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STATE OF WISCONSIN

BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

THOMAS E. HESS,

FINAL DECISION AND ORDER

RESPONDENT

LS0010182APP

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

Thomas E. Hess

1824 Wisconsin Avenue

New Holstein, WI 53061

Bureau of Business and Design Professions

Real Estate Appraisers Board

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

P.O. 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-matters, makes the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to jurisdiction and authority granted to the Board in Chapter 458, Wis. Stats., and sec. RL 2.12, Wis. Adm. 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 18th day of October, 2000.

Paul Vozar, or designee

Real Estate Appraisers Board

STATE OF WISCONSIN

BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

THOMAS E. HESS,

STIPULATION

RESPONDENT

98 APP 029

98 APP 048

Respondent Thomas E. Hess (Hess), and Complainant's Attorney, Henry E. Sanders, Division of Enforcement, having reached agreement for disposition of the captioned-matters, stipulate and agree as follows:

1. Respondent Hess, 1824 Wisconsin Avenue., New Holstein, WI. 53061, was at all time material to the complaint, certified as a Certified Residential Appraiser (#565), and had been so certified under the provisions of ch. 458, Wis. Stats., since January 8, 1993. Respondent has been certified as a Certified General Appraiser (#987) since January 22, 1999.

2. This Stipulation shall be submitted to the Real Estate Appraisers Board (Board) for approval and disposition of the matters. 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 Complaints: **#98 APP 029** and **#98 APP 048**.

3. Respondent has been advised of his right to public hearings on each and every allegation of the complaints, but hereby freely and voluntarily waive his right to hearings in these matters on the conditions that all provisions of this Stipulation be acceptable to and approved by the Board.

a. Respondent further agrees to waive any appeal of the Board's Final Decision and Order Adopting the Stipulation Agreement.

4. Complaint #98 APP 029, was submitted to the Department in 1998, along with an appraisal performed by Respondent in 1994, for the Department to "review, only to determine if the proper steps were followed in establishing value" for the subject property.

5. Complainant/Consumer and owner of a commercial business indicated that he had hired Respondent Hess to perform an appraisal of the subject property in order to establish fair market value in order to price the property for sale as they had planned on moving their business operations to another state; that Respondent set the value of the property at \$207,000.00 by using 60% weighted to the sales comparison, 30% weighted to the cost approach and 10% weighted to the income approach, and estimated the fair market value at \$154,000.00; that after interviewing several real estate agents to consider listing the property for sale, he was told that it would be highly unlikely to obtain the appraised value of \$207,000.00; that the property was finally listed for sale at the price at \$165,000.00, lower than the appraised value but higher than the amount suggested by the realtors; that finally, after several years of marketing the property, and several price reductions, the property finally sold in April 1998, for \$80,000.00.

6. An investigation ensued into the matter, and Respondent responded to the complaint in pertinent part that:

"When I estimated the value of subject property at \$207,000, the value was completely supported and it reflected the values of the day. The value was well supported . . . including assumptions and limiting conditions.

. . . there was a limited amount of sales to compare the property to. At the time of the appraisal our market area for this type of property was quite restricted. Consequently, this was all we had.

The comment made by the realtor about high vacancies is inaccurate, in fact at the time of

the appraisal there was no vacancies in the area, and Miller Trucking and Warehousing, located one block from the property was involved in a 50,000 sq. ft. expansion project. If the market was weak there would have been no reason for this expansion.

I performed the appraisal when subject was a working manufacturing property and when property sold, it was vacant and had virtually no maintenance, and consequently the condition of the property at the time of the sale, was not what it was at the time of the appraisal.

I am aware that appraisal standards have changed since 1994 and my current procedures for evaluating properties have changed to reflect a much more thorough and supported value than when I performed the appraisal for the Complainant in 1994."

