

FILED 2-21-17 (DATE)

REAP

Board / Commission

B March

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD, Executive Officer

**IN THE MATTER OF:**

**James J. Hand,**  
CR01389

**Respondent.**

**CASE NO. 16-41**

**CONSENT ORDER**

The Iowa Real Estate Appraiser Examining Board (“**Board**”) and James J. Hand (“**Respondent**”) enter into this Consent Order pursuant to Iowa Administrative Code rule 193—7.42:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C, and 543D.
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 suspended pursuant to the Findings of Fact, Conclusions of Law, Decision and Order issued in Case No. 16-24 on October 7, 2016 (“**October 7 Order**”), and scheduled to expire on June 30, 2018.
3. In February 2011, the Iowa Real Estate Appraiser Examining Board (“**Board**”) received a complaint about Respondent’s appraisal practices. Following investigation, the Board and Respondent entered into a Consent Order in Case No. 11-07. Under the Consent Order, after Respondent completed education requirements, the Board was to select two (2) appraisals from Respondent’s appraisal logs for review. At about the time the appraisals were due to be reviewed under the Consent Order, the Board received a new complaint in Case No. 12-33. The Board submitted that appraisal as well as the two (2) appraisals under the Consent Order in Case No. 11-07 to Standard Three review by a certified real-estate appraiser.
4. All three (3) reviews revealed violations of the Uniform Standards of Professional Appraisal Practice (“**USPAP**”). As a result, in 2014 the Board and Respondent entered into a second Consent Order in Case No. 14-02. Under the second Consent Order, Respondent agreed, among other things, to take certain education, provide monthly logs, and subject two (2) more Board-selected appraisals for Standard Three review by a certified real-estate appraiser.
5. The post-education reviews in Case No. 14-02 continued to reveal USPAP violations and a lack of reasonable diligence. Thus, in 2016, the Board and Respondent entered into an Amendment to Consent Order in Case No. 14-02.

Pursuant to the Amendment to Consent Order, Respondent was required to work under the supervision of a pre-approved certified real-estate appraiser, subject to certain limitations and requirements, until such time as he was released from supervision by order of the Board. The Board described this supervision as a "final opportunity in the hope that one on one mentoring will address the issues." (Emphasis added.).

6. After entry of the Amendment to Consent Order, Respondent prepared and released at least ten (10) appraisal reports to a client in violation of the Amendment to Consent Order. Following a hearing on the matter, the Board suspended Respondent's license pending further order of the Board, and required Respondent to provide the Board with copies of all appraisal reports issued in violation of the Amendment to Consent Order for review by the Board's discipline committee.
7. Respondent subsequently provided the Board with nine (9) of the at least ten (10) appraisal reports issued in violation of the Amendment to the Consent Order, and the Discipline Committee submitted two (2) of those appraisals to Standard Three review by a certified real-estate appraiser. These reviews continued to reveal USPAP violations and a lack of reasonable diligence.
8. While Respondent's license was suspended, the Board received information that Respondent had issued an appraisal report during the period his license was suspended. Upon further investigation, Board staff discovered and confirmed Respondent issued at least three (3) appraisal reports while his license was suspended. Board staff also discovered and confirmed Respondent failed to provide the Board with at least one (1) appraisal report Respondent previously issued in violation to the Amendment to Consent Order as required by the October 7 Order.
9. The Board filed a Notice of Hearing and Statement of Charges on January 9, 2017, charging Respondent with:
  - a. Failing to comply with a Board Order by issuing appraisal reports while his license was suspended in violation of Iowa Code section 272C.3(2)(a) and Iowa Administrative Code Rule 193F—7.3(10).
  - b. Engaging in deceptive practices in violation of Iowa Code 272C.10(3) and 543D.17(1) and/or (1)(a) and Iowa Administrative Code rule 193F—7.3(3) by issuing appraisal reports while his license was suspended, which constitutes:
    - i. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of real property. *Id.*(a).
    - ii. Acceptance of any fee by fraud or misrepresentation. *Id.* (c).
    - iii. Representing oneself as a registered associate appraiser or certified appraiser when one's registration or certificate has been suspended,

revoked, surrendered, or placed on inactive status, or has lapsed. *Id.* (h). And/Or

- iv. Misrepresenting a specialized service as an appraisal assignment in violation of Iowa Code section 543D.18(3). *Id.* (k).
  - c. Failure to adhere to USPAP in violation of Iowa Code sections 543D.17(1)(d) and .18(1) and Iowa Administrative Code rules 193F—7.2, .3(2)(d), (e), and (7)(a).
  - d. Failure to exercise reasonable diligence in the development and communication of multiple appraisals in violation of Iowa Code section 543D.17(e) and Iowa Administrative Code rule 193F—7.3(6)(a).
  - e. Demonstrating negligence or incompetence in the development, preparation and communication of multiple appraisals in violation of Iowa Code sections 272C.10(2) and 543D.17(f) and Iowa Administrative Code rules 193F—7.3(2)(a), (b), (c), (d), (e) and (6)(a).
10. The Board and Respondent now wish to fully resolve the pending contested case. Respondent admits the factual allegations and violations underlying the Board's charges, and agrees to the terms of the Consent Order to resolve this matter.
  11. Respondent has a right to a hearing on the charges and understands hearing is currently set for February 21, 2017, 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.
  12. This Consent Order constitutes discipline against Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and Iowa Administrative Code rule 193—7.42.
  13. 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.
  14. 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 remedy or penalty to be imposed in the event of any future violations of the laws and rules administered by the Board.
  15. This Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22.
  16. This Consent 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.

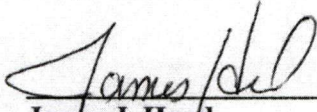
**IT IS THEREFORE ORDERED:**

- A. Respondent shall **VOLUNTARILY SURRENDER** his residential real-estate appraiser Certificate No. CR01389 within ten (10) days of the execution of this Consent Order. Respondent shall return his wall certificate and renewal card to the Board office within ten (10) days of the execution of this Consent Order. For the avoidance of doubt, such voluntary surrender shall constitute discipline against Respondent, and shall be treated for all intents and purposes as a **REVOCATION**.
- B. Should Respondent apply to reinstate his certificate at any point in the future, any order granting an application for reinstatement entered by the Board shall, at a minimum, require Respondent to begin anew under the terms of the Amendment to Consent Order previously entered in case 14-02.

**Case No. 16-41**

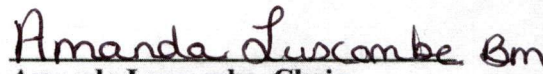
**AGREED AND ACCEPTED:**

**Respondent**

  
\_\_\_\_\_  
**James J. Hand**

02/15/17  
\_\_\_\_\_  
**Date**

**Iowa Real Estate Appraiser Examining Board**

  
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**Amanda Luscombe, Chair**

2-21-2017  
\_\_\_\_\_  
**Date**