

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

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| IN THE MATTER OF: |) | CASE NO. 06-53, 06-66 |
| |) | DIA NO. 06DOCRE014 |
| DOUGLAS A. JAMISON |) | |
| CERTIFICATE NO. CR01997 |) | FINDINGS OF FACT, |
| |) | CONCLUSIONS OF LAW, |
| RESPONDENT. |) | DECISION AND ORDER |

On September 27, 2006, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Statement of Charges against Douglas A. Jamison (Respondent). The Statement of Charges alleged two counts:

Count I: Respondent violated an order of the Board imposing discipline in violation of Iowa Code section 272C.3(2)(a)(2005).

Count II: Respondent failed to adhere to applicable appraisal standards, failed to exercise reasonable diligence, and was negligent or incompetent, in the development, preparation, and communication of an appraisal assignment, in violation of Iowa code sections 543D.17(1)(d), (e) and (f)(2005).

The hearing was held before the Board on December 12, 2006 at 9:00 a.m. The Respondent failed to appear. Pamela Griebel, Assistant Attorney General, represented the state of Iowa. The following Board members presided at the hearing: Michael Lara, Chairperson, Appraiser; Richard Koestner, Appraiser; Richard DeHeer, Appraiser; Judy Zwanziger, Appraiser; Amy Thorne, Appraiser; John Larson, Public Member; and, Debra Floyd, Public Member. Administrative Law Judge Kerry Anderson assisted the Board in conducting the hearing. A certified court reporter recorded the proceedings.

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

THE RECORD

The record includes the State's Pre-hearing Conference Report, the testimony of the witnesses, and State's Exhibits 1-7.

FINDINGS OF FACT

1. Respondent is a certified residential real estate appraiser in Iowa. He was issued Certificate No. CR01997 on December 2, 1999. (State's Exhibit 2).

2. Previously, the Board received four complaints against Respondent alleging, among other things, that appraisals completed by him were not USPAP compliant. Upon investigation the Board charged Respondent in case numbers 05-44 and 05-46 with repeated failure to adhere to appraisal standards in the development and communication of appraisals; failure to exercise reasonable diligence in the development, preparation and communication of appraisals; and, demonstrating negligence or incompetence in the development, preparation and communication of appraisals. Effective March 17, 2006, Respondent entered into a Combined Statement of Charges and Consent Order with the Board to resolve these charges. (State's Exhibit 2).

3. Pursuant to the Consent Order, Respondent agreed to complete a 15-hour tested USPAP course and a 30-hour pre-approved classroom course on the three approaches to value by April 30, 2006. Respondent agreed to forward certificates of completion of these courses to the Board within 10 calendar days of completing each course. Additionally, Respondent agreed to enter into a desk review consultation agreement with a desk review appraiser pre-approved by the Board and to submit a copy of that agreement to the Board no later than April 25, 2006. Respondent further agreed to submit six appraisal reports to the desk reviewer by July 1, 2006. Respondent also agreed to submit a copy of the appraisal reports submitted to the desk reviewer and the desk reviewer's review reports, work files on submitted appraisals and a copy of any reissued appraisal reports to the Board by July 15, 2006. Finally, Respondent agreed to submit a monthly log of all appraisals he completed to the Board by the 10th day of each month for the preceding month. Respondent's certificate was placed on probationary status until all terms of the Consent Order were fully met and the Board had released Respondent from probation. (State's Exhibit 2).

4. As of July 19, 2006, Respondent had failed to submit any certificate demonstrating compliance with the educational requirements of the Consent Order. Further, Respondent had failed to submit a consultation agreement with a desk reviewer or the required six appraisals and review reports. Finally, Respondent had submitted no monthly logs. (State's Exhibit 3; Testimony of Susan Griffel).

5. Based on Respondent's failure to submit the above documentation, Susan Griffel, who at the time was the Executive Officer of the Board, sent Respondent a letter reminding him of his responsibilities under the Consent Order and his failure to comply. Ms. Griffel warned Respondent that the Board would meet on September 27, 2006 and, if he did not meet the terms of the Consent Order by that time, he would be charged with failure to comply. The warning letter was sent to Respondent by certified mail and he signed for the same on July 25, 2006. (State's Exhibit 3; Testimony of Susan Griffel).

6. Despite the warning letter, Respondent did not submit the required documentation by September 27, 2006. In fact, as of the date of hearing, Respondent had yet to submit any of the information described in the Consent Order.

7. In the meantime, on July 30, 2006, the Board received another complaint alleging that Respondent had intentionally misled the reader as to the value of the subject property. This complaint involved property located at 33028 Highway 6, Traynor, Iowa. The appraisal report was dated July 17, 2006. (State's Exhibits 4, 5; Testimony of Todd Baber).