7. The Case Advisor, a Certified General Appraiser assigned to the complaint, reviewed and analyzed the subject appraisal report and concluded that:

"After reviewing this appraisal report, my conclusion regarding the report would tend to indicate that the appraiser who prepared the report lacked significant competence to complete the assignment. In support of this conclusion, I offer the following:

1) (Page 1, mid-page) Real Estate Taxes, Assessments & estimated fair market value (an obsolete and stupid term . . . can you show me an **unfair** market value?) Are reported with no reference as to the tax year involved. Without knowing the tax year, of what relevance is this information? If it *were* the most recent tax year prior to preparing the appraisal, the very fact that the EFMV (set by the Wisconsin Dept. of Revenue) is **lower** than the assessed value should be a red flag to most appraisers to consider the possibility that values are either stable or declining in the neighborhood. While the Wis. Dept. of Revenue is not infallible (they still use the term EFMV), if nothing else, the possibility of lower real property values in the area should be more thoroughly investigated. In the penultimate and final paragraphs on page 1, the choice of the words "establish" and "established" in conjunction with "fair market value" and "value" tend to make the reader suspect of the appraisers' depth of knowledge with regard to appraising real property. The **market** establishes value (market value when a sale of real property meets all of the requirements contained in the definition of market value). Appraisers **estimate** value. [No violation of Standards Rules....but a strong indication of poor basic understanding of the appraisal process]

2) (Page 2 – **MARKET AND FINANCE INFORMATION** – Paragraph 3.

The phrase "although at this time it (the market) may be considered somewhat slow" and the phrase "it is the appraiser's opinion that the demand for these properties will increase with time as we are seeing this area grow" are inconsistent. The first phrase appears to have been a fact and the second appears to have been based on conjecture. In retrospect, the first phrase proved to be accurate (\$80,000 sale price for the Subject after many months on the market) while the appraised value of \$240,000 (3 x the eventual selling price) seems to have been based solely on the appraisers' misguided opinion. [Violation of Standard Rules 1-1(b) and 2-19(a)]

3) **NEIGHBORHOOD DATA**

The statement "There were no external inadequacies noted in the neighborhood or community that would affect the marketability of the subject," in retrospect, appears to have been a serious error in judgment or lack of knowledge based on the reported value in the appraisal report; the extended marketing time required as outlined by the property owner in his complaint, and the eventual sale price of \$80,000.

The appraisers' indication of the "PRESENT LAND USE" Commercial" is inconsistent with the appraisers' indication of the "PREDOMINANT OCCUPANCY: Industrial." The reader is not able to appreciate whether this is a commercial neighborhood or an industrial neighborhood!?! [Violation of Standards Rules 1-1(b); 1-4(g) and 2-1(a).

4) Pages 3 & 4) – **GENERAL AREA DATA**

The data recited here appears to have come directly from a chamber of commerce brochure and highlights general and residential aspects with very little emphasis on what makes this area conducive to industrial utility. [Violation Standards Rule 1-4(g).

5) (Page 5) – **VACANCY RATE**

The context of the word "disseminating" precludes its use in this sentence, and an "appraiser's opinion" is a poor substitute and much less reliable than a thorough market analysis. [Possible Violation of Standards Rule 1-4(b)4.]

6) (Page 5) – **HIGHEST AND BEST USE**

The highest and best use of both land as if vacant and land as improved **must** meet our criteria. The highest and best use must be *legally permissible, physically possible, financially feasible and maximally productive*. A properly prepared appraisal report in either a self-contained or summary report format will address each of these four issues in supporting the highest and best use conclusion. The only issue addressed by the appraisers in this report (and most briefly) is the issue of legality in which it is stated: "ZONING CLASSIFICATION: Light Industrial" and "ZONING COMPLIANCE: Yes." [Violation Standards Rule 1-3(b)]

7) (Page 5) – **UTILITIES**

While it is helpful to know that the site is apparently fully improved, the critical questions for an industrial appraisal remain unanswered: what is the size of the water main and where is it located relative to the site improvements? What is the source, quantity and quality of the water supply? Size and location of the sanitary and storm sewers? What is the maximum capacity of the sewage treatment plant and what is the current operating capacity? What type of electrical service and volume is available to the site? 3-phase? Is the fire department full time or volunteer? what is the site specific fire insurance rating? Is the site located in a tax incremental financing (TIF) district? If so, what are the ramifications and do they have an effect on value? etc. etc. etc.? The appraisal report falls far short of answering these questions although a few are answered in the appraisers' backup files. [Standards Rule Violation 1-1(b)]

