

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

IN THE MATTER OF: )

Jack Rash )  
CR02113 )

RESPONDENT )

Case No. 13-12

**NOTICE OF HEARING IN A  
DISCIPLINARY CASE**

The Iowa Real Estate Appraiser Examining Board ("Board") issues this Notice of Hearing pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 543D.17. Respondent Jack Rash is a certified residential real estate appraiser in Iowa. He was issued Certificate No. CR02113 on June 29, 1999. Certificate No. CR02113 is currently valid, in probationary status, and is scheduled to expire on June 30, 2013. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C, and 543D.

**A. TIME, PLACE AND NATURE OF HEARING,  
AND HEARING PROCEDURES**

1. **Hearing.** A disciplinary contested case hearing will be held before the Board on the 25th day of July, 2013 at 1:30 o'clock, p.m., at 1920 SE Hulsizer Road, Ankeny, Iowa.
2. **Answer.** Within 20 days of the date you are served with this Notice you must file an answer to the charges as provided in 193 Iowa Administrative Code 7.9.
3. **Prehearing Conference.** A prehearing conference will be held by telephone on **July 11, 2013, at 1:30 o'clock, p.m.**, before an Administrative Law Judge from the Iowa Department of Inspections and Appeals ("ALJ"). You are responsible for notifying the Board office of the telephone number at which you or your counsel can be reached. Board rules on prehearing conferences may be found at 193 Iowa Administrative Code 7.21.
4. **Presiding Officer.** The full Board shall serve as presiding officer at hearing, pursuant to Iowa Code section 272C.6(1) and 193 Iowa Administrative Code 7.10(1). The Board

may request that an ALJ make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing, as described in 193 Iowa Administrative Code 7.10(4).

5. **Hearing Procedures.** Board rules on hearing procedures may be found at 193 Iowa Administrative Code chapter 7, and 193F Iowa Administrative Code chapter 8. You have the right to respond to the charges, produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. Consult rule 193 Iowa Administrative Code 7.22 if you need to request an alternative time or date. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

6. **Default.** If you fail to appear at hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 193 Iowa Administrative Code 7.27.

7. **Prosecution.** Licensee disciplinary cases are prosecuted by an Assistant Attorney General acting on behalf of the public interest (the State). Copies of all pleadings shall be filed with the Board, with copies mailed to: Assistant Attorney General Pamela Griebel, Iowa Department of Justice, Hoover Building, 2<sup>nd</sup> Fl., and Des Moines, Iowa, 50319. Phone: 515-281-6403; Fax: 515-281-7551; E-mail: [pgriebe@ag.state.ia.us](mailto:pgriebe@ag.state.ia.us).

8. **Respondent's Counsel.** Copies of all pleadings filed with the Board shall be provided to: Michael Lanigan, 318 East Fourth St., Waterloo, IA 50703. Phone: 319-236-2064. E-mail: Michael Lanigan [[laniganlaw@mchsi.com](mailto:laniganlaw@mchsi.com)].

9. **Settlement.** The procedural rules governing the Board's settlement process are found at 193 Iowa Administrative Code 7.42. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Pamela Griebel.

10. **Communications.** You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Assistant Attorney

General Pamela Griebel, or Toni Bright, the Board's Executive Officer, at 515-281-7468.

**B. STATEMENT OF CHARGES AND CIRCUMSTANCES**

11. The Board found probable cause to file charges on the April 2, 2013 if Mr. Rash did not respond to the Board with information reflecting compliance with a prior Board order by May 4, 2013.

12. The Board issued a disciplinary order against Mr. Rash in Case No. 12-14 on January 4, 2013. The order required Mr. Rash to pay \$75 within 30 days and for at least six months to develop all appraisal reports under the direct supervision of a pre-approved certified appraiser.


13. Mr. Rash has not paid the \$75.

14. On May 7, 2013, Mr. Rash confirmed that he has continued his appraisal practice, but he has not identified a supervisor and has not sought approval of a supervisor.

15. Mr. Rash has accordingly not complied with the Board's disciplinary order in violation of Iowa Code section 272C.3(2)(a).

