

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

Department of Commerce
Division of Banking

FILED 6-6-2023 (DATE)

REAP

Board / Commissioner

Case No. 22-25

Signature, Executive Officer

IN THE MATTER OF:

THOMAS L. TERWILLIGER,
LICENSE #CG02220,

RESPONDENT.

COMBINED STATEMENT
OF CHARGES AND
SETTLEMENT AGREEMENT

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. CG02220 on January 11, 2001. Respondent's certified general appraisal license is valid and scheduled for renewal on June 30, 2023.

3. In September 2022, the Board obtained information raising questions about Respondent's compliance with USPAP in the development and reporting of one appraisal assignment (hereinafter "Initial Report"). The Board subsequently requested a copy from Respondent of the Initial Report 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. The peer reviews revealed issues related to report writing, understanding, application of proper methodology, adherence to USPAP standards of practice, and Respondent's competency.

4. The Respondent participated in an informal hearing in this matter with the Board's Discipline Committee, on April 11, 2023.

5. Based on the current evidence available to the Board, the Board voted on April 18, 2023, to find probable cause to charge Respondent with violating appraisal standards.

6. 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).

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

8. 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. 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.10 and Iowa Administrative Code rule 193F-20.42.

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

4. 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.

5. 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.

6. 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.

7. 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).

8. 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.

9. 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.

10. 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)(b). The Superintendent of Banking is in agreement with this offer and declines to initiation a review of Case #21-28 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:

A. Education

1. Respondent shall successfully complete within 300 days of the execution of this Settlement Agreement:

a. Appraisal Institute classes:

- i. A class entitled “General Appraiser Report Writing and Case Studies” from the Appraisal Institute - 30 hrs
- ii. A class entitled “General Appraiser Market Analysis and Highest & Best Use” - 30 hrs
- iii. A class entitled “General Appraiser Site Valuation and Cost Approach” - 30 hrs
- iv. A class entitled “General Appraiser Income Approach Part 1” - 30 hrs

b. OREP classes:

- i. A class entitled “How to Support and Prove Your Adjustments” - 7 hrs
- ii. A class entitled “How to Raise Appraisal Quality and Minimize Risk” - 7 hrs

c. Appraisal Foundation class:

- i. Corrective Education Course entitled “Missing Explanations” - 4 hrs

d. McKissock class:

- i. A class entitled “That’s a Violation” - 7 hrs

Respondent shall bear any and all costs associated with these courses and may apply A(i) through B(ii) and D(i) towards the 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 ten days of completion of each course required by paragraph 1.

3. Should one of the courses be unavailable, the Executive Officer, through consultation with the disciplinary committee, will work with the Respondent to find a replacement course as close to the amount of hours and within the same subject matter as possible without the need for an amendment to the Settlement Agreement.

B. Logs and Desk Review

1. Until Respondent has complied with all terms of Section A of this Settlement Agreement, Respondent shall send the Board appraisal logs on the 10th day of each month for the prior month's appraisals for both himself as well as any trainees working under Respondent.

2. Approximately 45 days after Respondent has completed all education in accordance with Section A (Education), above, the Board will select two appraisals from Respondent's log for review that were completed after the required education was completed. Both of the reports shall include the sales comparison approach and one of the two reports must also include the cost approach. Respondent is free to perform demonstration reports to fulfill this requirement so long as at least two reports of each type are completed so that a random selection may be performed. Section A (Education), above, provides the deadline within which the required education must be completed. Respondent is free, however, to escalate the time frame for completion of this Settlement Agreement by completing the education earlier than the deadline.

3. The Board will retain a certified appraiser to complete Standard Three/Four reviews on the appraisals selected for review. Respondent shall provide the Board, within 10 days of request, one paper copy of the appraisals and associated work files, and the sum of \$1,800 to be paid by the Board to the retained review appraiser.

4. The reviewing appraiser(s) shall complete a comprehensive Standard Three/Four review for each appraisal. The review shall be for facial compliance with USPAP. The reviewer(s) will not perform inspections or warrant the accuracy of Respondent's work product, but will review work papers, calculations, and any other documents as may be reasonably necessary. Along with appraisal reports and work files, Respondent shall provide the reviewing appraiser(s) copies of all documents verifying the accuracy of factual representations in each appraisal. The reviewer(s) 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 Respondent, but are capped at the amounts noted in paragraph 3.

5. The reviewer(s) will prepare written comments on each appraisal's compliance

with USPAP, and shall provide copies of the written comments to the Board. The Board shall provide the reviews to 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 Section A and B of 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. Reports selected for review under Section B(2) must be completed without assistance of any trainees.

8. Until Respondent has been released from this Combined Statement of Charges and Settlement Agreement, Respondent may not add any new trainees.

9. Respondent shall not act as an instructor for any course until the Board releases Respondent from this Settlement Agreement.

10. This Settlement Agreement shall not preclude the Board from filing additional charges if one or more of the appraisals submitted for any desk review process contemplated hereunder 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).

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AGREED AND ACCEPTED:



Thomas L. Terwilliger, Respondent

4/21/23

Date



Dan Fuhrmeister, Chair
Iowa Real Estate Appraiser Examining Board

5-16-23

Date



Lori Schrader Bachar, Bureau Chief
(Superintendent's Designee)

6-6-23

Date

Enclosures:

Exhibit A: Redacted Appraisal Review of 1631 4th St., SW, Mason City, IA 50401

Exhibit B: Redacted Appraisal Review of 1502 Central Ave. W. Clarion, IA 50525

**Exhibit C: Redacted Appraisal Review of 3212 Greenhill Circle Cedar Falls, IA
50613**