

# 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 DISCIPLINARY :  
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**  
**KATHLEEN NIEDZIELSKI,** : LS09111117APP  
RESPONDENT. :

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DOE case files 08 APP 033, 08 APP 115, 09 APP 017 and 09 APP 019

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

Kathleen Niedzielski  
2934 N. Stowell Avenue  
Milwaukee, WI 53211

Wisconsin 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**

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Real Estate Appraisers Board (“Board”). The Board has reviewed this Stipulation and considers it acceptable. Accordingly, the Board adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions of Law, and Order:

### **FINDINGS OF FACT**

1. Kathleen Niedzielski is licensed in the State of Wisconsin as a Real Estate Appraiser. License number 4-1307 was first issued to her on May 18, 2000.
2. Ms. Niedzielski’s most recent address on file with the Department of Regulation and Licensing (“Department”) is 2934 N. Stowell Avenue, Milwaukee, WI 53211.

#### With regard to case 08 APP 033:

3. The Department received a license application from Michelle Hayes. As part of her application material, Ms. Hayes submitted appraisal reports for properties at 1929 West Burnham Street, Milwaukee, Wisconsin, 156 Burr Oak Street, Palmyra, Wisconsin, and 220 Carroll Street, Random Lake, Wisconsin.
4. Ms. Hayes indicated that the respondent, Kathleen Niedzielski, supervised her work for the three appraisals, and Ms. Niedzielski’s name appeared on all three reports as supervisor. Under USPAP, a supervisor who signs a report is responsible for its contents.

5. All three reports contained serious USPAP violations. Ms. Hayes's application was denied, and the case was referred to the Division of Enforcement ("DOE") for disciplinary action against Ms. Hayes's supervisor, the respondent Kathleen Niedzielski.

6. Ms. Hayes worked at one time for Ms. Niedzielski but only as office staff and not as an appraiser trainee. Ms. Hayes left Ms. Niedzielski's employ, and one of Ms. Niedzielski's laptop computers disappeared around the same time. The computer contained incomplete appraisal files as well as Ms. Niedzielski's electronic signature. It is likely that Ms. Hayes submitted material from the laptop to the Department, and affixed Ms. Niedzielski's electronic signature, without Ms. Niedzielski's knowledge.

With regard to case 08 APP 115:

7. An official of Chase Home Lending filed a complaint against Ms. Niedzielski based on an appraisal she performed for property at 645 Milwaukee Street in Menasha, Wisconsin. The complaint alleged numerous minor USPAP violations.

8. Ms. Niedzielski responded that Chase Bank had not been her client. Preferred Lending, LLC, had ordered the appraisal with an estimated appraisal value of \$230,000. After some research, she informed Preferred Lending that her appraisal would not be consistent with the value needed for their loan, and she was told to stop work. Ms. Niedzielski stated that she did not know how Chase came to possess a copy of her report, but that it was incomplete.

9. Because she never completed the assignment, Ms. Niedzielski did not keep a complete file of her work.

With regard to case 09 APP 017:

10. An official of Nationstar Mortgage filed a complaint against appraiser Niedzielski based on an appraisal she performed for property at 212 Chestnut in Fond du Lac, Wisconsin. The complaint focused on Ms. Niedzielski's choice of comparable sales, including 20 sales at lower prices that she did not use, including one on the same block as the subject.

11. Ms. Niedzielski responded to the complaint with her field notes and supporting data. She also provided an explanation describing why she rejected 16 of the 20 comparables suggested by Nationstar, including the one on the same block because it was a two-story building compared to the one-story subject.

With regard to case 09 APP 019:

12. An official of Lincoln Appraisal Group filed a complaint against Ms. Niedzielski based on an appraisal she performed for property at 329 Smith Street in Plymouth, Wisconsin. The complaint alleged numerous inaccuracies, inconsistencies, and USPAP violations, including, notably,

- the report refers to five comparable sales, but comps 4 & 5, which were reported as 2 blocks away from the subject in Plymouth, are actually 55 miles away with addresses in Waukesha, and
- the cost approach is detailed, with a value of \$150,000.