**This Notice of Hearing and Statement of Charges is filed and issued**

**on the 8th day of May, 2013.**

  
\_\_\_\_\_  
Toni Bright, Executive Officer  
Iowa Real Estate Appraiser Examining Board  
1920 SE Hulsizer Road  
Ankeny, Iowa 50021  
Phone: 515-281-7468  
Fax: 515-281-7411  
Toni.Bright@iowa.gov

Copies to:

Assistant Attorney General Pamela Griebel  
Respondent and Respondent's Counsel  
Department of Inspections and Appeals, assigned Administrative Law Judge

FILED 7/24/13 (Date)

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

Board / Commission *Ex Board*

Signature, Executive Officer

IN THE MATTER OF: )

Jack Rash )  
CR02113 )

RESPONDENT )

Case No. 13-12

STATE'S APPLICATION TO  
CONTINUE

The State of Iowa moves to continue the hearing set for July 25, 2013, as follows:

1. The Board charged Mr. Rash with failing to comply with its January 4, 2013 disciplinary order on May 8, 2013. Hearing is set for July 25, 2013, at 1:30.
2. At the pre-hearing conference on July 16, 2013, Mr. Rash informed Administrative Law Judge Heather Palmer that he had not understood until very recently that his district court judicial review petition did not stay the Board's order and that he still needed to comply with the order, unless stayed. No stay order has been requested and no stay has been entered.
3. Mr. Rash was encouraged at that time to take such steps as were required to come into compliance. He was informed that only the Board could decide the outcome of the pending charges, but that compliance at this time could only assist in resolving the matter.
4. Following the pre-hearing conference Mr. Rash consulted further with his counsel Michal Lanigan and met with certified appraiser Keith Jones, a certified USPAP instructor.
5. On July 23, 2013, Mr. Jones contacted Toni Bright to learn more about the Board's expectations for supervision under the January 4, 2013 order. Ms. Bright advised Mr. Jones that he should follow the Board's rules on supervision in chapter 15 of the Board's rules. Mr. Jones indicated he was willing to act in that capacity.
6. On July 24, 2013, Mr. Lanigan formally asked the Board to approve Keith Jones

as a supervisor for Mr. Rash. While the Board doesn't meet until July 25, 2013, the undersigned assured Mr. Lanigan that the Board would approve Mr. Jones as a supervisor.

7. Mr. Lanigan also assured Ms. Bright and the undersigned via e-mail that Mr. Rash would immediately pay the \$75 hearing fee and would send his quarterly log via email or fax on July 24, 2013.


8. The State believes it is in the interest of justice to continue the hearing. If Mr. Rash does comply from today forward the Board's views on appropriate remedy would be far different than if he lapses into noncompliance at this point. There is no down side to a continuance because the Board can reset the hearing if needed and in the meantime, Mr. Rash will be working with an approved supervisor.

9. One remedy that will be needed is an extension of the time frames in the January 4, 2013 order so that the 6-month supervision period and the 2-year probationary period would start today rather than the end of January when the January 4, 2013 order became final (when the State's post-ruling application to correct errors was deemed denied). What additional remedies might be in order will, as noted, hinge on Mr. Rash's compliance into the future.

Wherefore, with the concurrence of Mr. Rash's counsel, the State requests that the hearing set for July 25, 2013 be continued until further order of the Board.

Respectfully submitted,

THOMAS J. MILLER  
Attorney General of Iowa

  
Pamela D. Griebel  
Assistant Attorney General  
Hoover Building, 2nd Fl.  
Des Moines, IA 50319  
Phone: 515-281-6403  
Email: [Pamela.Griebel@Iowa.gov](mailto:Pamela.Griebel@Iowa.gov)

Original filed. Copies via email to Michael Lanigan, Toni Bright, and Judge Heather Palmer.

