that said appraisal reports were prepared shortly after Respondent had signed a Consent Order imposing discipline for similar standard violations in the state of Nebraska.

(b) Respondent's demonstrated lack of familiarity with the ethical obligations governing the work product of an independent real estate appraisal at hearing ("I've made some mistakes here") despite the education he purported to have completed in connection with the disciplinary action in Nebraska.

(c) Respondent's consistent representation (written and testimonial) that he filled in the blanks on the form in some way all others do - indicating a lack of familiarity with his obligations to supplement forms with disclosures required by law.

(3) The churning method by which Respondent, and at his direction, his firm producing dozens of appraisals each month - showing a reckless disregard for the requirement to adhere to USPAP standards, and a complete indifference to professional and ethical standards.

(4) Specifically, ignoring professional and ethical standards when deemed expedient to aide a client, i.e., appraising a 5-plex as a 4-plex, because Respondent was asked to prepare the appraisal on a 4-plex form. The Respondent chose to compromise the appraisal in favor of his client knowing his opinion would be forwarded to a school district in order to induce an inflated purchase price, which blatantly disregarded the required appraisal standard, and knowingly mislead any lending institution where different underwriting standards apply.

(3) Respondent testified appraisal standards are different in "rural areas," which is not supported by the USPAP standards.

(g) Respondent expressed wonderment during the hearing that a conflict of interest, impacting ethical standards, may arise due to commingling his real brokerage and appraisal businesses, as to representing opinions of value to the public. Iowa Code Section 543D.18(3) makes it clear that certified appraisers must be cautious when presenting any view which may be perceived as an unbiased opinion of value. In preparing a letter for his client/friend to be presented to the school district, the Respondent identified himself as a certified appraiser, characterized his views as an opinion of "fair market value," professed to be "independent," knowing the letter would be communicated to third parties in order to increase the offer to purchase (price), when his brokerage firm was listing the property, on a commission basis, on the same day.

IT IS FURTHER ORDERED that the SUMMARY of the DECISION is amended to include the following, to wit:

The need for a strong measure of discipline in this case is rooted in the voluntary nature of Iowa's real estate appraisal statute. The Board is powerless to stop the Respondent from practicing as a real estate appraiser so long as he does not represent himself as certified or appraise properties when federal or state laws require licensure. The only measure of protection afforded the Board is to prevent the public from relying upon Respondent's certification when deciding to hire him and/or rely upon his opinions.

The four appraisals reviewed in this case demonstrate both substantial incompetence and repeated negligence of a reoccurring nature (as set forth in Counts I-III), after the Respondent has signed a recent consent order in the state of Nebraska for similar violations. Immediate revocation is the only means available to the Board to stop the Respondent from representing his certification to the public as a warning, when he has demonstrated a willingness to compromise USPAP standards in favor of a client for financial gain, and/or mislead a lending institution knowing it is governed by strict underwriting guidelines. The testimony responses by the Respondent, "I've made some mistakes here," clearly demonstrates his general lack of familiarity with USPAP standards, even after having been confronted by the overwhelming evidence against him in this case.

Immediate revocation is required to protect the public, the length of revocation is the period during which the Respondent may rehabilitate himself to the point he can merit re-certification, and the fine is a measure of punishment and message that this conduct will not be tolerated by the Board.

IT IS FURTHER ORDERED that the DECISION AND ORDER is hereby amended as follows, to wit:

Paragraph 2. Pay a civil penalty of \$1,000.00.

IT IS FURTHER ORDERED that all other provisions of the DECISION shall remain in full force and effect, as fully set out therein.

Entered this 18th day of October, 2000.


Richard Bruce
Chairperson
Iowa Real Estate Appraiser Examining Board

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