

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

ADOPTING STIPULATION

ALLEN J CARNINE

96 APP 026

RESPONDENT.

LS9809141APP

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The parties to this action for the purpose of Wis. Stats., 227.53 are:

*Allen J. Carnine  
530 138th St.  
Amery, WI 54001*

*Bureau of Business and Design Professions  
Real Estate Appraisers Board  
PO Box 8935  
Madison, WI 53708-8935*

*Department of Regulation and Licensing  
Division of Enforcement  
PO Box 8935  
Madison, WI 53708-8935*

The State of Wisconsin, Real Estate Appraisers Board, having considered the Stipulation Agreement Annexed hereto of the parties, in resolution of the captioned-matter, makes the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to jurisdiction and authority granted to the Board in ch. 458, Wis. Stats., and sec. RL 2.12, Wis. Admin. Code, that the Stipulation Agreement annexed hereto, filed by Complainant's Attorney, shall be and hereby is incorporated, made and ordered the Final Decision and Order of the State of Wisconsin, Real Estate Appraisers Board.

Let a copy of this Order be served on Respondent by Certified Mail.

Dated this 26th day of February, 1999.

Paul R. Vozar

Signature

STATE OF WISCONSIN

BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN THE MATTER OF THE DISCIPLINARY :

PROCEEDINGS AGAINST

ALLEN J. CARNINE,

STIPULATION

RESPONDENT.

96 APP 026

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Respondent Allen J. Carnine (Carnine), his attorney, Don Paul Novitzke, and Complainant's Attorney Henry E. Sanders, having reached agreement for disposition of the captioned matter, hereby stipulate and agree as follows:

1. Respondent Carnine of 530 138th Street, Amery, Wisconsin 54001, was at all time material to the complaint, certified as a certified general appraiser, and had been so certified under the provisions of ch. 458, Wis. Stats., since September 1, 1992.
2. This Stipulation shall be submitted to the Real Estate Appraisers Board (Board) for approval and disposition of the matter. If the terms of the Stipulation are not acceptable to the Board, then the parties shall not be bound by any of the provisions of the Stipulation.
- a. This Stipulation is dispositive of Investigative Complaint # 96 APP 026.
3. Respondent has been advised of his right to a public hearing on each and every allegation of the complaint, but hereby freely and voluntarily waive his right to a hearing in this matter on the conditions that all provisions of this Stipulation be acceptable to and approved by the Board.
- a. Respondent further waive any appeal of the Board's Final Decision and Order adopting the Stipulation Agreement.
4. The Department received a complaint against Respondent by Dairyland Power Cooperative, Real Estate, Right of Way and Related Services Department, regarding Respondent's performance of an eminent domain appraisal done May 14, 1995, and submitted a copy of a Review Report of Respondent's Subject Appraisal.
5. Pursuant to standard procedures in place, the Department initiated an investigation into the matter(s) with the case being assigned to a Certified General Appraisal Expert/Board Advisor, who reviewed an analyzed the subject appraisal for compliance with USPAP.

The expert concluded that the significant violations of USPAP resulted in a deficient report that resulted in major misestimates of market value and that this could have caused significant harm to the public.

6. Complainant's Attorney Sanders corresponded with Respondent regarding a proposed, informal resolution which was rejected by the Respondent. Based upon Respondent's rejection of the proposed resolution and in preparation for Formal Disciplinary Hearing, the Department hired an Independent Real Estate Appraisal Expert to render an opinion of whether or not Respondent's subject appraisal complied with USPAP. He concluded it did not.

7. Accordingly, the Certified General Appraiser, MAI, SRA Expert, submitted his report of his review of

Respondent's subject appraisal and concluded violations. Respondent has, per the Appraisal Expert, variously violated USPAP's Standard Rules 2-2(c)(x), 1-5(c), 1-1(a), 2-2(c)(viii), (x), 1-1(b)(c), 1-1(a), 1-5(c), 2-1(a)-(c), and 2-2(viii), (x), all not inclusive.

8. The Experts' Report concluded the following:

Mr. Carnine states that he prepared a "limited restricted report" which the reviewer assumes him to mean is that he is referring to the Departure Provision of USPAP. This provision permits limited exceptions to sections of the Uniform Standards that are classified as specific guideline rather than binding requirements.

The reviewer is of the opinion that a full narrative report should have been prepared as the appraisal was used by the condemnee's attorney in negotiations with the condemnor.

However, the reviewer has compared the appraisal only to the binding requirements of the Uniform Standards of Professional Appraisal Practice. Departure from binding requirements is not permitted under USPAP.

Mr. Carnine should not have attempted to appraise the subject property as it appears that he may have had little if any prior experience in appraising property that is in an eminent domain situation.

The reviewer is of the opinion that the report was prepared in an extremely careless and negligent manner.

Mr. Carnine's appraisal provides little evidence, if any, that he is aware of, or understands the recognized appraisal methods and techniques that are necessary to produce a creditable appraisal.

The reviewer is of the opinion that Mr. Carnine's analyses, are substantially based on conjecture, intuition and anecdotal opinions which are not appropriate or reasonable and, therefore, do not support a valued conclusion.

9. Based upon the above enumerated violations (not inclusive), Respondent is also deemed to have variously violated sec. 458.26(3)(c), Wis. Stats.,... Practicing as a certified general appraiser while evidencing a lack of knowledge or ability to apply professional principles or skills; violated secs. RL 86.01(2),(5), Wis. Adm. Code; (2) All Appraisals shall conform to USPAP, and (5) A ... appraiser shall not offer to perform, nor perform, services which he is not competent to perform through education or experience. Based upon the above alleged enumerated violations, respondent, while not agreeing with the same, pleads no contest to the alleged violations.

10. Based upon the no contest plea of the respondent in settlement of this matter, respondent hereby consents, accepts and agrees to take and successfully complete fourteen (14) hours of commercial appraisal education, with seven (7) of those hours related to report writing, all to be completed within six (6) months of the effective date of the Board's Order adopting this Stipulation. Said education shall not be credited or counted towards Respondent's required continuing education; and to pay the amount of twelve hundred and fifty dollars (\$1,250.00) as part assessment of costs in resolving this matter.

a. The effective date of this Stipulation is ten (10) days following execution of the Final Decision and Order by the Board's designee.

11. Following completion of the ordered education, Respondent is to submit proof of satisfactory completion to the Department, Attention of Michelle Neverman, Department Monitor at P.O. Box 8935, Madison, WI 53708. If Respondent should fail to complete the education as ordered, or fails to get approval for an extension to complete the education from the Board, then he shall be considered to be in violation of the Board's Order and may be subjected to further discipline.

12. The \$1,250.00 shall be payable by cashiers check or money order made payable to the Department of Regulation and Licensing and submitted to Michelle Neverman supra, at the time of execution of this Stipulation by Respondent.

13. Respondent agrees that this Stipulation Agreement may be incorporated into the Board's Final Decision and Order adopting the Stipulation Agreement.

14. Respondent further agrees that Complainant Attorney Sanders and the Board Advisor assigned to the case, may appear at any closed-deliberative meeting of the Board with respect to this Stipulation, but those appearances are limited solely to clarification, justification, and to statements in support of the Stipulation and for no other purpose.

Allen J. Carnine 2-25-99

Respondent Date

Don Paul Novitzke 2-25-99

Respondent's Attorney Date

Henry E. Sanders 3/3/99

Complainant's Attorney Date