8) (Pages 6, 7 & 8) – **IMPROVEMENTS**

On these three pages, the appraisers describe the improvements which include three separate buildings. Two of these buildings, according to their descriptions, possess eight foot ceilings indicating a functional deficiency (low ceiling height) for a typical industrial building. The appraisers estimate the "reconstruction cost new" (Do they mean reproduction cost new or replacement cost new?) of these two buildings using cost data based on manufacturing obsolescence. The third building the appraisers describe as being 16 feet high. Apparently this third building was also "appraised" as an industrial building. The backup file on this third building seems to indicate that this building is really an unheated warehouse building of limited quality with no plumbing or central heating; and, the backup file notes "not much lighting in south section" (functional deficiency). In any event, the reproduction and/or replacement cost new is somewhat lower for an unheated warehouse without plumbing and with substandard lighting than for an industrial building used for manufacturing. In valuing these improvements, the only form of depreciation addressed was physical depreciation although the evidence seems to indicate that *functional and external obsolescence were present at levels significant enough to have an impact on value*. [Violation of Standards Rule 1-1(a)(b)(c); 1-4(b)1&2]

9) (Pages 11 & 12) – **SALES COMPARISON APPROACH**

Sale #1

Assuming that the appraisers' methodology is correct in arriving at the bottom line "price per square foot \$11.19"....the technique, or the math, breaks down in the last step of the process. The unit value indicator sought after is a [sale] price per square foot. The property methodology is to divide the adjusted sale price of the comparable sale by the number of square feet in that same comparable sale:

$\$185,000 / 26,800 \text{ sf} = \6.90 per sq. ft. and **not** $\$11.19 \text{ per sq. ft.}$ as indicated in the appraisal report prepared by Hess/Pagel.

The Subject property, according to the appraisers, contains 14,074 square feet.

$14,074 \times \$11.19 = \$157,488$

$14,074 \times \$6.90 = \$97,111$

The difference between these two amounts is \$60,377, a rather significant math error. Sale #2 also contains a math error of a lesser magnitude in the opposite direction ($\$225,000 / 11,504 \text{ sf} = \19.56 and not $\$19.12$ as indicated by the appraisers. [Violation Standards

10) (Pages 13 & 14) – **INCOME APPROACH**

A) It is improper methodology to simply average competing contract rents to arrive at an estimated market rents.

B) Vacancy rates are typically not an issue in small industrial appraisals.

C) The appraisers introduce a gross income **multiplier** and attempt to define it with an incorrect definition and then use it as a **divisor** to calculate an estimated value by using a rate . . . which was "**established**" and which indicates that the appraisers have no idea of what they're doing or where they're going with this approach to value. [Violation of Standards Rules 1-1(a)(b)(c); 1-4(b) and 2-1(a)]

SUMMARY:

The major violations of Standards Rules 1 & 2 and exhibited general incompetency resulted in a greatly exaggerated estimate of market value (\$240,000) by as much as three times the market value of the property (\$80,000) based on its ultimate selling price. This apparently did result in significant financial harm to the complainant who wasted valuable time by relying on the over valued appraisal report. The appraiser apparently is using significant "boilerplate" and possibly plagiarized report formats without understanding the appraisal process nor the methodology necessary to produce a credible report resulting in gross errors and deficiencies.

8. The Department thereafter received an anonymous-second complaint, #98 APP 048, filed against Respondent relating to a commercial/industrial appraisal performed by him with an effective date "as of November 11, 1997," when Respondent was still a Certified Residential Appraiser, with an estimate of value of \$1,300,000.00.

9. The subject property consisted of seven (7) separate buildings utilized as a County of Manitowoc Highway Shop facility. The complaint alleges:

"I believe that the enclosed appraisal has serious deficiencies which would warrant further investigation, especially as to whether these individuals should be allowed to appraise commercial/industrial properties. While I can respect a difference of opinion of value between appraisers, the apparent lack of competency in this case undermines the reputation of the appraisal profession.

The overwhelming factor was that the "appraisers" present a report in which the value conclusions for the 3 approaches to value ranged from \$561,000 to \$1,730,000. The application of the 3 approaches to value should support one another and provide a reasonable value range to support the value conclusion. A 208% difference in the approaches can not be term an appraisal!