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

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|                   |   |                   |
|-------------------|---|-------------------|
| IN THE MATTER OF: | ) | CASE NO. 13-12    |
|                   | ) |                   |
| Jack Rash         | ) | CONTINUANCE ORDER |
| CR02113           | ) |                   |
| RESPONDENT        | ) |                   |

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The Iowa Real Estate Appraiser Examining Board (Board) has issued a Notice of Hearing and Statement of Charges to Jack Rash (Respondent) scheduling a hearing for July 25, 2013, at 1:30 p.m. On July 24, 2013, the State of Iowa filed a Motion to Continue. This is the first request to continue the hearing. The prehearing conference was held on July 16, 2013. The hearing is hereby continued until further notice.

Dated this 24<sup>th</sup> day of July, 2013.



Toni A. Bright, Executive Officer  
Iowa Real Estate Appraiser Examining Board  
1920 SE Hulsizer Road  
Ankeny, Iowa 50021

CC by email:  
Pamela Griebel, Assistant Attorney General  
Hoover Building., 2<sup>nd</sup> Floor

Michael Lanigan, Attorney for respondent

Jack Rash, Respondent

Administrative Law Judge Assigned to Case

FILED 10/24/13 (Date)

IA Appr Exam Board  
Board / Commission

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

Signature, Executive Officer

|                   |   |                     |
|-------------------|---|---------------------|
| IN THE MATTER OF: | ) | CASE NO. 13-12      |
|                   | ) |                     |
| Jack Rash         | ) |                     |
| CR02113           | ) |                     |
|                   | ) | HEARING ORDER RESET |
| RESPONDENT        | ) |                     |

The Iowa Real Estate Appraiser Examining Board (Board) had previously issued a Notice of Hearing and Statement of Charges to Jack Rash (Respondent) scheduling a hearing for July 25, 2013, at 1:30 p.m. A prehearing conference was held on July 16, 2013. On July 24, 2013, the State of Iowa requested a Motion to Continue that hearing and on October 14, 2013 the State of Iowa requested the hearing be reset. The hearing is hereby reset for November 18, 2013 at 10:30 a.m.

Dated this 24th day of October, 2013.

[Redacted Signature]

Toni A. Bright, Executive Officer  
Iowa Real Estate Appraiser Examining Board  
200 E. Grand, Suite 350  
Des Moines, IA 50309

CC by email:  
Pamela Griebel, Assistant Attorney General  
Hoover Building., 2<sup>nd</sup> Floor

Michael Lanigan, Attorney for Respondent

Jack Rash, Respondent

Administrative Law Judge Assigned to Case

FILED 11/13/13 (Date)

JA KE Appr Ex Board

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

[Redacted Signature]

Signature, Executive Officer

In the Matter of )  
 )  
 )  
 JACK RASH, )  
 )  
 )  
 Respondent. )

Case No. 13-12  
RESPONDENT'S  
MOTION TO CONTINUE

COMES NOW Respondent, through undersigned counsel, and in support of this Motion to Continue, states as follows:

1. A hearing is currently set for November 18, 2013.
2. The undersigned has a trial set for November 18, 2013 in a Black Hawk County Case, Speer v. Reed, No. DRCV121423, that will not be settled prior to trial.
3. Therefore the undersigned will not be available on November 18 for the hearing in the above-captioned matter.

WHEREFORE, Respondent moves to continue the hearing date.

Respectfully submitted,

Law Office of Michael Lanigan

By:

Michael J. Lanigan #AT0004554  
318 East Fourth Street  
Waterloo, Iowa 50703  
Phone: (319) 236-2064  
Fax: (319) 433-1167  
Attorney for Defendant

Cc:

Pamela Griebel  
Assistant Attorney General



Hoover Building  
Des Moines, Iowa 50319

Toni Bright, Real Estate Appraiser Examining Board

**PROOF OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record in the above-captioned case, on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

By: \_\_\_\_\_  
Michael Lanigan

\_\_\_\_ US Mail  
\_\_\_\_ Fax  
\_\_\_\_ Hand Delivered



FILED 11/21/13 (Date)

*Iowa Real Estate Appr. Ex. Board*

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

[Redacted Signature]

