

FILED 1-26-17 (Date)

REAP

Board / Commission

B March

Signature, Executive Officer

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

<p>IN THE MATTER OF:</p> <p>Jeff Boswell, CR02714</p> <p>RESPONDENT</p>	<p>Case No. 16-05</p> <p>COMBINED STATEMENT OF CHARGES AND SETTLEMENT AGREEMENT</p>
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A. Statement of Charges

1. The Iowa Real Estate Appraiser Examining Board ("Board") has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543D (2015).
2. Respondent is a certified residential real estate appraiser in Iowa. Respondent was issued Certificate No. CR02714 on December 27, 2007.
3. Certificate No. CR02714 is currently valid and in good standing and is scheduled to expire on June 30, 2018.
4. On March 4, 2016, the Board received a complaint against Respondent raising questions about Respondent's compliance with USPAP in the development and reporting of an appraisal assignment. The Board submitted the appraisal report underlying the complaint for a Standard Three USPAP review. The appraisal review revealed issues related to report writing and adherence to USPAP standards of practice.
5. In light of these issues, and in order to review Respondent's work product as a whole, the Board obtained two additional appraisal reports from Respondent and submitted them for Standard Three USPAP review. Both of these appraisal reviews revealed issues related to report writing, application of proper methodology, and adherence to USPAP standards of practice.
6. The Board charges Respondent with:
 - a) 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 and .3(2);
 - b) 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); and
 - c) Demonstrating negligence or incompetence in the development, preparation and communication of multiple appraisals in violation of Iowa Code section 543D.17(f) and Iowa Administrative Code rules 193F—7.3(2) and (6).
7. The Board and Respondent have agreed to fully resolve these charges through the following Settlement Agreement, rather than proceed to a contested case hearing.
8. Respondent admits the allegations and the charges, and agrees to comply with the

Settlement Agreement to resolve disputed matters.

B. Settlement Agreement

9. Respondent has a right to a hearing on the charges, 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 Settlement Agreement. Respondent acknowledges Respondent had the opportunity to consult with counsel before agreeing to this Settlement Agreement.

10. This Settlement Agreement constitutes discipline against Respondent, and is the final agency action in this contested case, pursuant to Iowa Code section 17A.10 and Iowa Administrative Code rule 193—7.4.

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

12. This Settlement Agreement 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 Settlement Agreement is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22.

14. Failure to comply with the provisions of this Settlement Agreement shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a).

15. This Settlement Agreement is subject to approval of the Board:

- a) If the Board fails to approve this Settlement Agreement, 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 Settlement Agreement, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Education

1. Respondent shall successfully complete, within 90 days of this Settlement Agreement being approved by the Board the following corrective education courses: (a) "Appraiser Self Protection: Documentation and Record Keeping," 4 hours; (b) "Report Certifications: What Am I Signing and Why?," 4 hours; (c) "Residential Report Writing vs. Form Filling," 4 hours; (d) "Scope of Work: Appraisals and Inspections," 4 hours. Each of these courses is available and shall be taken online: <http://www.mckissock.com/appraisal/corrective/>. Respondent shall bear any and all costs associated with these courses, and may not apply the hours towards his continuing education requirements for any subsequent renewal.

2. Respondent shall forward to the Board a certificate of completion or other similar documentation or confirmation demonstrating completion within 10 days of completion of each

course required by paragraph 1.

B. Logs and Desk Review

1. Until Respondent has complied with all terms of this Settlement Agreement, Respondent shall send the Board appraisal logs on the 10th day of each month for the prior month's appraisals.

2. Approximately 60 days after Respondent has completed all education, the Board shall select two appraisals from Respondent's log for review that were completed after the education was completed. Section A (Education) provides the deadline within which education must be completed. Respondent is free to escalate the time frame by completing the education earlier than the deadline.

