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BEFORE THE REAL ESTATE APPRAISERS BOARD

PROCEEDINGS AGAINST :

PATRICK F. VAN VONDEREN, : LS0210071APP

RESPONDENT. :

1. Respondent, Patrick F. Van Vonderen (Van Vonderen) of 1478 Sandy Spring Court, De Pere, WI 54115, was at all time material to the complaints, licensed as a licensed Real Estate Appraiser (#1171 4) and had been so licensed under the provisions of ch. 458, Wis. Stats., since August 12, 1992.

2. At all time material to the complaints, Respondent was not a member of any Multiple Listing Service (MLS), and MLS rules strictly prohibits member participants from unauthorized access to the MLS data base by non members. Copyright laws prohibits unauthorized access by non members.

a. Respondent joined the MLS on April 9, 1999.

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3. The Department received a complaint against Respondent Van Vonderen from a review appraiser, who had been hired to do a review of an appraisal report prepared by Respondent dated February 9, 1997, of property located at the address of 801 Blackwell Street, Kaukauna, WI 54130.

4. The complaint alleged in pertinent part that:

"I was asked to review this appraisal and see if I could get a higher value. After examining this appraisal, I noticed that the addresses for the rental comps and listing comps were not existing duplexes. I then checked with the assessor and found the sales comps were not recent sales. Some of the comps had not sold for over ten years and only comp 2 was a newer sale which was sold in 1993 for \$38,000. Comps 1 & 3 were so old that there were no records of sales. The sq. foot was totally made up. For the listing comps he has Violet Lane being built in 1945. That street did not even exist until 1970. There is no Richard Street in Little Chute. None of the listing comps or rental comps are valid addresses.

The value of this property is overstated by at least \$15,000.00. The value should be no more than \$68,000.00.

I found 90% of this information is inaccurate."

5. In subsequent correspondence to the Department, the Complainant responded to specific questions, that:

"I never finished the appraisal review as the entire appraisal was entirely bogus. The only information I feel to be correct was the information regarding the subject property. All the addresses for the nine comps used did not exist. There were not even any such streets in the towns indicated on the appraisal.

It is my opinion the loan had been approved based upon Mr. Van Vonderen's appraisal. I became involved when I was asked to review the appraisal to see if we could come up with a higher value so the owner could refinance. I had to tell the bank the appraisal was bogus and the value was much higher than it should have been."

6. Purportedly, the subject appraisal was ordered by UC Lending located at 1500 N. Casaloma Drive, Appleton, Wisconsin. UC Lending was unable to approve the loan for the applicant, so UC Lending called Allcredit Mortgage to attempt to possibly approve the loan request. The subject appraisal, already completed and paid for by the customer for UC Lending was transferred to Allcredit Mortgage. Allcredit Mortgage then forwarded the complete loan packet to Option One Mortgage Company, which packet was reviewed by their appraisal department and approved.

7. The subject appraisal report, indicated the following data:

Listing Comparables – Distance – Data Sources

1. Comp #1: 738 Violet Lane (5 miles) Owner
2. Comp #2: 1716 Richard St. (6 miles) Owner
3. Comp #3: 702 Cleveland (7 miles) MLS

(Note) ... "All are located in Little Chute)" ...

Rental Comparables – Distance – Data Sources

1. Comp #1: 1172 1174 Hillcrest Rd. (1 mile) Inspection/Owner
2. Comp #2: 901 901 1/2 S. Miller (2 miles S.) Inspection/Owner
3. Comp #3: 703 703 1/3 Tina St. (3 miles South) Inspection/Owner

Sales Comparables – Distance & Data Sources

1. Comp #1: 700 Desnoyer (Less than 1 mile) Assessor File/Inspection
2. Comp #2: 205/207 4th Street (2 miles South) Assessors files/Inspection
3. Comp #3: 305 305 1/2 Klein Street (3 miles) Assessors files/inspection

8. The subject appraisal report indicated that the lender/client was Allcredit Mortgage with the address of 4321 W. College Avenue, Appleton, WI 54914.

9. Pursuant to standard operating procedures, Respondent Van Vonderen was contacted by Investigator Troy Broadie via a letter dated October 2, 1997, and was specifically requested to provide his written response to the complaint, and to provide a copy of the subject appraisal report and all accompanying support documentation.

10. Thereafter, Respondent merely Federal Expressed to the Department a four page appraisal report dated February 9, 1997, with an addendum page (additional comments), 2 map pages indicating the locations of Comparables 1 3, MLS pages indicating 1 3 sales Comparables, 1 3 MLS rental Comparables data sheets, and 1 3 MLS listing Comparables data sheets.

a. Respondent's only written response was "this is the actual appraisal."