Signature, Executive Officer

|                   |   |                     |
|-------------------|---|---------------------|
| IN THE MATTER OF: | ) | CASE NO. 13-12      |
|                   | ) |                     |
| Jack Rash         | ) |                     |
| CR02113           | ) |                     |
|                   | ) | HEARING ORDER RESET |
| RESPONDENT        | ) |                     |

The Iowa Real Estate Appraiser Examining Board (Board) had previously issued a Notice of Hearing and Statement of Charges to Jack Rash (Respondent) scheduling a hearing for July 25, 2013, at 1:30 p.m. A prehearing conference was held on July 16, 2013. On July 24, 2013, the State of Iowa requested a Motion to Continue that hearing and on October 14, 2013 the State of Iowa requested the hearing be reset. On November 14, 2013, the Respondent's legal counsel requested a Motion to Continue.

The hearing is hereby reset for December 30, 2013 at 10:30 a.m.

Dated this 21st day of November, 2013.

[Redacted Signature]

Toni A. Bright, Executive Officer  
Iowa Real Estate Appraiser Examining Board  
200 E. Grand, Suite 350  
Des Moines, IA 50309

CC by E-mail:  
Pamela Griebel, Assistant Attorney General  
Hoover Building., 2<sup>nd</sup> Floor

Michael Lanigan, Attorney for Respondent

Jack Rash, Respondent

Administrative Law Judge Assigned to Case

FILED Jan 23, 2014 (Date)

Iowa Real Estate Appraiser Examining Board  
Board / Commission

Signature, Executive Officer

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

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|                   |   |                     |
|-------------------|---|---------------------|
| IN THE MATTER OF: | ) | CASE NO. 13-12      |
|                   | ) | DIA NO. 13REA002    |
| JACK RASH         | ) |                     |
| CR02113           | ) | FINDINGS OF FACT,   |
|                   | ) | CONCLUSIONS OF LAW, |
| RESPONDENT        | ) | DECISION AND ORDER  |

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On May 8, 2013, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Jack Rash (Respondent). Respondent was charged with failure to comply with a Board disciplinary order, in violation of Iowa Code section 272C.3(2)(a). A telephone prehearing conference was held on July 16, 2013. The hearing was continued twice, once at the state's request and once at the request of Respondent's attorney. The hearing was held on December 30, 2013 at 11:25 a.m. Assistant Attorney General Pamela Griebel represented the state of Iowa. Respondent appeared and was self-represented.<sup>1</sup>

The following Board members presided at the hearing: Gene Nelsen, Appraiser, Chairperson; Caryl Swaim, Appraiser; Amanda Luscombe, Appraiser; Fred Greder, Appraiser; Greg Harms, Appraiser; and Joan Scotter and Lee Schoenewe, public members. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2013) 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)(2013), to deliberate its decision. The Board instructed the administrative law judge to prepare Findings of Fact, Conclusions of Law, Decision and Order for their review, in conformance with their deliberations.

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<sup>1</sup> Respondent waived the appearance of his counsel and elected to proceed with the hearing as a self-represented party.

## THE RECORD

The record includes the State's Prehearing Conference Report, Supplement to the State's Prehearing Conference Report, the testimony of Executive Officer Toni Bright and Respondent, and State Exhibits, pp. 1-59.

## FINDINGS OF FACT

### Licensing and Disciplinary History

1. Respondent was initially issued certificate CR02113 to practice as a residential real estate appraiser in Iowa on June 29, 1999. (State Exhibits, p. 9)

2. All appraisal reports prepared by a certified appraiser must comply with the USPAP regulations. In March 2010, the Board received a complaint that raised questions about Respondent's compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) in his development and reporting of appraisals. In response to the complaint, the Board submitted three of Respondent's appraisals for a Standard Three USPAP review. (State Exhibits, pp. 9, 12)

When the reviewer raised concerns about all three of Respondent's appraisals, the Board asked Respondent to complete additional education and then to resubmit his work product for additional review. Following Respondent's completion of the additional education, the Board selected two more of his appraisals from his log for review by a certified appraiser peer reviewer. Based on the results of these two additional reviews, the Board filed a Statement of Charges against Respondent on August 7, 2012. (State Exhibits pp. 8-12)

