

FILED 1/27/14 (Date)

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

JA BE Appr
Board
Signature, Executive Officer

IN THE MATTER OF:)	
)	
James J. Hand	)	Case No. 14-02
CR01389)	
	)	NOTICE OF HEARING IN A
	)	DISCIPLINARY CASE
RESPONDENT)	

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 James J. Hand is a certified residential real estate appraiser in Iowa. He was issued Certificate No. CR01389 on February 13, 1992. Certificate No. CR01389 is currently valid, under desk review pursuant to Case. No. 11-07, and is scheduled to expire on June 30, 2014. 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 4th day of March, 2014 at 11 o'clock, a.m., at 200 E. Grand Ave., Suite 350, Des Moines, Iowa 50309.
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, February 20th, 2014, 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, 2nd Fl., and Des Moines, Iowa, 50319. Phone: 515-281-6403; Fax: 515-281-7551; E-mail: pgriebe@ag.state.ia.us.

8. **Respondent's Counsel.** Copies of all pleadings filed with the Board shall be provided to: [Unknown]

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 515-725-9025.

B. STATEMENT OF CHARGES AND CIRCUMSTANCES

11. The Board received a complaint about Respondent's appraisal practices in February 2011. Following investigation, the Board and Respondent entered into a Consent Order in Case No. 11-07 in October 2011.

12. Under the Consent Order Respondent was required to complete 60 hours of AQB approved education, including a 15-hour tested USPAP course, a 30-hour tested course on residential sales comparison and income approach, and a 15-hour tested course on residential appraiser site valuation and cost approach. Respondent has completed all education within the extensions granted by the Board.

13. Following the completion of education, the Consent Order provided that the Board would select two appraisals for review from Respondent's logs. At about the time appraisals were due to be reviewed under the Consent Order, the Board received a new complaint in Case No. 12-33. The Board subjected this appraisal as well as two additional appraisals to Standard Three review.

14. All three reviews revealed violations of the Uniform Standards of Professional Appraisal Practice (USPAP). Respondent was provided copies of the reviews and asked to supply logs from which the Board could select one or more additional appraisals to review which Respondent would have prepared after considering the reviews of prior appraisals. Respondent has not responded to the Board's requests for logs.

15. The Board charges Respondent with failure to adhere to USPAP, failure to exercise reasonable diligence, and negligence or incompetence in the development and reporting of multiple appraisals, in violation of Iowa Code sections 543D.17(1)(d), (e), and (f), and 543D.18(1), and 193F IAC 7.2, 7.3(2), 7.3(6)(a), and 7.3(7)(a).

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

on the 27th day of January, 2014.


Toni Bright, Executive Officer
Iowa Real Estate Appraiser Examining Board
200 E. Grand Ave.
Suite 350
Des Moines, Iowa 50309
Phone: 515-725-9025
Fax: 515-281-9032
Toni.Bright@iowa.gov

Copies to:

Assistant Attorney General Pamela Griebel
Respondent (restricted certified mail, return receipt requested)
Department of Inspections and Appeals, assigned Administrative Law Judge

FILED 2/13/14 (Date)

A. BE Appr Ex Board

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

Signature, Executive Officer

IN THE MATTER OF:	)	CASE NO. 14-02
)	
James Hand	)	CONTINUANCE ORDER
CR01389)	
RESPONDENT)	

The Iowa Real Estate Appraiser Examining Board (Board) has issued a Notice of Hearing and Statement of Charges to James Hand (Respondent) scheduling a hearing for March 4, 2014, at 11 a.m. A prehearing conference is scheduled for February 20, 2014. On February 12, 2014, the State of Iowa filed a Motion to Continue. This is the first request to continue the hearing. The prehearing conference and the hearing are both hereby CONTINUED until further order of the Board.

Dated this 13th day of February, 2014.



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

CC by email and by mail:

Pamela Griebel, Assistant Attorney General, LOCAL mail
Hoover Building., 2nd Floor

Administrative Law Judge Laura Lockard, LOCAL mail

James Hand, Respondent,

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

IN THE MATTER OF:)	
)	
James J. Hand	)	Case No. 14-02
CR01389)	
	)	CONSENT ORDER
RESPONDENT)	

The Iowa Real Estate Appraiser Examining Board ("Board") and James J. Hand ("Respondent") enter into this Consent Order pursuant to 193F Iowa Administrative Code 7.42:

1. The Iowa Real Estate Appraiser Examining Board ("Board") has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543D (2013).
2. Respondent is a certified residential real estate appraiser in Iowa. He was issued Certificate No. CR01389 on February 13, 1992. Certificate No. CR01389 is currently valid, under desk review pursuant to Case No. 11-07, and is scheduled to expire on June 30, 2014.
3. The Board received a complaint about Respondent's appraisal practices in February 2011. Following investigation, the Board and Respondent entered into a Consent Order in Case No. 11-07 in October 2011.
4. Under the Consent Order Respondent was required to complete 60 hours of AQB approved education, including a 15-hour tested USPAP course, a 30-hour tested course on residential sales comparison and income approach, and a 15-hour tested course on residential appraiser site valuation and cost approach. Respondent has completed all education within the extensions granted by the Board.
5. Following the completion of education, the Consent Order provided that the Board would select two appraisals for review from Respondent's logs. At about the time appraisals were due to be reviewed under the Consent Order, the Board received a new complaint in Case No. 12-33. The Board subjected this appraisal as well as two additional appraisals to Standard Three review.
6. All three reviews revealed violations of the Uniform Standards of Professional Appraisal Practice (USPAP). One of the appraisals was completed under conditions in which Respondent was not geographically competent. The review of this appraisal revealed multiple, significant USPAP violations. The other two appraisals

were in Respondent's more typical geographic area. The primary issues with the latter two appraisals include a failure to consider, analyze, and accurately report the relevant characteristics of subject property and its neighborhood, failure to provide sufficient support in the appraisal report for opinions, such as effective age and adjustments, inconsistencies between the neighborhood description and other information in the report on such matters as market conditions data, and matters related thereto. Some of the issues appear to be more related to reporting than methodology.

7. The Board filed its Notice of Hearing on January 27, 2014, charging Respondent with failure to adhere to USPAP, failure to exercise reasonable diligence, and negligence or incompetence in the development and reporting of multiple appraisals, in violation of Iowa Code sections 543D.17(1)(d), (e), and (f), and 543D.18(1), and 193F IAC 7.2, 7.3(2), 7.3(6)(a), and 7.3(7)(a).

8. The Board and Respondent now wish to fully resolve the pending contested case. Respondent does not admit the allegations of the Board's charges, but does agree to the terms of the Consent Order to resolve disputed matters.

9. Respondent has a right to a hearing on the charges and understands hearing is currently set for March 4, 2014, but waives Respondent's right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. Respondent acknowledges he has had an opportunity to consult with legal counsel.

10. This Consent Order constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.42.

11. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

12. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations.

13. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2013).

14. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2013). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

15. This Order is subject to approval of the Board: (a) If the Board fails to approve this Order, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter; (b) If the Board approves this Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Reprimand. Respondent is reprimanded for practicing outside the area of his geographic competence.

B. Civil Penalty. Respondent shall pay a civil penalty of \$500 to the Board office within 30 days of the date this Consent Order is fully signed.

C. Future compliance. Respondent shall in the future adhere to USPAP in all assignments, including, but not limited to the provisions governing geographic competence.

D. Education

1. Respondent shall successfully complete by June 30, 2014, an AQB approved and tested qualifying education course on residential report writing of at least 30 hours. The Board would accept the advanced residential report writing course offered by the Appraisal Institute and will accept a comparable substitute, as preapproved by the Board.

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

E. Logs and Review

1. Respondent shall submit to the Board by March 10, 2014, his appraisal log from January 1, 2013 through February 28, 2014. Thereafter, until released from this Consent Order, Respondent shall provide monthly logs on the 10th day of each month for the prior month.

2. Approximately 90 days after Respondent has completed the education, the Board shall select two appraisals for review from Respondent's logs.

3. The Board will retain a certified appraiser to complete Standard Three reviews on the appraisals selected for review. The Respondent shall provide the Board, within 10 days of request, five copies of the appraisals and associated work files, and the sum of \$400 to be paid by the Board to the retained appraiser.

4. The reviewing appraiser shall complete a comprehensive Standard Three review for each appraisal. The review shall be for facial compliance with USPAP.

The reviewer will not perform inspections or warrant the accuracy of Respondent's work product, but will review work papers, calculations and any other documents reasonably needed. Along with appraisal reports and work files, Respondent shall provide the reviewing appraiser copies of all documents verifying the accuracy of factual representations in each appraisal. The reviewer may request additional information, if needed, such as documentation of paired sales analysis, documentation of support for adjustments, a narrative discussion of how the neighborhood was selected, how the market conditions data is consistent with the neighborhood, and the like. Respondent shall cooperate with the requests of the reviewer. The costs associated with desk review are the responsibility of the Respondent, but are capped at the amounts noted in paragraph 3.

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

6. At the next meeting following the Board's receipt of the two review appraisals, the Board shall enter an order indicating Respondent's full compliance with this Consent Order, or, if the desk review comments and appraisals reveal significant USPAP violations, the Board shall defer final ruling and may order additional education or desk reviews, or other rehabilitative measures. No such order will be issued without affording Respondent reasonable notice and an opportunity to request hearing.