13. Ms. Niedzielski responded to the complaint and stated that the report submitted by Lincoln Appraisal Group did not match the report she submitted to the lender, Mortgage Central. Niedzielski provided a copy of the appraisal she submitted to the lender. Her report does differ in that:

- Ms. Niedzielski's submitted report does not contain comparables 4 & 5, and it refers to three closed sales comparables, and
- her report did not develop the cost approach, containing the statement "not developed due to lack of relevant data".

14. A copy of the report obtained from Mortgage Central matches the one submitted by Lincoln Appraisal Group in the complaint.

15. Ms. Niedzielski cannot explain why the report submitted by Lincoln Appraisal Group and Mortgage Central differs from the one in her files, which she claims was the one sent to Mortgage Central.

## **CONCLUSIONS OF LAW**

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to section 458.26 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.
2. The respondent, Kathleen Niedzielski, is not responsible for the errors and USPAP violations in the appraisal reports submitted by Michelle Hayes in case 08 APP 033.
3. By failing to maintain a complete workfile for her appraisal of property at 645 Milwaukee Street in Menasha, Ms. Niedzielski violated sec. 458.18 (1), Wis. Stats. and the Record-keeping section of the USPAP Ethics Rule in case 08 APP 115.
4. The explanations submitted by Ms. Niedzielski in response to the complaint regarding her appraisal of property at 212 Chestnut in Fond du Lac, Wisconsin adequately explain the choice of comparable sales she made in case 09 APP 017.
5. There is insufficient evidence that Ms. Niedzielski was responsible for the USPAP violations in her appraisal report for property at 329 Smith Street in Plymouth, Wisconsin that was submitted by Lincoln Appraisal Group and Mortgage Central in case 09 APP 019.
6. By violating USPAP and Wisconsin statutes [and rules] related to the practice of Real Estate Appraisal, Respondent Kathleen Niedzielski violated sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code, and is subject to discipline under section 458.26 (3), Wis. Stats.

## **ORDER**

NOW, THEREFORE, IT IS ORDERED that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED that case 08 APP 033 is closed for No Violation.

IT IS FURTHER ORDERED that the respondent, Kathleen Niedzielski, is hereby REPRIMANDED for failing to maintain a complete workfile for her appraisal of property at 645 Milwaukee Street in Menasha in case 08 APP 115.

IT IS FURTHER ORDERED that case 09 APP 017 is closed for No Violation.

IT IS FURTHER ORDERED that case 09 APP 019 is closed for Insufficient Evidence.

IT IS FURTHER ORDERED that in case 08 APP 115 the respondent, Kathleen Niedzielski, must successfully complete the following three classes offered by the Appraisal Institute:

Basic Appraisal Procedures (30 hours),

Residential Site Valuation and Cost Approach (15 hours), and

Residential Sales Comparison and Income Approach (30 hours):

or equivalent coursework taken from any educational institution approved by the Department of Regulation and Licensing and approved in advance through the Department Monitor:

Department Monitor

Department of Regulation and Licensing,

PO Box 8935, Madison, WI 53708-8935.

Fax (608) 266-2264

Tel. (608) 267-3817.

None of the education completed pursuant to this order may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

Ms. Niedzielski shall submit proof of successful completion in the form of verification from the institution providing the education to the Department Monitor.

In the event Ms. Niedzielski fails to successfully complete the educational requirements in the manner set forth, or to obtain an extension of time for good cause, her Real Estate Appraisers license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further Order of the Board or until she provides to the Department proof of completion of the educational requirement.

IT IS FURTHER ORDERED that Ms. Niedzielski pay the Department's costs of this matter in the amount of **\$262.75** within 60 days of the date of this Order. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor. In the event Ms. Niedzielski fails to pay the costs within the time and in the manner as set forth above, her Real Estate Appraisers license shall be suspended without further notice, without further hearing, and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing.

Dated this 11<sup>th</sup> day of November, 2009.

**WISCONSIN REAL ESTATE APPRAISERS BOARD**

By: Marla Britton, Board Chair