On January 4, 2013, the Board issued its Findings of Fact, Conclusions of Law, Decision and Order following a contested case hearing on the Statement of Charges. The Board's Decision and Order was served on Respondent by restricted certified mail on January 10, 2013. (State Exhibits, pp. 8-20; Testimony of Toni Bright)

The Board's January 4, 2013 Decision and Order concluded that Respondent failed to comply with the applicable appraisal standards (USPAP), failed to exercise reasonable diligence, and demonstrated negligence or incompetence in his appraisal practice. The Board's Order placed Respondent's certification on probation for a period of two years, subject to a number of terms and conditions. In summary, Respondent was required to:

- Prepare all of his appraisal reports under the direct supervision of a Board-approved certified residential property appraiser for at least the first six (6) months of his probation. Although Respondent was allowed to retain his status as a certified residential appraiser, the level of supervision provided to Respondent was required to comply with the requirements for the supervision of associate appraisers, as provided by 193F IAC 4.2 and chapter 15. After six (6) months of supervision, Board staff would select a minimum of two of Respondent's appraisal reports to be submitted to a Board selected desk reviewer. The desk review process would then continue until the Board received at least three (3) residential appraisal reports with associated review reports that do not have significant USPAP violations;
- Submit a quarterly log of all appraisals completed for as long as he is on probation. The logs were due by the 10<sup>th</sup> day of the month for the preceding quarter. The certified appraiser who was mentoring Respondent was also required to provide a list of the appraisal that the mentor had reviewed; and
- Pay a \$75.00 hearing fee within thirty (30) days of receipt of the decision.

The Board's January 4, 2013 Decision and Order specifically noted that Respondent had recently completed a semester long course on USPAP (Uniform Standards of Professional Appraisal Practice) at the University of Northern Iowa but did not appear to understand how to apply the basic principles taught in the course to his practice. The Board doubted that Respondent would benefit from additional classroom education at that time. The Board, however, was convinced that Respondent required supervision and monitoring equivalent to that provided to an associate appraiser in order to learn how to properly apply the USPAP requirements in the development and communication of appraisals. (State Exhibit pp. 15-17)

Current Statement of Charges

3. Toni Bright is the Board's Executive Officer, and her duties include management of the Board's discipline docket. On February 18, 2013, Ms. Bright sent an email to Respondent requesting an update on any appraisal work that he had completed since January 10, 2013, which was the date he was served with the Board's Order. Ms. Bright informed Respondent that she was requesting this information to ensure his compliance with the Board's January 4, 2013 Order. Ms. Bright also reminded Respondent that the Board had not received any requests for a supervisor. Ms. Bright requested a response to her questions no later than February 27, 2013. Later that same day, Ms. Bright received an email from Respondent stating: "I will be in touch soon. Mr. Rash." (State Exhibits p. 21; Testimony of Toni Bright)

On February 28, 2013, Toni Bright sent another email to Respondent. Respondent had sent a letter requesting a hearing, and Ms. Bright advised Respondent that his hearing request was untimely and could not be granted. Ms. Bright also informed Respondent that the Board office had not received the requested update on the appraisal work that he had completed since January 10, 2013. Ms. Bright asked Respondent to provide the requested update immediately and warned him that failure to do so by March 7, 2013 would result in his referral to the disciplinary committee. (State Exhibits p. 24; Testimony of Toni Bright)

On March 4, 2013, Respondent replied by email and informed Toni Bright that he was seeking a rehearing. Respondent complained about the hearing process and asked for the name of Bright's supervisor, but he did not respond to her request for the update on his appraisal practice. On March 7, 2013, Ms. Bright responded by email and asked for a copy of the pleading that Respondent filed in Black Hawk County and for the name of his attorney. She also provided Respondent with the name of her supervisor. (State Exhibits p. 23, Testimony of Toni Bright)

4. On April 4, 2013, Toni Bright sent Respondent a certified letter advising him that the fact he was seeking judicial review did not negate his responsibility to comply with the information requested by the Board. Ms. Bright further notified Respondent that the Board had voted at its April 2, 2013 meeting to file charges against him for failure to comply if the requested information was not received within 30 days of April 4, 2013. This letter was delivered to Respondent on April 9, 2013. (State Exhibits pp. 26-29; Testimony of Toni Bright)