One area of concern would be that the appraisers are certified residential appraisers, and are appraising an industrial property valued at \$1,300,000. I believe this to be outside their allowable parameters. The report itself further indicates a lack of appropriate education which is necessary to appraise such a property, as discussed below.

With respect to the land valuation, all of the sales except sale number 1 appear to be sales of improved properties in which the appraiser made an allocation between the value of the land and the improvements. While this may be necessary in a highly developed area, there are sales of land in the market which would allow for a direct valuation of the site. Accordingly, the land value conclusion is suspect.

In the cost approach, an identical "reconstruction" cost is used for buildings 3 and 4. However, building 3 is stated to be a garage and tire shop, and is unheated with no interior finish indicated. Building 4 may have similar structural features, but also is stated have heat in the shop, and a higher level of interior finish with office space that is heated and cooled. Building 4 also has basement space, which would typically be accounted for separately. Thus, these valuations may be inappropriate. I would question the lack of deduction for functional obsolescence for a multi building property the age of the subject. This may explain why the value concluded by the cost approach is 33% higher than the final value conclusion. Finally, the appraisers' use of the term "reconstruction" cost is incorrect as it does not indicate whether it is a reproduction or replacement cost. This ties in to the potential for functional obsolescence.

The sales comparison approach is of major concern as it demonstrates a complete lack of analysis, or very incompetent analysis. This harsh conclusion is best demonstrated in the summation section where the sales are summarized at a unadjusted sales price range of \$8.27 psf to \$32.28 psf. After making adjustments for differences between the sales and the subject, the appraisers adjusted value range is

\$8.03 psf to \$32.17 psf. A 300% difference between the low and high ends of the range does not provide any reasonable indication of value for the property. The value conclusion itself is also questionable, as the appraiser stated that the best representation of value was sale 8, which is a 7,240 sf building, as compared to the subjects 6 buildings totaling 61,112 sf in size.

With respect to the "analysis" of the sales, there is a lack of discussion to determine just what was adjusted for and for what reason. For example, most of the sales were adjusted for "land differences," which could be either location or possibly a land-to-building ratio difference. However, further investigation is needed to ascertain the consistency of the adjustment. Specifically, the subject was indicated to have a land value of \$10,000 per acre in the cost approach and should provide some basis for comparison. However, for several of the sales, adjustments are made both upward and downward at higher per acre land values. Another example would be the building size adjustment in which sales 4 and 6 are adjusted downward despite being very similar to the subject at 64,800 sf and 68,190 sf respectively. Sale 8 however, at only 7,240 sf, was stated to require no size adjustment as the utility was the same as the subject????

Also, for sale 3 there is a discrepancy between the building size of 77,435 sf indicated in the sales summary and the 59,039 sf used to determine the adjusted sale price. Based on the indicated sale price psf this appears to be a typo? However for sale 5, a size of 92,304 sf is used to determine the sale price per square foot, while a size of 57,152 is used to calculate the adjusted price psf?

With respect to the income approach, not enough information is provided to determine where the apparent errors are. However, it varies so greatly in value from the cost and market approaches that one wonders how any reasonable appraiser could simply present it in the report without further investigation to determine if the conclusion of value is, in fact, valid?"

10) The case advisor appraiser expert assigned to the complaint, pursuant to his analysis and review of the subject appraisal report, as well as two (2) other appraisal reports done by two other separate appraisers, concluded:

"This appraisal was made of an improved property owned by Manitowoc County and used by the County Highway Dept. as a vehicle and equipment maintenance and storage facility. The appraisal apparently was ordered to justify and support a reasonable selling price for the property. As part of my review, I also read parts of two independent appraisal reports on the same property which were prepared in the same relative time frame by two different and independent appraisers who are familiar with property values in that area. After reviewing the Subject Hess/Peters appraisal report, my conclusions regarding the report would tend to indicate that the appraisers who prepared the appraisal report lacked significant competence to complete this assignment. In support of these conclusions, I would cite the following:

1) Summary of Significant Facts and Conclusions (page)