11. The appraisal report submitted by Respondent, unsigned, indicated the following data, which were materially different than the data in the subject appraisal, supra.

12. Per the Appraisal report submitted by Respondent, the Lender/client was indicated as MD Mortgage Corp., with the address of 4706 Cottage Grove Road, Madison, WI 53716, and indicated the following data:

Listing Comparables – Distance – Data Sources

1. Comp #1: 113 E. Harris St. (11 miles s.) MLS
2. Comp #2: 612 W. Summer St. (12 miles) MLS
3. Comp #3: 823 W. Loraine (14 miles s.) MLS

"Listings #1, 2, 3 are located in Appleton."

Rental Comparables – Distance – Data Source

1. Comp #1: 21 Newberry Ct. (8 miles s.) Inspection/MLS
2. Comp #2: 705 S. Outagamie St. (11 miles s.) Inspection/MLS
3. Comp #3: 613 Kimberley Ave. (5 miles s.) Inspection/MLS

Sales Comparables – Distance – Data Sources

1. Comp #1: 1922 E. Coenen (3 miles N.) Assessors Files/MLS #R2964216C
2. Comp #2: N9296 Orchard Blossom (7 miles s.) Assessors Files/MLS
#R2965319C
3. Comp #3: 1114 N. Appleton (9 miles s.) Assessors Files MLS #R2964696C

13. In response to an investigative inquiry from the Department to Lender, Allcredit Mortgage Corporation, the Department was informed in pertinent part by Kyle Roble, President, that:

"Patrick Van Vonderen is not an approved appraiser for Allcredit Mortgage or AAA Mortgage Corp. We have never requested his services ever before.

The way All credit Mortgage has been involved in this complaint is as follows: The original appraisal on the property was ordered by UC Lending located at 1500 N. Casaloma Drive in Appleton, Wisconsin (copy enclosed) UC Lending was unable to approve the loan for the ... So, UC Lending called Allcredit Mortgage to see if we could possibly place the loan request.

The appraisal that was already completed and paid for by the customer for UC Lending was transferred to Allcredit Mortgage.

Allcredit Mortgage then forwarded the complete loan package to Option One. The appraisal was reviewed by their appraisal department and approved."

14. In an attempt to clarify the matters, Respondent was requested to provide any and all documentation relating to the subject property to the Department. He responded via a two page note, along

with a one (1) page "Assesment Info," and 7-1/4 page roster of appraisals performed in 1995 1997. The note indicated:

"Dear Sir:

Please find attached actual appraisal MLS listings, as well as sold properties in the local MLS. My records do not indicate properties that were made up. Please note attached notes on the appraisal as well as appraisals perform as requested. I don't believe USPAP rules were violated. Information used was supplied by MLS records and verified by local assessors office. Appraiser stands by value estimate in report. There was no intent of misleading the value estimate. All sales and listings were verified and used in this appraisal."

(There were no appraisal report, MLS listing or sold properties information associated with the information submitted by Respondent.)

15. Respondent was requested to provide to the Department, in a letter to him dated March 23, 2000, for the 9 comparables indicated in the subject appraisal report submitted by him, the physical location of the cities or municipalities, and the mailing addresses for each property, but he has failed to respond to such inquiry or to respond up to the present.

16. Per a Subpoena Duces Tecum, Option One Mortgage Corporation submitted an appraisal report identical to the subject appraisal report submitted by Complainant.

17. A copy of the appraisal report submitted to the Department as a copy of the actual subject appraisal report performed by Respondent, was submitted to various assessors in various municipalities in attempts to verify the validity of a data incorporated in the report.

18. In a telephone conversation with Investigator Garrette (Garrette) on March 17, 2000, City Assessor, Sharon Pitt, Kaukauna, WI, indicated to Garrette that the subject 801 Blackwell Street property was located in Kaukauna, but that none of the comparables are located there; that the Kimberly Street property is probably located in Appleton and that the listings are probably also in that city (Appleton), and that if the other properties are not located in Little Chute, then they may also be located in Appleton.

19. Rick J. Hermus, Administrator, Village of Kimberly, Wisconsin, responded to the Department in pertinent part that:

"The Village of Kimberly has reviewed the appraisal report supplied in your letter of March 23, 1000. We specifically researched the above for the comparable rental property #3 (813 E. Kimberly Avenue) listed on the supplied appraisal report. This is the only property on the report with an address which should be located in the Village of Kimberly.

Unfortunately, there is no such property (813 East Kimberly Avenue) located in the Village of Kimberly. We checked to see if possibly this was an error in direction. However there is also no 813 West Kimberly Avenue.

