

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

Department of Commerce
Division of Banking

FILED 11-19-21 (DATE)

REAP

Board / Commission

B March

Signature, Executive Officer

IN THE MATTER OF:

Case No. 21-10 & 21-13

DALE HOYT,
LICENSE # CG01013

STATEMENT OF CHARGES AND
ORDER ACCEPTING
VOLUNTARY SURRENDER

Respondent.

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.
2. Respondent is a certified general real estate appraiser in Iowa who was issued Certificate No. CG01013 on October 22, 1991.
3. Certificate No. CG01013 is currently valid and scheduled to expire on June 30, 2022.
4. In March and April 2021, the Board obtained information raising questions about Respondent's compliance with USPAP in the development and reporting of two appraisal assignments (hereinafter "Initial Reports"). The Board subsequently requested a copy from Respondent of the Initial Reports by which the compliance issue was originally brought to the Board's attention, and thereafter two additional appraisal reports in order to assess Respondent's work product as a whole. The Board submitted all the appraisal reports for Standard Three/Four USPAP review by a peer reviewer. All appraisal reports revealed issues related to report writing, understanding, application of proper methodology, adherence to USPAP standards of practice, and Respondent's competency.
5. The Respondent was offered the opportunity to appear in an informal hearing with the Board's Discipline Committee but declined.
6. Based on the current evidence available to the Board, the Board voted on August 31, 2021, to find probable cause to charge Respondent with violating appraisal standards.
7. The Board charges Respondent with the following:
 - a) Failure to adhere to USPAP in the development and communication of multiple appraisals in violation of Iowa Code sections 543D.17(1)(d) and 543D.18(1) and Iowa Administrative Code rules 193F-7.2, 193F-7.3(2)(d) and 193F-7.3(7)(a).
 - b) Failure to exercise reasonable diligence in the development and communication of multiple appraisals in violation of Iowa Code section 543D.17(1)(e) and Iowa Administrative Code rule 193F-7.3(6)(a).
 - c) 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(1)(f) and Iowa Administrative Code rules

193F-7.3(2)(a)-(d) and (6)(a).

- d) Engaging in unethical, harmful, or detrimental conduct in violation of the public trust and USPAP's ETHICS RULE in violation of Iowa Code sections 272C.10(3), 543D.17(1)(b) and (d), and 543D.18(1) and Iowa Administrative Code rule 193F-7.3(4)(c).

8. The Board and Respondent have agreed to fully resolve these charges through the following Statement of Charges and Order Accepting Voluntary Surrender (hereinafter "Settlement Agreement"), rather than proceed to a contested case hearing.

9. In signing this Settlement Agreement, Respondent admits the underlying facts and conduct alleged by the Board in this case, and admits to a violation of the underlying statutory provisions and rules charged by the Board in this Statement of Charges.

B. Settlement Agreement

1. Respondent has a right to a hearing on the charges. However, by freely and voluntarily entering into this Settlement Agreement, Respondent waives Respondent's right to hearing and all attendant rights, including the right to appeal to the superintendent and seek judicial review.

2. Pursuant to Iowa Administrative Code rule 193F-8.16, "The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board shall not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such voluntary surrender is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order." Through this Settlement Agreement, the Board accepts the voluntary surrender of Respondent's certificate to resolve a pending disciplinary contested case against Respondent pursuant to and in accordance with Iowa Administrative Code rule 193F-8.16, and, subject to Iowa Administrative Code rule 193F-17.2(4), is the final agency action in a contested case pursuant to Iowa Code section 17A.19.

3. This Settlement Agreement constitutes discipline against Respondent pursuant to and in accordance with Iowa Administrative Code rule 193F-20.42, and, subject to Iowa Administrative Code rule 193F-17.2(4), is the final agency action in a contested case pursuant to Iowa Code section 17A.19

4. Respondent acknowledges that Respondent had the opportunity to consult with counsel before agreeing to this Settlement Agreement.

5. 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.

6. 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 penalty or sanctions to be imposed in the event of any future violations of the laws, rules, or standards administered by the Board.

7. This Settlement Agreement is a public record available for inspection and copying

in accordance with the requirements of Iowa Code chapter 22, and will be posted to the Board's public-facing online disciplinary index and reported to and posted on the Appraisal Subcommittee (ASC) National Registry.

8. 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).

9. 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 take effect upon the date of last signature, below, and govern the issues of or related to this matter.

10. This Settlement Agreement shall not preclude the Board from taking additional action against Respondent should Respondent violate the laws, rules, or standards or practice administered by the Board in the future.

11. Pursuant to Iowa Administrative Code Rule 193F-17.2(4)(a): "[a]ll board decisions in a contested case, whether by consent or following hearing, are proposed decisions and shall be provided to the superintendent when issued." Further, "the superintendent may initiate a review of the proposed decision on the superintendent's own motion at any time within 20 days following issuance of such decision." Iowa Admin. Code r. 193F-17.2(4)(e). The Superintendent of Banking is in agreement with this offer and declines to initiate a review of Case # 21-10 & 21-13 before the Board. Iowa Admin. Code r. 193F-1.2(4); *see also* Iowa Code § 543D.23(1) ("In supervising the board, the superintendent shall independently evaluate the substantive merits of actions recommended or proposed by the board which may be anticompetitive . . ."). The superintendent waives any right to initiate further review and thereby adopts the Board's decision in its entirety. The Board's decision of the Settlement Agreement shall be **FINAL** as of **the date of last signature below**.

IT IS THEREFORE ORDERED:

1. Respondent shall **VOLUNTARILY SURRENDER** his certified general real-estate appraiser Certificate No. CG01013 effective as of the date of the last signature below. Respondent shall return his wall certificate and renewal card to the Board office within ten days of the execution of this Settlement Agreement. For the avoidance of doubt, such voluntary surrender shall constitute discipline against Respondent, and shall be treated for all intents and purposes as a **REVOCAATION**.

2. Respondent agrees that he shall not make any application to reinstate his certificate from the date of this Settlement Agreement or at any point thereafter. Respondent's voluntary surrender shall be permanent, and Respondent waives any claim, right, or interest to seek reinstatement by entering into this Settlement Agreement.

3. Should Respondent ever successfully challenge the restriction outlined in paragraph two above, and thereafter seek to reinstate his certificate at any point in the future

notwithstanding his agreement not to do so and waiver of any right to do so, any such reinstatement shall be governed by and conducted in accordance with the Iowa Administrative Code rule 193F-8.17 and Iowa Administrative Code rule 193F-20.38.

Case No. 21-10 & 21-13


AGREED AND ACCEPTED:


Respondent Name, Respondent

11-15-2021
Date

Dan Fuhrmeister bm
Dan Fuhrmeister, Chair
Iowa Real Estate Appraiser Examining Board

11/19/2021
Date


Rodney E. Reed, Finance Bureau Chief
(Superintendent's Designee)

11/19/2021
Date