Total land area reported of 7.5 acres is inaccurate based on an independent site plan which indicated that the Subject site size is exactly 289,279.61 square feet, which calculates to be +/- 6.64 acres. [Violation of Standards Rule 1-1(b)]

2) Pages 1 and 29

The Hess/Peters appraisal report contains two different versions of market value. Page 1 contains a definition of "market value." Page 29 contains a definition of "fair market value" (an obsolete term). [Violation of Standards Rule 2-1(a)]

3) Page 1 – Zoning

Based on the zoning referred to in the two other independent appraisals, a portion of the Subject site is located in a P-1 (Conservancy) zoning district which could prohibit the continued current use of that part of the Subject site, or at best, render it a legal non-conforming use requiring a special permit. The Hess/Peters report makes no mention of this zoning district. [Violation of Standards Rules 1-1 (b) and 2-1(a)]

4) Page 7 – Land Value

The Hess/Peters report utilized a land sale in Schofield (Wausau/Marathon County) as one of the comparable land sales "**in the immediate area of the subject.**" [Violation Standards Rule 2-1(a)]

5) Pages 9 & 10

The writers of the report repeatedly used the phrase "reconstructed cost new" when they

probably intended to mean either "reproduction cost new" or "replacement cost new." The reader of the report has no way of knowing exactly which term was intended making the cost approach very ambiguous. [Violation Standards Rules 1-A; 1-1(c) and 2-1(a)]

6) Sales Comparison Approach – pages 11, 12, 13 & 14

Very poorly documented and analyzed comparable sales and extremely vague or no support for the adjustments made or not made. [Violation Standards Rules 1-A; 1-1(a)(b)(c) and Rule 1-4(i)]

7) Income Approach – pages 14 & 15

Absolutely no support for the income reported; no support for the "market extracted" capitalization rate; and no support for the very thin analysis attempted [Violation Standards Rules 1-A; 1-1(a)(b)(c) and Rule 1-4(i)]

8) Appraiser's Certification – page 30

Both appraisers certified that "the report has been prepared in conformity with the Uniform Standards of Appraisal Practice, etc." [Violation Standards Rules 1-A and 1-1(a)]

SUMMARY:

The major violations of Standards Rules 1 & 2 and exhibited general incompetency resulted in a greatly exaggerated estimate of market value by as much as 70% to 90% resulted in a significant harm to the public.

11. Because of the above conclusions, and in order to test Respondent's overall appraiser's related competency, pursuant to the Department's request, Respondent provided five appraisal reports prepared by him in 1998, for analysis and reviews for compliance with USPAP.

12. Pursuant to the case advisor assigned to the complaints reviews and analysis of the additional 1998 appraisals, he concluded:

I have reviewed the five appraisal reports prepared by Thomas E. Hess and Renee C. Peters which you forwarded to me with respect to clarifying the specific violations that occurred. In general, there are numerous violations involving both methodology and math. Based on these works, it is apparent that the appraisers are incapable of completing

a credible appraisal. For the sake of brevity, only the most grievous errors are highlighted below:

Appraisal #1:

1) The Subject site is zoned **A1-Agricultural** while all of the "comparable" land sales are zoned **commercial** or **light industrial**, with no explanations. The list of "comparable" land sales used by the appraiser contain only one vacant land sale (Sale #1). All of the other sales are of improved properties with an arbitrary, "value attributed to land" that is totally unsupported. [Violates Standards 1-1(a)(b) and (c)]

2) Other than a boiler plate definition of highest and best use, followed by a boiler plate "opinion" that is identical in all of the reports by these appraisers that were reviewed, there is no analysis of the highest and best use, nor any support whatsoever for the boiler plate conclusion. [Violates Standards Rule 1-3(a)]

3) In addition to using apparently inappropriate and unsupported land sales data, the appraisers failed to use a sales grid; failed to use adjustments; and failed to use a narrative explanation of how the land value estimate was concluded. [Violates Standards Rule 1-1(a)(b) and (c)]