3. The Board will retain a certified appraiser to complete Standard Three reviews on the appraisals selected for review. Respondent shall provide the Board, within 10 days of request, nine copies of the appraisals and associated work files, and the sum of \$500 to be paid by the Board to the retained review 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 site values, and the like. 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 appraisals' compliance with USPAP, and shall provide copies of the written comments to the Board. The Board shall provide the reviews to the Respondent.

6. Following the Board's receipt of the two review appraisals, the Board shall either:
- a) Enter an order indicating Respondent's full compliance with this Settlement Agreement; or
 - b) 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 Respondent has complied with all terms of the Settlement Agreement.

8. This Settlement Agreement 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(s).

Case No. 16-05

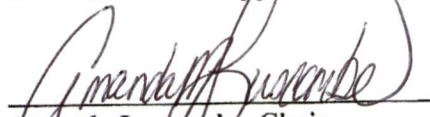
AGREED AND ACCEPTED:

Respondent _____

Iowa Real Estate Appraiser Examining Board



Jeff Boswell



Amanda Luscombe, Chair

1-6-17
Date

1-26-2017
Date

FILED 12-12-17 (DATE)

REAP

Board / Commission

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD B March
OF THE STATE OF IOWA Signature, Executive Officer

IN THE MATTER OF:

Jeff Boswell,
CR02714

RESPONDENT

Case No. 16-05

NOTICE OF HEARING AND
STATEMENT OF CHARGES IN A
DISCIPLINARY CASE

The Iowa Real Estate Appraiser Examining Board (“Board”) issues this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 543D.17 (2017). Respondent is a certified residential real estate appraiser in Iowa. Respondent was issued Certificate No. CR02714 on December 27, 2007. Certificate No. CR02714 is currently subject to a practice monitoring agreement remaining in full force and effect until further order of the Board and is scheduled to expire on June 30, 2018. 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 January, 2018, at 10:15 o’clock, a.m.**, at 200 E. Grand, Ste. 350, Des Moines, IA 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 Iowa Administrative Code rule 193—7.9.
3. **Prehearing Conference.** A prehearing conference will be held by telephone on the **15th day of January, 2018, at 9:00 o’clock, a.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 may be reached. Board rules on prehearing conferences may be found at Iowa Administrative Code rule 193—7.21.
4. **Presiding Officer.** The full Board shall serve as presiding officer at hearing, pursuant to Iowa Code section 272C.6(1) and Iowa Administrative Code 193—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 Iowa Administrative Code chapter 193—7 and Iowa Administrative Code chapter 193—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 Iowa Administrative Code rule 193—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 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 Iowa Administrative Code rule 193—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:

Luke Dawson
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa, 50319.

Mr. Dawson may also be reached by phone at (515) 414-6187 or email at luke.dawson@ag.iowa.gov.

8. **Respondent's Counsel.** Copies of all pleadings filed with the Board shall be provided to: Tyler Johnston at TJohnston@witherwaxlaw.com.

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

10. **Communications.** You may not contact Board members by phone, letter, facsimile, email, 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, Luke Dawson, or Brandy March, the Board's Executive Officer, at (515) 725-9025.

B. STATEMENT OF CHARGES AND CIRCUMSTANCES

1. The Board found probable cause to file charges on September 22, 2017.
2. The Board and Respondent entered into a Consent Order effective January 26, 2017. The Consent Order required Respondent to: complete certain corrective education courses; and, sixty (60) days following the completion of such courses, required Respondent to submit two appraisals for Standard Three desk review by a certified appraiser retained by the Board.
3. Section B.6.b of the Consent Order provided:

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.
4. The Consent Order also provided "This Settlement Agreement 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."
5. Respondent completed the above-noted corrective education courses and

submitted two appraisals for Standard Three desk review by a certified appraiser retained by the Board. The Standard Three desk reviews continued to reveal significant USPAP violations.

6. As a result of these ongoing USPAP violations, the Board exercises its authority under the prior Consent Order to “order additional education or desk reviews, or other rehabilitative measures,” and additionally charges Respondent with:

- a) 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) and .3(7)(a);
- b) 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); and
- c) Demonstrating negligence or incompetence in the development, preparation and communication of multiple appraisals in violation of Iowa Code section 543D.17(f) and Iowa Administrative Code rules 193F—7.3(2)(c) and (6)(a).