5. On May 5, 2013, Respondent sent Toni Bright an email informing her that his attorney had advised him to comply with the Board's demands until other legal action could be considered. Respondent stated that he had 38 years of a successful real estate career with a flawless reputation and had been successfully appraising for 21 years without a flaw. Respondent asked Ms. Bright to "refresh your demands so I can get you the information you need." He further stated that in the stacks of paperwork he had misplaced the letter "that dictates the penalty" and his attorney did not have a copy in his file. Respondent asked Ms. Bright to fax or email him "that part" and allow him a couple of days to get her the information. Respondent told Ms. Bright that he had been busy as he "completed 21 files in the last month." Since Respondent had not yet obtained Board approval for a supervisor, his completion of any appraisals in April was in violation of the Board's Order. (State Exhibits pp. 30-31; Testimony of Toni Bright)

Toni Bright replied by email dated May 7, 2013 and provided Respondent a link to the Board's Order on its website and also provided a copy of the Board's letter to Respondent requesting an update. Ms. Bright reminded Respondent that the Board had asked if he was performing appraisals and that the Order required him to have a Board-approved supervisor. Ms. Bright noted that his recent email indicated that he is performing appraisals but to date he had not submitted a supervisor's name for Board approval. Ms. Bright informed Respondent that the Board needed to know the name of his supervisor and needed to receive a log of all of his reports for the last quarter of 2012 and the first quarter of 2013. (Testimony of Tony Bright; State Exhibits p. 30)

6. On May 8, 2013, the Board filed a Notice of Hearing and Statement of Charges charging Respondent with failure to comply with the Board's January 4, 2013 disciplinary order. At a prehearing conference held on July 16, 2013, Respondent told the presiding administrative law judge that he did not understand until recently that his district court judicial review petition did not stay the Board's order and that he still needed to comply with the Board's Order, unless it was stayed. (State Exhibits, p. 32)

On July 24, 2013, Respondent's attorney formally asked the Board to approve certified appraiser Keith Jones as Respondent's supervisor and the state filed an Application to Continue the pending hearing. Keith Jones is a certified USPAP instructor, and Toni Bright anticipated that the Board would approve this request. Respondent's attorney had also assured Toni Bright that Respondent would pay the \$75.00 hearing fee and would send his quarterly log. An Order was then issued continuing the hearing. (State Exhibits, pp. 32-34; Testimony of Toni Bright)

7. On July 24, 2013, Respondent submitted his quarterly appraisal log for April-June to the Board office. A total of forty-two (42) appraisals were listed on the log, and thirty-six (36) of them were completed after April 4<sup>th</sup>, which is the date that Toni Bright advised Respondent that he was still required to comply with the Board's Order even though he had filed a petition for judicial review. (Testimony of Toni Bright; State Exhibits pp. 56-58)

8. On July 31, 2013, Keith Jones sent an email informing Toni Bright that he had the first report from Respondent, which he described as "Not too bad, not too good." Jones asked Bright if he had to sign each report as the supervisory appraiser. Ms. Bright informed Jones that the Board expected the supervisory appraiser to sign the reports, based on the hearing order. She further informed him that the Board hoped that the supervising appraiser would work as a mentor for Respondent, and assist him with any



USPAP violations and also with best practices. (State Exhibits pp. 46-47; Testimony of Toni Bright)

9. On August 7, 2013, Keith Jones again emailed Toni Bright and told her that he did not "see this as a viable working situation." Mr. Jones informed Ms. Bright that in order to sign many of Respondent's files he has to consider himself geographically competent in residential properties in Cedar Rapids, Iowa City, and areas south of Vinton, Iowa. Mr. Jones did not claim competency in single family residential properties south of Vinton and felt it would likely require another supervisor who regularly covers those areas. Mr. Jones also reported that he did not do work for a couple of the AMCs (Appraisal Management Companies) that are Respondent's clients and that those AMCs may not want to approve him. (State Exhibits p. 46)