4) In the cost approach, the appraisers continue to use terminology that is foreign to the industry ("reconstruction" cost?) and are careless in transposing numbers. The appraisers are silent as to the class and type of building, the base unit value, the local modifier, the current cost modifier, the area/perimeter modifier and the story height modifier. An unsupported unit value is apparently selected by the appraiser and applied to the number of square feet identified by the appraiser as 8,128 sq. ft., when the appraiser's own building sketch indicates something less than a 50' x 144' structure, or +/- 7,200 sq. ft.. Then the appraisers multiply the suspicious 8,128 sq. ft. x the mysterious \$35.77 (apparent unit value) which equals \$290,738. Nine lines down on this same page, the

\$290,738 becomes a \$390,738. **This results in an overvaluation of some +/- \$71,500!** [Violation of Standards 1-1(a)(b) and (c)]

5) In the sales comparison approach, the data describing the "comparable sales" are thin and unsupported; the appraisers failed to use an adjustment grid and/or failed to adequately explain any adjustments in a narrative form. [Violation of Standards 1-1(a)(b) and (c)]

6) In the income approach, the appraisers do not support the use of \$2,40 per square foot; inappropriately use the term "fixed expenses" (maintenance is not a fixed expense) and fail to include other operating expenses without explanation. The net operating income is suspect. The overall rate is not supported. (An unsupported, boiler-plate, overall rate of 10.5% is used in each of the appraisal reviewed). [Violates Standards 1-1(a)(b)(c) and 1-4(b)5 & 6 and 2-1(a)(b)]

Appraisal #2:

All of the above violations occur in this appraisal, including attempting to compare a residential zoned site with commercial and industrial zoned "land sales", but the math errors noted are limited to +/- \$4,700 error. The entire report is unsupported and is not a credible appraisal. [Violations of 1-1(a)(b)(c); 1-4(b)5 & 6 and 2-1(a)(b)]

Appraisal #3:

All of the above violations occurred in this appraisal, alleging an attempt to compare a commercial zoned site with other realigned "commercial zoned land sales obtained from the Wis. Dept. of Revenue" that are extremely thin, avoid any notation of specific zoning, whether or not sewer and water is on the site; are not adjusted for time of sale although sale dates range from 1993 thru 1997; etc. The appraisers avoid the use of an adjustment grid or a narrative explanation. In the cost approach, the appraisers state that they did "not observe any inadequacies that would be cause for functional....depreciation" in the 100 year old improvements and the math errors noted are limited to +/- \$4,300 error. In the sales comparison approach, a think attempt was made to adjust for condition and location, but the basis for the conclusions is unsupported in either the report or the backup material. In the income approach, there is no support for the rent estimate and the appraisers use an unsupported gross rent multiplier but erroneously call it a "cap rate" exposing their complete lack of knowledge regarding income capitalization. The entire report is unsupported and is not a credible appraisal. [Violations of 1-1(a)(b)(c); 1-4(b)5 & ^ and 2-1(a)(b)]

Appraisal #4:

Most of the above violations occur in this appraisal with some added violations.

1) The Subject of the appraisal was apparently purchased by land contract on April 10, 1998, some +/- 6 months prior to the date of the appraisal. None of the details of this sale were noted and analyzed other than the date of sale. [Violation of Standards Rule 1-5(b)1]

2) The appraisers state in the letter of transmittal that "The accompanying report is based on . . .cost and income data, and a review of sales of similar properties", but then eliminate the use of the cost and sales comparison approaches for alleged "lack of data." [Violations of Standards Rule 1-4(a) and (b) 1, 2]

3) In the income approach there is no support for any of the alleged rents, operating expenses nor capitalization rate.

The appraisal is not a credible appraisal. [Violations of 1-1(a)(b)(c); 1-4(b)5&6 and 2-1(a)]

Appraisal #5:

As in all of the other appraisals, this appraisal violates the rules and is not a credible appraisal.

1) The estimated land value is not supported.

2) The cost approach appears to be fraudulent. Appraisers state that their cost figures are acquired from "Marshall Valuation Service." The highest published cost for a C-store in MVS is for an **excellent Class C structure is \$71.11 per square**

foot (base cost) Section 13 Page 20 *February 19998*. the appraisers use **\$175.52 per square foot**. [Violation Standards 1-1(a)(b)(c)]

2) The sales comparison approach attempts to compare the Subject 882 sq. ft improvements with comparables that range from 1,170 sq. ft. to 5,600 sq. ft. When making a narrative adjustment for size difference, the adjustment is made in an erroneous (opposite) direction. None of the alleged adjustments are supported.