This Notice of Hearing and Statement of Charges is Filed and Issued

On the 12th day of December, 2017



Brandy March, Executive Officer
Iowa Real Estate Appraiser Examining Board
200 E. Grand, Ste. 350
Des Moines, IA 50309
Phone: (515)725-9025
brandy.march@iowa.gov

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD

In The Matter Of:

JEFF BOSWELL,
CR02714

Respondent.

CASE NO. 16-05
DIA NO. 18REA0002

ORDER GRANTING MOTION FOR
CONTINUANCE

On December 12, 2017, the Iowa Real Estate Appraiser Examining Board (Board) filed and issued a Statement of Charges against Respondent Jeff Boswell. The matter was scheduled for hearing before the Board on January 25, 2018.¹ A prehearing conference was scheduled for January 15, 2018.²

On January 9, 2018, Assistant Attorney General Lucas Dawson, on behalf of the State, filed a Motion to Continue this matter. The request is based on current negotiations between the parties which Mr. Dawson believes will result in a proposed settlement agreement to be submitted to the Board for consideration. The Respondent's counsel does not object to the motion.

The Board has requested the undersigned rule on the motion.

Based on the foregoing, the State's Motion to Continue should be granted and the prehearing conference and hearing in this matter should be postponed indefinitely.

ORDER

The Motion to Continue filed herein by the State is **GRANTED**. This matter is continued **indefinitely**.

The prehearing conference set for January 15, 2018 and the hearing set for January 25, 2018 are hereby **CANCELLED**.

¹ The Notice of Hearing and Statement of Charges issued by the Board actually stated the matter was scheduled for hearing on January 25, 2017. It is assumed the year designated was the result of a typographical error.

² Again, the Notice of Hearing and Statement of Charges issued by the Board stated the prehearing conference was scheduled for January 15, 2017. It is once again assumed the matter was actually set for January 15, 2018.

Department of Banking
and Finance
OFFICE OF THE ATTORNEY GENERAL

The undersigned will return this case file to the offices of the Iowa Real Estate Appraiser Examining Board. In the event the parties are unable to come to an agreement to settle this case or the Board fails to approve any settlement reached by the parties, the file may be returned and an administrative law judge will be assigned to assist the Board with all further proceedings.

Issued January 9, 2018.



Kerry Anderson
Administrative Law Judge

Cc: Lucas Dawson
Assistant Attorney General

(By email and Local Mail)

Tyler Johnston
Attorney for Respondent

(By email and First Class Mail)

Brandy March
Executive Officer
Iowa Real Estate Appraisers Examining Board

(By email and Local Mail)

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

IN THE MATTER OF: Jeff Boswell, CR02714 RESPONDENT	Case No. 16-05 Amendment to Consent Order
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The Iowa Real Estate Appraiser Examining Board ("Board") and Jeff Boswell ("Respondent") enter into this Amendment to the January 26, 2017, Consent Order in Case No. 16-05, as follows:

1. The Board and Respondent entered into a Consent Order effective January 26, 2017. The Consent Order required Respondent to: complete certain corrective education courses; and, sixty (60) days following the completion of such courses, required Respondent to submit two appraisals for Standard Three desk review by a certified appraiser retained by the Board.

2. Section B.6.b of the Consent Order provided:

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.

3. As a result of the continued USPAP violations revealed by the above-noted reviews, the Board and Respondent have agreed to amend the Consent Order to require Respondent to take certain educational courses and undergo an additional review process until further order by the Board.

4. Respondent acknowledges 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 Amendment to Consent Order. Respondent acknowledges he had the opportunity to consult with legal counsel prior to signing this Amendment to Consent Order.