As no property exists at this address, we cannot verify any of the data listed for the comparable property."

20. Subsequently, it was determined that there was no such property of 813 East Kimberly Avenue located in the Village of Kimberly. Thusly, all related comparable data for the subject address was false.

21. Sharon L. Pitts, City Assessor, Kaukauna, Wisconsin, responded to the Department inquiry in pertinent part that:

"As per your request, I reviewed the appraisal you sent for the property at 801 Blackwell Street, Kaukauna, Wisconsin 54130.

The 9 "Comps" listed in this appraisal, are not within my city limits jurisdiction. Therefore, I have no knowledge regarding these properties. From my limited knowledge, some of these would be in the surrounding "countryside" of Kaukauna. Everything to the North, East, and South of Kaukauna for 7-9 miles at least is township of Vanden Brock, Combined Locks, and City of Appleton."

22. Subsequent contacts with Assessors offices located in Appleton, Town of Buchanan, Appleton, Wisconsin; Village of Combined Locks, Combined Locks, Wisconsin, Town of Vanden Brock, Appleton, Wisconsin; Rick J. Hermus, Administrator, Village of Kimberly, Kimberly, Wisconsin, and Town of Freedom, Freedom, Wisconsin, determined that none of the subject comparables were located in those municipalities.

23. All of the informational data complained of regarding the subject complaint submitted by Complainant and enumerated in paragraphs 3-5 supra, were false, as alleged by the Complainant.

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24. The Department received a second "anonymous" complaint filed against Respondent, regarding an appraisal performed by Respondent of W. 3545 Kropp Road, Seymour, Wisconsin, dated January 13, 1997, with an estimate of market value of \$288,000.00 as of January 7, 1997.

25. The complaint alleged that "while reviewing this report I noted several errors (highlighted) & was not able to verify any comparable sales data through MLS or Public Records."

26. The subject appraisal indicated the following data:

Sale Comparable – Distance – Data Source

1. Comp #1: 1002 Fritsch Rd.-5 miles South-Public Records/MLS # R 1962216C
2. Comp #2: 2332 Peotter Rd. 7 miles West-Public Records/MLS # R 1962187C
3. Comp #3: 4878 Bain Rd.-6 miles East-Public Records/MLS # R 1962111C

27. Respondent was informed of the complaint and was requested to provide a copy of the subject appraisal report and all supporting documentation to the Department.

28. Respondent submitted a handwritten note dated June 1, 1998, which indicated in pertinent part:

1. Information for W3545 Kropp Road, MLS Sales, copy of appraisal, field notes and maps.

5. MLS information is obtained with another local appraiser we split MLS dues, 50 50 I have all books and receive two week updates of all sold properties.

There is no misrepresentation. All information is based upon (1) county records for subject property (2) MLS information for sold properties which was supplied by the MLS and confirmed through county records.

29. Also included in Respondent's response was: A handwritten page of "field notes" dated August 7, 1996, purportedly indicating data on the subject Kropp Road property; three (3) MLS sales comparable data of #1. N1221 County Cress Circle, MLS # 2962744C; #2. 4629 Clearview Circle, MLS # 1964721C, and #3. 4635 Clearview Lane, MLS # 12962128C. All of which was totally different than the data found in the subject appraisal complained of supra. Also submitted was a two page appraisal report purportedly of the subject property, indicating that United Lending Corp., 1500 N. Casaloma Drive, Appleton, Wisconsin 54915, was the Lender, and sale comparables. All of these documents contained information that was totally different than the information found in the subject appraisal – complained about.

30. Respondent also submitted one (1) location map of the subject property, and two (2) location maps of comparables.

31. The Department had requested and did receive from UC Lending a copy of the subject appraisal which is an identical appraisal to the appraisal submitted by Complainant, along with sketch of improvements, area calculation with sketch; pictures of the subject Kropp Road property; location maps of sale comparables and pictures of subject comparables.

32. Respondent informed the Department that the name of the individual whom he splits dues and receives MLS services from was Mike Gilliame, MLS Access # 1240.

33. The Department subsequently determined from Marge Chapman, Executive Officer, Realtors Association of Northwest Wisconsin (RAND), that Mark Gilliame was registered with her MLS agency, that the MLS access # was correct and current; that Mr. Gilliame is not authorized to let other appraisers use his MLS number unless they are listed to do so Respondent was not – and that it would be a violation of the MLS rules if Gilliame allowed Respondent to use his MLS information, and that Gilliame could be fined up to \$1,000.00.