3) In the income approach none of the data is supported.

In general, the appraisal is not a credible appraisal. [Violations of 1-1(a)(b)(c); 1-4(b)5&6 and 2-1(a)(b)]

Conclusion: Not one of these alleged appraisals has a scintilla of credibility.

13) Accordingly, and in addition to the above enumerated violations, Respondent is also deemed to have violated sec. 458.26(3)(c), Wis. Stats., engaged in conduct while practicing as an appraiser which evidences a lack of knowledge or ability to apply professional principles or skills; violated secs. RL 86.01(2), (6), Wis. Adm. Code: (2) Appraisals shall conform to USPAP . . . and (6), . . . appraiser shall not offer to perform services which he/she are not competent to perform through education or experience.

a. The scope of practice in non-Federal Related Transactions became effective on February 1, 1999.

14) Based upon the above and in settlement of these matters, Respondent Hess hereby consents, accepts and agrees to having his Certified General certification limited to only performing residential appraisals; to be reprimanded; to take and successfully complete a minimum of 15 hours of department approved appraisal courses in income producing properties, seven (7) hours of appraisal education in non-residential appraising featuring the direct sales comparison approach, and seven (7) hours of appraisal education in non-residential appraising of income capitalization, specifically focusing on extraction of capitalization rates from the market, all to be completed within six (6) months of the effective date of the Board's Final Decision and Order adopting the stipulation agreement, and:

a. Pay the amount of \$500.00 as part assessment of costs in resolving these matters, to be paid at the time of executing the stipulation agreement or within six (6) months of the effective date of the Board's order.

(THE EFFECTIVE DATE OF THE BOARD'S ORDER IS TEN DAYS AFTER EXECUTION BY THE BOARD CHAIRPERSON OR HIS DESIGNEE.)

15. On or before the effective date of the Board's order, Respondent shall submit all appraisal certifications previously issued to him to the attention of departmental monitor, hereinafter, and thereafter, he shall be issued limited certificates and they shall be returned to him.

16. The ordered education shall not count or be credited towards Respondent's required continuing education, and if he should fail to complete the ordered education within the specified time, and/or fail to get written permission from the Board to complete same, then he shall be deemed to be in violation of the Board's order and may be subjected to further discipline.

17. The \$500.00 part assessment of costs shall be payable by cashiers check or money order made payable to the Department of Regulation and Licensing, and proof of successful completion of the ordered education shall both be submitted to departmental monitor:

Monitor

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

18. Respondent may commence doing non-residential appraisals only on the condition that the subject appraisal(s) are reviewed and co-signed by a Certified General Appraiser. Thereafter, within six (6) months after he commences performing non-residential appraisals under the above stated conditions, he is to submit to the department monitor, supra, a

roster of the non-residential appraisals performed, at which time a random number will be selected for review by the board or case advisor for compliance with USPAP.

a. The certification relating to performing non-residential appraisal shall be in substantial compliance with USPAP Standards Rule 2-3, and/or Respondent shall retain in his files, evidence of his significant professional assistance to the person signing the appraisal report.

19. In any event, after one (1) year of the effective date of the Board's order, Respondent may petition the Board for the lifting of the limitation(s) placed on his certified General certification(s), with the understanding that any such decision is solely that of the Board, which may within its discretion, impose any requirements or demonstration(s) of rehabilitation it deems appropriate.

a. Any such denial by the Board shall not be considered a formal denial within the meaning of ch. RL 1, Wis. Adm. Code.

20. Respondent agrees that this stipulation agreement may be incorporated into the Board's Final Decision and Order adopting the stipulation agreement.

21. Respondent further agrees that Complainant's attorney Sanders and the case advisor assigned to the complaints, may appear at any closed deliberative meeting of the Board with respect to the stipulation, but those appearances will be limited solely to clarification, justification, and to statements in support of the stipulation and for no other purpose.

Thomas E. Hess 10-5-00

Respondent Date

Henry E. Sanders 10-5-00

Complainant's Attorney Date