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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

THOMAS J. YOUNK,
d/b/a YOUNK'S APPRAISALS.
RESPONDENT.

FINAL DECISION AND ORDER
LS9910201APP

The State of Wisconsin, Real Estate Appraisers Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Real Estate Appraisers Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 26th day of April, 2000.

Paul Vozar

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY :

THOMAS J. YOUNK,
d/b/a YOUNK'S APPRAISALS,
RESPONDENT

Case No. LS9910201APP

PROPOSED DECISION AND ORDER

PARTIES

The parties to this action for purposes of §227.53, Wis. Stats., are:

*Mr. Thomas J. Younk
Marshall #05435-089
Federal Prison Camp
15801 S.W. 137th Avenue
Miami, FL 33177*

*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*

PROCEDURAL HISTORY

A hearing in this matter was held on February 22, 2000, before Administrative Law Judge Jacquelynn B. Rothstein. The Division of Enforcement appeared by attorney Henry E. Sanders. Mr. Younk did not appear.

Based on the entire record in this case, the undersigned administrative law judge recommends that the Real Estate Appraisers Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

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FINDINGS OF FACT

1. Thomas J. Younk is presently incarcerated in a federal prison camp in Miami, Florida. Notice of Hearing was sent to Mr. Younk there.
2. Mr. Younk's Wisconsin real estate appraiser's license expired on December 31, 1997; however, he retains the right to renew it.
3. On October 6, 1998, a federal grand jury indicted Mr. Younk on Conspiracy to Commit Mail Fraud in violation of Title 18, U.S.C. §2314.
4. Mr. Younk was convicted of Conspiracy to Commit Mail Fraud in violation of 18 U.S.C. §§ 371, 1341, and 2314 on September 15, 1999, in the United States District Court for the Eastern District of Wisconsin. He was sentenced to a term of imprisonment of not less than twenty-one (21) months and was ordered to pay restitution in the amount of \$856,572.69.

CONCLUSIONS OF LAW

1. The Real Estate Appraisers Board has jurisdiction in this matter pursuant to § 458.26, Wis. Stats.

2. By failing to file an Answer as required by § RL 2.09, Wis. Admin. Code, and by failing to appear at the hearing, Mr. Younk is in default under § RL 2.14, Wis. Admin. Code, and the Real Estate Appraisers Board may make findings and enter an order on the basis of the Complaint and the evidence presented at the hearing.

3. Conspiracy to Commit Mail Fraud is a crime, the circumstances of which substantially relate to the circumstances of the professional practice of real estate appraisal, in violation of § 458.26 (3) (d), Wis. Stats.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that the license of Thomas J. Younk to practice real estate appraising in the State of Wisconsin and any existing right to renew it are **REVOKED**.

IT IS FURTHER ORDERED that the assessable costs of this proceeding be imposed upon Thomas J. Younk.

OPINION

Section RL 2.14 of the Wisconsin Administrative Code provides that if a respondent fails to answer a complaint or fails to appear at a hearing, that he or she is in default. If found to be in default, the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence against the respondent.

Notice of Hearing was sent to Mr. Younk both by certified mail and by regular U.S. mail. However, Mr. Younk did not file an answer to the above-captioned complaint, nor did he appear at the scheduled hearing. As a result, Mr. Younk is in default and has effectively admitted all of the allegations contained in the Complaint.

It is undisputed that Mr. Younk was convicted in the United States District Court for the Eastern District of Wisconsin of Conspiracy to Commit Mail Fraud in violation of 18 U.S.C. §§ 371, 1341, and 2314. Under § 458.26 (3) (d), Wis. Stats., the Board is authorized to impose discipline against an individual who has been convicted of an offense, the circumstances of which substantially relate to the practice of an appraiser. Because Mr. Younk is also in default, the Board is authorized to make findings based upon the Complaint and the other evidence contained in the record.

According to the Judgment of Conviction, Mr. Younk managed to bilk three different entities out of more than \$856,000. He did so by causing mortgage loans to be issued based upon the submission of false financial information. The false financial information included the following: inflated and phony appraisals; falsified insurance statements; forged signatures; inflated down payment amounts; and fictitious purchase prices. In furtherance of the conspiracy, Mr. Younk caused this information to be sent via the United States mail. The circumstances of his conviction are undeniably linked to the practice of real estate appraising. Consequently, his conduct in this regard was both criminal and unprofessional. In light of the charges and his subsequent conviction, there is sufficient evidence in the record to justify the Findings of Fact and the Conclusions of Law set forth herein.

The question remains as to what the appropriate form of discipline is for Mr. Younk. Revocation of his license has been recommended. It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*. 41 Wis. 2d 481, 485 (1969).

There is nothing in the record to suggest that imposing any discipline short of revocation would have a rehabilitative effect on Mr. Younk or that he even has an interest in being rehabilitated. As to the deterrence of others, absent some mitigating evidence, imposing anything less than revocation would not aid in deterrence, but may instead wrongly encourage others to engage in similar conduct. Accordingly, revocation remains the only way in which to safeguard the public. By revoking Mr. Younk's license to practice real estate appraising, the public will be adequately protected from any further misconduct.

Dated at Madison, Wisconsin, this 28th day of February, 2000.

DEPARTMENT OF REGULATION & LICENSING

1400 East Washington Avenue

P.O. Box 8935

Madison, Wisconsin 53708

Telephone: (608) 266-5836

FAX: (608) 267-0644

Jacquelynn B. Rothstein

Administrative Law Judge