34. Mr. Gilliame notified the Department via a letter dated April 8, 1999, in pertinent part, that: that he knew Respondent Van Vonderen since the late 1980's, that he did not work with Respondent in any way, shape or form period, and that he did not share any MLS data with Respondent regarding the subject appraisals.

35. The Department received from Marge Chapman, RANW, supra, a four page faxed document, with the cover sheet indicating:

"Here is the result of the search of the MLS #s that were on that comp. They did not match our #s or properties."

36. The documentation indicated that the 1002 Fritsch Road property was not in their inventory, and that the MLS # R19662 16X Respondent used was for property with an address of 2168 Woodcrest Drive. The documentation further showed that the 4878 Bain Road (or Rain Road) property Respondent used was not in their inventory; that MLS # R1962111X Respondent used was for property with an address of 617 1st Street. The exhibit also showed that the 2332 Peotter Road property listed by Respondent was not in their inventory, and that the MLS # R1962187C Respondent used was for property with an address of E2639 Rockledge Road.

37. Pursuant to a subpoena, Marge Chapman, RANW, submitted a two page letter dated April 6, 2000, along with copies of the appraisal supplied by Respondent, along with attached listing data for each comparable listed by Respondent. Chapman responded via the Exhibits and indicated in pertinent part that:

"In 1997, Patrick Van Vonderen was not a member of the multiple listing service. We have received copies from your department of appraisals created by Mr. Van Vonderen in 1997, in which he makes references to MLS numbers. In researching these properties – those in case # 97 APP 023 – our records do not show that the addresses stated match the MLS numbers listed. In other words, we do not have those properties in our database. We have the MLS numbers, but they are not for these properties.

We do not know how Mr. Van Vonderen accessed the MLS in 1997, if he did. MLS rules strictly prohibit members participants from allowing unauthorized access to the MLS database by non members. Further, copyright laws prohibit unauthorized access by non members.

We recently received from you a copy of another complaint before the Appraiser Board, # 98 APP 001 (97 APP 023 Sic). We have researched all of those properties listed on the report, and they are, in fact, in our MLS database. We have copied printouts of our reports for your review and interpretation as to whether they are consistent with the information on the appraisal.... He was not a member of MLS in 1998.

38. Many of the printouts of reports and interpretive data on the subject comparables indicated that Respondent's appraisal(s) reports contained false, misleading, and inaccurate information.

CONCLUSIONS OF LAW

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1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to Sec. 458.26, Wis. Stats.

2. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached Stipulation pursuant to Sec. 227.44(5), Wis. Stats.

3. Respondent has, by preparing and submitting (File # 18 1997) appraisal report dated February 9, 1997, containing fictitious, misleading and fraudulent data, including using MLS #s without being a member of MLS, without authorization, and in violation of copyright laws, has variously violated Secs. 458.26(3)(b) (c),(e),(i), Wis. Stats., (b). Respondent engaged in unprofessional or unethical conduct in violation of rules promulgated under Sec. 458.24; (c). Respondent engaged in conduct while practicing as an appraiser which evidences a lack of knowledge or ability to apply profession principles or skills; (e). Respondent advertised in a manner that is false, deceptive or misleading; (i). Respondent violated this chapter (458) or any rule promulgated under this chapter.

4. Respondent violated Sec. 458.18, Wis. Stats., maintenance of records.

5. Respondent violated Secs. RL 86.01(1) (2),(5); (8), Wis. Adm. Code, (1) (2) ... Appraisers shall comply with the Standards of Practices established by ch. 458, and chs. 80 to 86, and the standards set forth in Appendix I (USPAP): (5) ... appraisers shall not knowingly omit, understate, misrepresent or conceal material facts in their appraisals; (8) ... appraisers shall maintain records as required in Sec. 458.18, Stats. Such records shall be made available to the department, board, or agents of the department or board for investigation, review or audit, and shall be readily available ... Violated USPAP Ethics Provision: Conduct (Unlawful, unethical, or improper, misleading or fraudulent report); Management (Predetermined value or direction in value); Record Keeping; the Departure provision of USPAP, and Standards 1 & 2.

6. Respondent has, by providing a different appraisal to the Department instead of an actual copy of the subject appraisal, which was materially different than the subject report, while representing that his was the actual report, and which report contained fraudulent and misleading information, again violated those violations enumerated in paragraph 3 supra, and violated Secs. 458.26(3)(a),(b),(e), Wis. Stats., (a) Made a material misstatement ... in any other information furnished to the Board or Department, (b) engaged in unprofessional or unethical conduct, (e). Advertised in a manner that is false, deceptive or misleading; violated Secs. 458.18(1) (3), Wis. Stats., Maintenance of Records. (3) ... Appraiser shall, upon reasonable notice, make the records described in sub (1) available for inspection and copying by the Department or the Board, and or violated Sec. RL 86.01(8), Wis. Adm. Code, all ... appraisers shall maintain records as required in Sec. 458.18, stats. Such records should be made available to the Department, Board, or agents of the Department or Board upon request for purpose of investigation, review or audit.