8. Todd Baber has been a certified appraiser since 1999. He testified that he was hired by the lender to perform a review of the appraisal report in question. Mr. Baber stated that he found misleading statements and inaccuracies in Respondent's appraisal during his review. Mr. Baber noted the following as areas of concern:

- Respondent's appraisal report described the neighborhood of the subject property as suburban. Mr. Baber noted that the neighborhood was, in fact, rural. He testified that Respondent had defined the neighborhood characteristics as suburban with over 75% build up. However, Respondent then noted under "present land use" that 50% was one unit and 50% agricultural use. Mr. Baber noted that the appraisal

report was inconsistent in definitions and explanations throughout.

- Respondent failed to give correct data about the improvement. Mr. Baber testified that Respondent's report stated the heat was gas when it was actually propane and that there was no air conditioning when central air conditioning was present. Mr. Baber noted that Respondent described the wood siding as in average condition, however, upon his observation, Mr. Baber was able to detect rotted siding from the street. Mr. Baber noted that, while the effective age of improvements is somewhat subjective, he believed Respondent's estimate to be wrong.
- Mr. Baber noted that the properties used by Respondent as comparables were not locationally, physically or functionally the most similar to the subject property. Mr. Baber also testified that adjustments made were not market-based. Mr. Baber was able to locate three properties which were much closer in overall condition, style, site size, effective age and square footage for use as comparable sales.
- Mr. Baber testified that the subject property had previously sold in January 2006 for \$117,000 and that Respondent's appraisal report completed six months later estimated the value of the property at \$174,000 without adequate explanation for such a great increase in value. Mr. Baber testified he believed this was an intentional inflation of the value of the land. Mr. Baber appraised the property at \$124,000.

(Exhibits 4,5; Testimony Todd Baber).

9. The Board submitted Respondent's appraisal report for a Uniform Standards of Professional Appraisal Practice (USPAP) Standard Three review by appraiser Teresa Selberg. Ms. Selberg has been a certified real estate appraiser since 1991 and has conducted 40-50 USPAP Standard Three Reviews at the request of the Board. On August 28, 2006, Ms. Selberg submitted her review which noted the following USPAP violations in Respondent's appraisal report:

Generally, Respondent's appraisal was deficient as follows:

- The reporting option used was not prominently stated in violation of SR 2-2.

- The analysis of agreements of sale, options or listings of subject property was not current as of the effective date of appraisal. Sales that occurred within three years prior to that date were not adequately summarized in violation of SR 1-5 and 2-2(a,b,c)-(ix).

With regard to the description of the neighborhood of the subject property the Respondent's appraisal was deficient as follows:

- Factors that affect the marketability were not adequately or reasonably described in violation of SR 1-2(e); 1-3(a); 1-4(g); 2-1(b); and 2-2(a,b,c,)-(iii).
- The neighborhood boundaries were not adequately or reasonably defined in violation of SR 1-1(a,b,c) and 1-2(e)(i).

With regard to the site and the highest and best use of the subject property, Respondent's appraisal was deficient in that the zoning was not adequately or accurately reported in violation of SR 1-2(e)(i).

Respondent utilized the cost approach in his appraisal report. However with regard to that approach, the report was deficient because:

- Cost estimates were not market oriented and were not supported in violation of SR 1-1(a,b,c) and 1-4(b)-(ii).
- Respondent failed to identify and correctly analyze depreciation items in violation of SR 1-1(a,b,c) and 1-4(b)-(iii).
- Respondent failed to correctly employ recognized methods and techniques in violation of SR 1-1(a,b,c) and 1-4(b)-(i,ii,iii).

Respondent also utilized the sales comparison approach in his appraisal report. However, with regard to that approach, the report was deficient because:

- Respondent failed to select and identify sales similar to and from the same or similar market area to the subject's market area in violation of SR 1-1(a,b,c); 1-4(a) and 2-2(a,b,c)-(ix).
- Respondent failed to adequately collect, verify and report comparable sales in violation of SR 1-1(a,b,c); 1-4(a) and 2-2(a,b,c)-(ix).

- Respondent failed to provide adequate reasoning for adjustments, analysis, opinions and conclusions in violation of SR 1-1(a,b,c) and 2-2(a,b,c)-(ix).
- Respondent failed to correctly employ recognized methods and techniques in violation of SR 1-1(a,b,c); 1-4(b); 2-2(a,b,c)-(ix).

As to the final reconciliation in Respondent's appraisal report, Ms. Selberg noted that Respondent should have investigated the previous sale of the subject property six months earlier for \$117,000 to determine the circumstances of the sale. She opined that Respondent should have provided documentation to support the appreciation of the property in the amount of \$60,000 over a six-month period. Ms. Selberg noted that since such appreciation is atypical, Respondent should have provided additional comparable properties to support his conclusion.