7. Respondent shall not supervise an associate appraiser or otherwise co-sign another appraiser's work as a supervisor until he has complied all terms of the Consent Order.

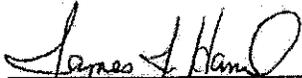
8. This settlement shall not preclude the Board from filing additional charges if one or more of the appraisals submitted for desk review demonstrate probable cause to take such an action. Respondent agrees Board review of desk review reports or appraisals subject to desk review shall not constitute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

Case No. 14-02

AGREED AND ACCEPTED:

The Respondent

Iowa Real Estate Appraiser Examining Board



James J. Hand



Chair

02-12-2014

Date

3/4/14

Date

FILED 2/29/16 (Date)

IA Real Estate Appraiser Board
Board / Commission

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

John A. Bright
Signature, Executive Officer

IN THE MATTER OF:)	
	)	Case No. 14-02
James J. Hand	)	AMENDMENT TO
CR01389	)	CONSENT ORDER
RESPONDENT)	

The Iowa Real Estate Appraiser Examining Board ("Board") and James J. Hand ("Respondent") enter into this Amendment to the January 27, 2014 Consent Order, as provided in the Consent Order:

1. The Board and Respondent entered into a Consent Order effective January 27, 2014 in which Respondent agreed among other things to take certain education, provide monthly logs, and subject two Board-selected appraisals for review. Respondent has complied with the Consent Order. The post-education reviews, however, continue to reveal USPAP violations and lack of reasonable diligence.
2. The Consent Order provided that upon Respondent's compliance with the Consent Order the Board would enter an order indicating Respondent's full compliance *unless* the desk review comments and appraisals revealed significant USPAP violations. In that case, the Board "shall defer final ruling and may order additional education or desk reviews, or other rehabilitative measures. No such order will be issued without affording Respondent Reasonable notice and an opportunity to request hearing."
3. The Board and Respondent have agreed to amend the Consent Order to provide a period of supervised practice in which Respondent shall work under the supervision of a preapproved certified real estate appraiser. Respondent may apply to be released from supervised practice upon completion of supervised appraisals.
4. Respondent understands that this is the second Consent Order involving USPAP violations in his appraisal practice and that all desk reviewed appraisals (a total of 5) have revealed USPAP violations. The Board is providing this final opportunity in the hope that one on one mentoring will address the issues. It is important that Respondent adheres to the terms of this Amendment to Consent Order. He understands he has the right to hearing and he waives that right and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. Respondent acknowledges he has had an opportunity to consult with legal counsel.
5. Respondent shall not practice real estate appraising in an unsupervised manner until expressly released from supervision by order of the Board.

6. Respondent's restriction from unsupervised practice commences the date this Consent Order is signed by all parties.

7. Within 30 days of the date of this Consent Order, Respondent shall enter into a supervision agreement with an Iowa certified appraiser pre-approved by the Board. The agreement may be in letter-form, but shall attach a copy of the Consent Order to assure the desk reviewer is familiar with the terms of this Order.

8. Every appraisal assignment must be supervised and every appraisal report must be signed by the supervisor in the same manner a supervisor signs the reports of registered associates, as more fully described in Board rules at 193F IAC rule 4.2 and chapter 15. Respondent shall be responsible for submitting the appraisals and work files to the Board within 10 days of the date each appraisal was issued to the client.

9. Upon Respondent's submission of the last of the six appraisals under this Consent Order to the Board, the Board shall submit two reports for Standard Three review by a Board retained expert. Respondent shall pay the Board the sum of \$600 at the time he submits the sixth appraisal to the Board.

10. In the event Respondent has not completed six appraisals by May 31, 2016, but has completed at least two appraisals, the Board may submit one or both of the appraisals for Standard Three review. Respondent will be notified and requested to pay \$300 per review.

11. The restriction in the Consent Order on Respondent not supervising associates shall continue. The requirement to submit monthly logs shall also continue.

12. Respondent may not change supervisors without prior written approval by the Board.

13. The terms of this Amendment to Consent Order shall not preclude the Board from filing additional changes if one or more of the appraisals demonstrate probable cause to take such an action. Respondent agrees Board review of the appraisals or Standard Three review reports shall not constitute "personal investigation" or otherwise disqualify a Board member from acting as a presiding officer in any subsequent contested case.

14. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it. This Amendment to Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2015). A violation of this disciplinary order shall be a ground for discipline under Iowa Code section 272C.3(2)(a) (2015).

15. This Order is subject to approval of the Board: (a) If the Board fails to approve this Order, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter; (b) If the Board approves this Order, it shall fully dispose of all issues in this case.

AGREED AND ACCEPTED:

The Respondent

Iowa Real Estate Appraiser Examining Board



James J. Hand



Chair

01/27/16

Date

2/29/16

Date