Toni Bright responded to this email and asked Keith Jones if he was indicating that he wanted to withdraw as Respondent's supervisor for any and all properties. (State Exhibit p. 45; Testimony of Toni Bright) Mr. Jones responded that he would act as supervisor for single family through four plex properties in Black Hawk, Bremer, Butler, Grundy, Tama and Buchanan Counties because those are in his normal operating area where he has active data search abilities and contacts for data. Jones was also willing to review in Fayette and Winneshiek Counties where he is currently active in residential work. Jones did not feel competent in the metro complex of Cedar Rapids and Iowa City, where he was not a member of the MLS and would be required to physically inspect the property, many sales of similar properties sold over time, and the neighborhood and competing neighborhoods to make himself competent. (State Exhibits p. 45)

10. On August 8, 2013, Respondent's attorney filed an Application for Partial Stay of the portion of the Board's Decision and Order requiring that the level of supervision provided to Respondent "must comply with the requirements for supervision of associate appraisers, as provided by 193F IAC 4.2 and 193F IAC Chapter 15." The reason given for this request was that some of the lenders/vendors for whom Respondent provided appraisals would not accept an appraisal signed by Keith Jones because he was not affiliated with or signed up with those lenders/vendors. Respondent's attorney asked that Mr. Jones be permitted to communicate his concurrence with each appraisal directly with the Board rather than signing each report as a supervisor. (State Exhibits, pp. 35-36; Testimony of Toni Bright).

The Board denied the Application for Partial Stay in a ruling issued on August 27, 2013. The Board determined that Respondent's supervisor must be competent to supervise

Respondent in all geographic areas where Respondent practices. (State Exhibits pp. 38-40, 50)

11. On October 8, 2013, Toni Bright emailed Keith Jones to inquire if he had done any reviews for Respondent in the prior month or so. Mr. Jones responded that he had not heard "one word" from Respondent since they last exchanged email, which would have been August 7, 2013. (Testimony of Toni Bright; State Exhibit p. 51)

On October 16, 2013, Toni Bright emailed Respondent and informed him that she still had not received his third quarter appraisal log. Ms. Bright asked him to submit it by mail or as a PDF attachment to an email. Respondent did not respond. As of the date of the hearing, the Board still had not received Respondent's third quarter (July-September) appraisal log. (Testimony of Toni Bright; State Exhibit p. 52)

12. Respondent admits that he still has not submitted his third quarter appraisal log, and he did not bring that information with him to the hearing. Respondent testified that he has completed "very few" appraisals since July 31, 2013 and that most of his business (85-90%) since July 2013 had been as a real estate broker. Respondent estimated the number of appraisals he completed since July 31<sup>st</sup> as "probably less than 10" and stated that most of them were probably for lawyers. Respondent admitted that he signed these appraisals as a certified appraiser. Respondent further testified that he thought that he only had to have a supervisor if he was preparing an appraisal for a lender that was subject to USPAP. (Testimony of Respondent)

### CONCLUSIONS OF LAW

Iowa Code section 272C.3(2)(a)(2013) authorizes the Board to revoke or suspend a license upon failure of the licensee to comply with a decision of the board imposing licensee discipline.

The Board's January 4, 2013 Decision and Order required Respondent to serve a two year probation and to submit quarterly logs of all of his completed appraisals each quarter for the duration of his probation. The logs were due by the 10<sup>th</sup> day of the month for the preceding quarter. The log for the first quarter of the year (January-March) would have been due on April 10, 2013, but it was never submitted by Respondent. The log for the second quarter (April-June) would have been due by July 10, 2013, but it was not submitted until July 24, 2013. Respondent still has not submitted the third quarter (July-September) log, which was due on October 10, 2013.

Respondent has failed to fully comply with the requirement to file quarterly logs of his completed appraisals.