7. Per Respondent's failure to provide, pursuant to the Department's request, the physical location of the nine (9) comparables in the appraisal report he submitted, he has violated Sec. 458.18(1) (3), Stats., Maintenance of records, Sec RL 86.01(8), Wis. Adm. Code, Maintain records, and USPAP's record keeping of the ETHICS Provision (See comment;), all not inclusive.

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8. Respondent has, by performing an appraisal of the subject W. 3545 Kropp Road, Seymour, Wisconsin property, with an estimate of market value of \$288,000.00, violated Sec. RL 81.04(3), Wis. Adm. Code. A licensed appraiser may conduct appraisal of complex 1 to 4 family residential property having a transaction value of not more than \$250,000.00. Respondent violated Secs. 458.26(3)(b), (e), Wis. Stats., (b) engaged in unprofessional or unethical conduct in violation of rules promulgated under s. 458.24, (e) advertised in a manner that is false... Respondent violated Secs. RL 86.01(1) (2), (5) (6), Wis. Adm. Code. (1) ... Appraisers shall comply with the Standards of practice established by ch. 458, Stats., and chs. RL 80 86, and the Standards set forth in USPAP, (2) All appraisals shall conform to USPAP, (5) ... Licensed appraisers shall not knowingly omit, understate, misrepresent or conceal material facts in their appraisals, and (6), ... Licensed appraisers shall not offer to perform,, nor perform, services which he/she is not competent to perform through education or experience:

9. By preparing and submitting the appraisal report dated January 13, 1997, containing fictitious, misleading and fraudulent data, including using MLS #'s without being a member of MLS, without authorization and in violation of copyright laws, Respondent has variously violated those violations enumerated in paragraphs 1 7 supra, including Secs. 458.26(3)(b) (c), (e), (i), Wis. Stats; violated Secs. RL 86.01(1) (2), (5), Wis. Admin. Code; violated USPAP ETHICS Provision: Conduct (unlawful, unethical, or improper) misleading or fraudulent report; Management (Predetermined value or direction in value), the Departure provision, and USPAP's Standards 1 & 2.

10. By providing an appraisal containing fictitious data to the Department instead of an actual copy of the appraisal report which was the subject of the complaint, which was materially different than the subject appraisal report, and which report contained fictitious, fraudulent, and misleading data, while providing false responses to the Department, the Respondent has again violated those enumerated violations of paragraphs 1-7 supra, and therefore has violated Sec. 458.26(3)(a) (b),(e), Wis. Stats., made a material misstatement ... in any other information furnished to the Board or Department.

Respondent has generally, violated all of the above enumerated violations in paragraphs 1 7, relative to complaint # 97 APP 023.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. Respondent Patrick F. Van Vonderen certificate of licensure as a licensed appraiser is limited from performing federal related transactions appraisals for a minimum period of one (1) year – with the understanding that any non federal related transactions appraisals he performs is required to comply with USPAP-; and pay a forfeiture in the amount of \$2500.00.
 2. After the one (1) year minimum period of license limitation, Respondent may petition the Board to lift said limitation by demonstrating to the Board's satisfaction that he is capable of practicing as a licensed appraiser in a manner that safeguard the interest of the public.
 3. Any denial of the Board to lift said limitation shall not be considered a "Denial" within the meaning of chapter RL 1, Wis. Adm. Code, and Respondent shall not be considered an "Applicant" within the definition of said chapter.
 4. The \$2500.00 forfeiture shall be payable by cashier's check or money order made payable to the Department of Regulation and Licensing and paid within six (6) months of the effective date of the Board's Order adopting the Stipulation Agreement; and submitted to (the effective date of the Board's Order is the date the Final Decision and Order is signed by the Board's chairperson or his designee) Department Monitor.
- Marlene Meyer
Monitor
Division of Enforcement
P.O. Box 8935
Madison, WI 53708 8935
5. If Respondent shall fail to pay the forfeiture as ordered, or fails to obtain a written extension from the Board to pay same, then he shall be considered to be in violation of the Board's Order and may be subjected to further discipline.

REAL ESTATE APPRAISERS BOARD

By: La Marr Franklin

On behalf of the Board

1-15-03

Date