

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **FINAL DECISION AND ORDER**
 :
JEFFREY J. HIRSCHINGER, :
 : **LS0607125APP**
 :
RESPONDENT. :

Division of Enforcement Case No. 05 APP 069

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

Jeffrey J. Hirschinger
7518 West Beloit Road
West Allis, WI 53219

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 parties in these matters agree to the terms and conditions of the attached Stipulation as the final decision of the matter(s), subject to the approval of the Real Estate Appraisers Board. The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Jeffrey J. Hirschinger (“Hirschinger”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 7518 West Beloit Road, West Allis, Wisconsin 53219, and whose date of birth is March 31, 1954, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-633). The license was first granted on March 29, 1993, and expires on December 14, 2007.
2. Mr. Hirschinger has performed a number of appraisals in which he agreed to do so in accordance with United States Department of Housing and Urban Development (HUD)/FHA standards. On August 17, 2005, HUD concluded that Mr. Hirschinger committed several violations of HUD/FHA rules applicable to appraisers, as well as the Uniform Standards of Professional Appraisal Practice (USPAP) which were applicable at the time of certain appraisals prepared by him for HUD. Based upon these conclusions, HUD removed Mr. Hirschinger from the FHA roster for a period of six (6) months, and gave him a Notice of Requirement for Remedial Education.
3. Mr. Hirschinger committed one or more violations of HUD/FHA rules applicable to an appraisal assignment, including, but not limited to, the following:
 - a. Failing to provide an analysis of the Listing and Agreement of Sale of the subject property in accordance with HUD Handbook 4150.2 and the USPAP Standards Rule 1-5(a), by failing to note that a subject property had been sold within the past twelve months, and failing to analyze the same.
 - b. Failing to provide accurate, specific data and adjustments for the comparable properties required for accurate comparison and value determination of the subject as required by HUD Handbook 4150.2 and USPAP guidelines, by failing to note \$3,000 in seller concessions made with respect to two comparable properties selected in one appraisal.

4. Per Wis. Admin. Code § RL 86.01(1), “Certified and licensed appraisers shall comply with... the standards set forth in Appendix I. A violation of any provision of this chapter may result in disciplinary action under s. 458.26, Stats.

5. Per Wis. Admin. Code § RL 86.01(2), “All appraisals performed in conjunction with federally related transactions and non-federally related transactions shall conform to the uniform standards of professional appraisal practice set forth in Appendix I.”

6. Per Wis. Stat. § 458.26 (3)(i), an appraiser is subject to discipline if he or she has, “Violated this chapter or any rule promulgated under this chapter.”

7. Per USPAP’s Ethics Rule, Conduct section, “An appraiser must perform assignments... in accordance with USPAP and any supplemental standards agreed to by the appraiser in accepting the assignment...”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.

2. The Wisconsin Real Estate Appraisers Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

3. By failing to comply with standards applicable to an assignment, as required by USPAP’s Ethics Rule, Conduct section, as well as other USPAP Standards, as set forth above in paragraphs two (2) and three (3) of the findings of fact, **Jeffrey J. Hirschinger** has committed two (2) or more violations of Wis. Admin. Code § RL 86.01 (2), thereby subjecting herself to discipline per Wis. Stat. § 458.26(3)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The licensure and certification of JEFFREY J. HIRSCHINGER (#9-633) shall be, and hereby is REPRIMAN

IT IS FURTHER ORDERED THAT:

2. Respondent shall pay the costs of the Department of Regulation and Licensing in this matter in the amount of \$ by October 31, 2006.

3. The payment required by this Order shall be mailed or delivered to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

4. Case number 05 APP 069 is hereby closed.

5. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel
A Member of the Board

7/12/2006
Date

**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

JEFFREY J. HIRSCHINGER,

RESPONDENT.

:
:
:
:
:
:

STIPULATION

LS _____

Division of Enforcement Case No. 05 APP 069

It is hereby stipulated and agreed, by and between Jeffrey J. Hirschinger, Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a pending investigation of Respondent's licensure by the Division of Enforcement (05 APP 069). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Real Estate Appraisers Board ("Board"). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Appraisers Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

JEFFREY J. HIRSCHINGER

Respondent

7518 West Beloit Road

West Allis, WI 53219

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date

[Case No. 05 APP 069: Reprimand, \$410 Costs.]