The Board's January 4, 2013 Decision and Order required Respondent to obtain Board approval for a certified residential real property appraiser to serve as his supervisor. The Decision and Order required all of Respondent's appraisal reports to be prepared under the direct supervision of the approved supervisor for at least the first six (6) months of his probation. The preponderance of the evidence established that Respondent failed to comply with these requirements. Respondent did not submit the name of a supervisor for Board approval until July 24, 2013. According to his second quarter log, Respondent prepared more than 40 appraisal reports from April-June without a supervisor, in violation of the Board's Order. It is unknown how many appraisal reports Respondent prepared without a supervisor from January to March or after July 1, 2013.

The Board's Order required Respondent's supervisor to provide him with a level of supervision that complies with the supervision for associate appraisers, as provided by 193F IAC 4.2 and 193F IAC chapter 15. 193F IAC 4.2 provides, in relevant part, that an associate appraiser is subject to the direct supervision of a certified real property appraiser and may have more than one supervisory appraiser.<sup>2</sup> The scope of practice of an associate appraiser is the same as the scope of practice of the supervisory appraiser.<sup>3</sup> 193F IAC 15.2 sets out the responsibilities of a supervisory appraiser. Those duties include, but are not limited to:

- ensuring that the information presented in the appraisal report is accurate and dependable in order to provide a valid and credible report;
- adequately supervising a trainee in the data-gathering process to ensure that the trainee is correctly and properly collecting pertinent and factual data for analysis;
- ensuring that the trainee is knowledgeable about the various sources from which to gather data and that the data gathered is reliable;
- teaching the trainee to reason independently and form reasonable conclusions based upon the analysis of the information garnered;
- teaching the basic routine of the appraisal process including a consistent and regular pattern of data gathering, analysis and report writing; and
- reviewing and critiquing appraisal reports for accuracy, ease of reading, understanding and purpose and ensuring that all addenda are both relevant and pertinent;

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<sup>2</sup> 193F IAC 4.2(1).

<sup>3</sup> 193F IAC 4.2(2).

- inspecting each appraised property with the trainee until the supervisor determines that the trainee is competent, in accordance with the COMPETENCY RULE of USPAP for the property type and geographic location; and
- bringing the trainee appraiser to a professional level that enables the trainee to demonstrate competency independently.

Respondent completely failed to comply with the supervision requirements imposed as a condition of his probationary status. Respondent did not obtain Board approval for a supervisor until six months after the Board issued its Decision and Order. In the interim, Respondent continued to prepare and release appraisals without any supervision whatsoever. After a supervisor was approved, Respondent apparently submitted only one appraisal report to the supervisor.

It was Respondent's professional obligation to fully comply with the Board's Decision Order and to seek timely clarification of the legal requirements if he questions about the probationary requirements. Respondent's actions and communications over the past nine months have demonstrated a lack of initiative and a lack of commitment to comply with the Board's Order, as well as an overall lack of cooperation with the Board and its staff. Due to Respondent's failure to provide his quarterly logs, the Board does not know the total number of appraisal reports that Respondent completed without supervision, in direct violation of the Board's Order. Based on this record, the Board is unwilling to continue Respondent's probationary status. Respondent's ongoing and persistent failure to comply with the Board's disciplinary order warrants revocation of his certification.


#### **DECISION AND ORDER**

**IT IS THEREFORE ORDERED** that Iowa Real Estate Appraiser Certificate No. CR02113, issued to Respondent Jack Rash is hereby **REVOKED**.

**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.

Any application to reinstate Respondent's certificate will be subject to the provisions of 193 IAC 7.38. The burden of proof will be on Respondent to establish that the reason for the revocation of his license no longer exists and that it is in the public interest for his license to be reinstated.

Dated this 23<sup>rd</sup> day of January, 2014.

  
Gene Nelsen, Appraiser  
Chairperson  
Iowa Real Estate Appraiser Examining Board

cc: Jack Rash, Respondent (Restricted Certified)  
Pamela Griebel, Assistant Attorney General (Local)

Judicial review of the commission's action may be sought in accordance with the Iowa administrative procedure act (Iowa Code chapter 17A), from and after the date of the Board's order. Consistent with Iowa Code section 17A.19(3), if a party does not file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the issuance of the Board's final decision. 193 IAC 7.37.