

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
JOHN E. MOES, : LS0310154APP
RESPONDENT :

Division of Enforcement Case File No. 02 APP 046

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

John E. Moes
13540 80th Street South
Hastings, MN 55033

Division of Business Licensure and Regulation
Real Estate Appraisers Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

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

FINDINGS OF FACT

1. John E. Moes (Date of Birth: January 23, 1963) possesses a certificate of licensure and a certificate of certification to practice as a Certified Residential Appraiser in the state of Wisconsin and a certificate of licensure to practice as a Licensed Appraiser in the state of Wisconsin (both using certificate #9-991). These certificates were first granted on August 21, 1995.

2. Mr. Moes' most recent address of record with the Department of Regulation and Licensing is 13540 80th Street South, Hastings, MN 55033.

3. Each person possessing certificates of licensure and certification to practice as a Certified Residential Appraiser and as a Licensed Appraiser in the state of Wisconsin must renew those certificates of licensure and certification biennially, by January 1 of each even-numbered year. [Secs. 440.08(2)(a)11m and 440.08(2)(a)12, Stats.]

4. To be eligible to renew the certificates of licensure and certification for the next biennial registration period, the licensee must have completed at least 28 hours of approved continuing education in the previous biennial registration period [Sec. 458.13, Wis. Stats., and § RL 85.01(1), Wis. Admin. Code].

5. Prior to January 1, 2002, the Wisconsin Department of Regulation and Licensing sent Mr. Moes a Real Estate Appraiser Renewal Application form to execute and return with the required fee if Mr. Moes wished to renew his certificates of licensure and certification in the state of Wisconsin for the January 1, 2002, through December 31, 2003, biennium.

That Real Estate Appraiser Renewal Application contains the following language, immediately above the line which Mr. Moes was required to complete in Order to renew his certificates of licensure and certification, by dating and signing the form:

"I HAVE COMPLETED 28 HOURS (INCLUDING AT LEAST 4 HOURS OF PROFESSIONAL STANDARDS AND CODE OF ETHICS) OF DEPARTMENT-APPROVED CONTINUING EDUCATION BETWEEN JANUARY 1, 2000 AND DECEMBER 31, 2001. I HAVE EVIDENCE OF THIS WHICH I WILL FURNISH TO THE DEPARTMENT UPON REQUEST."

That Real Estate Appraiser Renewal Application form contains the following language immediately below the line which Mr. Moes was to date and sign:

"MAKING A FALSE STATEMENT IN CONNECTION WITH ANY APPLICATION FOR LICENSE IS GROUNDS FOR REVOCATION OR DENIAL OF THAT LICENSE."

6. Mr. Moes signed and dated and returned the Real Estate Appraiser Renewal Application form certifying that he had completed the continuing education requirements of the Board during the January 1, 2000, through December 31, 2001, period. A copy of the renewal application form, dated November 17, 2001, is attached herein as Exhibit A and is incorporated herein by reference.

7. On June 5, 2002, as part of a random audit which the Board conducted of its licensees, Mr. Moes was sent a letter requesting that he send the Board verification that he had completed the 28 hours of continuing education, which he had claimed to have completed prior to renewing his license for the January 1, 2002, through December 31, 2003, biennium.

8. In April 2002, Mr. Moes submitted verification that he had completed 15.25 hours of continuing education hours during the January 1, 2000, through December 31, 2001, biennium.

9. Mr. Moes did not complete the required 28 hours of continuing education during the January 1, 2000, through December 31, 2001, biennium, prior to renewing his license for the January 1, 2002, through December 31, 2003,

biennium.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction over this matter pursuant to Sec. 458.26, Stats., and Wis. Admin. Code Ch. RL 85.
2. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached stipulation, pursuant to Sec. 227.44(5), Stats.
3. By not completing the required 28 continuing education credits during the required time frame Respondent John E. Moes has violated:
 - a. Sec. 458.13, Stats. Continuing Education Requirements.
 - b. Sec. 458.26(3)(a), Stats. Made a material misstatement in an application for the certificate or renewal of the certificate or in any other information furnished to the Board or Department.
 - c. Sec. 458.26(3)(b), Stats. Engaged in unprofessional conduct in violation of rules promulgated under Sec. 458.24, Stats.
 - d. Sec. 458.26(3)(i), Stats. Violated this chapter or any rule promulgated under this chapter.
 - e. Wis. Admin. Code Sec. RL 85.01. Continuing Education.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent John E. Moes (certificate #9-991) is hereby **REPRIMANDED**.
2. Within **six (6) months** of the effective date of this Order, Mr. Moes must provide proof sufficient to the Real Estate Appraisers Board that he has completed 28 hours of Board approved continuing education, which shall only be applied to the credit hours Mr. Moes should have obtained during the January 1, 2000, through December 31, 2001 biennium.
3. **IT IS FURTHER ORDERED** that Mr. Moes shall pay a forfeiture in the amount of **five hundred dollars (\$500.00)**; and the **amount of two hundred dollars (\$200.00)** partial **assessment of costs** of this proceeding, all to be paid within **ninety (90) days** of the effective date of the Board's Order adopting the Stipulated Agreement (The effective date of the board's Order is the date of signing by the Board's chair or his designee).

4. The assessed forfeiture and partial assessment of costs shall be payable by cashier's check or money order made payable to the Department Monitor (Place case number on the check or money order and the words "Forfeiture" and/or "Costs").

Department Monitor
Division of Enforcement
Post Office Box 8935
Madison, WI 53708-8935

5. If Respondent Moes shall fail to pay the forfeiture, partial assessment of costs or to complete the continuing education as ordered, or fails to obtain a written extension from the Board to complete same, then Respondent Moes shall be considered to be in violation of the Board's Order and may be subjected to further discipline.
 - a. The Department of Regulation and Licensing, pursuant to Sec. 458.26(5), Stats., reserves the right to appeal the Board's Final Decision and Order.

REAL ESTATE APPRAISERS BOARD

By: La Marr Franklin
On Behalf of the Board

10-15-03
Date