Overall, Ms. Selberg found that the appraisal results were misleading in violation of USPAP Ethics Rule and Standard 2. She determined that Respondent did not understand the appraisal process in violation of the USPAP Competency Rule. Additionally, Ms. Selberg noted that the appraisal report did not contain sufficient information to enable the intended user to properly understand the same in violation of USPAP SR 1-1(a,b,c) and SR 2-2(a,b,c). Finally, Ms. Selberg opined that the salient and factual data was not reported and analyzed in a consistent manner throughout the report in violation of SR 1-1(a,b,c).

(Exhibit 6; Testimony of Teresa Selberg).

CONCLUSIONS OF LAW

Count I

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

The preponderance of the evidence established that the Respondent violated Iowa Code section 272C.3(2)(a) when he failed to submit documentation of completion of the 15-hour tested USPAP course or the 30-hour pre-approved course regarding the approaches to value. Additionally, Respondent violated Iowa Code section 272C.3(2)(a) by failing to submit a consultation

agreement with an approved desk reviewer as well as the six appraisals and review reports referred to in the Consent Order. Finally, Respondent violated Iowa Code section 272C.3(2)(a) when he failed to submit the monthly logs referenced in the Consent Order.

The evidence clearly established that Respondent has not complied with any provision of the Consent Order. The importance of the requirements of the Consent Order is emphasized by the fact the Board received a subsequent complaint regarding Respondent's failure to comply with USPAP standards. The purpose of the Consent Order was to educate Respondent and provide supervision to ensure his competency. Respondent has completely failed to take advantage of those opportunities.

Count II

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

Iowa Code sections 543D.17(1)(d), (e) and (f), and 543D.18(1) (2003, 2005) provide, in relevant part:

543D.17 Disciplinary proceedings.

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

...

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

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

preparing an appraisal report, or communicating an appraisal.

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

543D.18 Standards of Practice

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

193F IAC 7.2(5) provides, in relevant part:

193F-7.2(543D) Grounds for disciplinary actions against certificate holders and associate registrants.

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

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

The preponderance of the evidence established that the Respondent violated Iowa Code sections 272C.3(2)(b); 272C.10(3); 543D.17(1)(d), (e), and (f), 543D.18(1) and (2) and 193F IAC 7.1 and 7.2(2), (5), and (8) by repeatedly failing to comply with the Ethics and Competence Rules and by violating multiple Standard Rules of USPAP.

A certified appraiser, Todd Baber, complained to the Board concerning the quality of an appraisal report produced by Respondent. Experienced peer reviewer, Teresa Selberg, reviewed the appraisal report and found multiple significant violations of USPAP standards which resulted in a questionable valuation of the subject property. No adequate explanation was provided for an increase in value of the subject property of over \$60,000 in a six-month period. Mr. Baber's review appraisal estimated the value of the subject property at \$124,000--\$50,000 less than Respondent's estimate.

By the time of Mr. Baber's complaint, Respondent was the subject of a Consent Order with the board. The purpose of the Consent Order was to educate Respondent with regard to USPAP standards and to provide supervision to ensure Respondent's competency. Respondent failed to comply with the provisions of the Consent Order and his continued unwillingness or inability to meet USPAP standards is reflected in the serious deficiencies found in the appraisal report which is the subject of this complaint.

Respondent should be aware that his appraisal reports are relied upon by the financial community to determine appropriate loan amounts and that both the lender and the buyer are placed at risk for financial losses when appraisal values are inflated. Moreover, such practices undermine public trust in the credibility and integrity of certified real estate appraisers.

The Board is not convinced that the multiple and pervasive deficiencies in Respondent's practice can be corrected through additional education, proper supervision, or monitoring by this Board. Based on this record, Respondent's continued practice as a certified appraiser presents an unreasonable risk of harm to the public.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Registration CR01997, issued to Douglas A. Jamison, is hereby **REVOKED**, effective immediately upon service of this Decision and Order.

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

IT IS FURTHER ORDERED that the Board will not consider an application for reinstatement from Respondent unless he repeats all education and experience necessary to qualify for registration and satisfies the 2008 registration criteria established by the Board. In addition, prior to reinstatement Respondent will be required to establish that the basis for the revocation no longer exists and that it is in the public interest for his license to be reinstated. 193 IAC 7.38(5). Finally, prior to reinstatement, Respondent will be required to pay a civil penalty in the amount of One Thousand Dollars (\$1,000). 193F IAC 8.14.

IT IS FURTHER ORDERED that the Respondent shall notify all clients of the fact that his registration has been revoked within fifteen (15) days of receipt of this final decision, in accordance with 193 IAC 7.30(3). Within thirty (30) days of receipt of this final order, the Respondent shall provide the Board with copies of the notice sent to clients.

Dated this 23rd day of January , 2007.

Michael Lara by Sylvia King
Michael Lara, Chairperson
Iowa Real Estate Appraiser Examining Board

cc: Pamela Griebel
Assistant Attorney General
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Des Moines, Iowa 50319

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