IT IS THEREFORE ORDERED:

A. Education

1. Respondent shall successfully complete, within one-hundred-and-twenty (120) days of the Board approving this Amendment to Consent Order, the following education courses:
 - a. Tested residential market analysis and highest and best use, 15 hours;

- b. Tested advanced residential market analysis and highest and best use, 35 hours;
- c. The National USPAP Update Course, 7 hours.

Respondent shall bear any and all costs associated with these courses, and may apply the hours towards his continuing education requirements for his next renewal. Respondent shall forward to the Board a certificate of completion or other similar documentation or confirmation demonstrating completion of the above courses within 10 days of completion of each course required by this Section A (Education). Respondent may, to the extent available, take such courses online.

B. Consultation with Peer Reviewer

1. Respondent shall, within one-hundred-and-twenty (120) days of the Board approving this Amendment to Consent Order, consult with the reviewer who conducted the two (2) most recent appraisal reviews for Standard Three desk reviews on behalf of the Board to better understand the violations identified by the reviewer and to facilitate Respondent's remediation of the same. Such consultation may occur in person or over the phone, as mutually agreed by Respondent and the reviewer.

2. Respondent shall be obligated to compensate the reviewer for his or her time regarding such consultation at an hourly rate of \$50.

3. Respondent agrees the consultation required by this Section shall not disqualify the reviewer from serving as a witness, or otherwise limit the reviewer's testimony, in any subsequent contested case(s).

C. Logs and Desk Review

1. Until Respondent has complied with all terms of this Amendment to Consent Order, Respondent shall continue to send the Board appraisal logs on the 10th day of each month for the prior month's appraisals.

2. Approximately thirty (30) days after Respondent has completed all education required by Section A (Education) and consulted with the reviewer as required by Section B (Consultation with Peer Reviewer), the Board shall select two appraisals from Respondent's logs for review that were completed after the education and consultation was completed. Section A (Education) and Section B (Consultation with Peer Reviewer) provide the deadlines within which education and consultation must be completed. Respondent is free to escalate the time frame by completing the education and consultation earlier than the deadlines.

3. The Board will retain a certified appraiser to complete Standard Three reviews on the appraisals selected for review. The certified appraiser conducting such reviews will be a different appraiser than the one previously utilized by the Board to review Respondent's reports. Respondent shall provide the Board, within 10 days of request, nine copies of the appraisals and associated work files, and the sum of \$500 to be paid by the Board to the retained review 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 site values, and the like. 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 appraisals' compliance with USPAP, and shall provide copies of the written comments to the Board. The Board shall provide the reviews to the Respondent.

6. Following the Board's receipt of the two review appraisals, the Board shall either:
- a) Enter an order indicating Respondent's full compliance with this Settlement Agreement; or
 - b) 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 Respondent has complied with all terms of the Settlement Agreement.

8. This Amendment to Consent Order 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(s).

Case No. 16-05

AGREED AND ACCEPTED:

Respondent

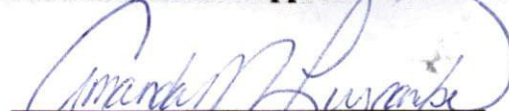


Jeff Boswell

2-15-18

Date

Iowa Real Estate Appraiser Examining Board



Amanda Luscombe, Chair

2/26/2018

Date

FILED 1/30/19 (DATE)

B REAP

Board / Commission

B March

Signature, Executive Officer

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD

IN THE MATTER OF:

Jeff Boswell
CR02714

Respondent.

Case No. 16-05

RELEASE FROM CONSENT ORDER

The Iowa Real Estate Appraiser Examining Board ("**Board**"), having reviewed the records in the above-captioned file, finds that Respondent has complied with terms of his consent order and should be released. The Board voted unanimously to release Respondent from his consent order on January 30, 2019.

IT IS THEREFORE ORDERED that the Respondent is released.

B March

Brandy March, Executive Officer

The Iowa Real Estate Appraiser Examining Board
200 E. Grand Avenue, Suite 350
Des Moines, IA 50309
Email: brandy.march@iowa.gov