

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
JUDITH A. CUNDY : LS0310155APP
RESPONDENT. :

Division of Enforcement Case No. 02 APP 009

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

Judith A. Cundy
W9211 Sunset Point Road
Beaver Dam, WI 53916

Division of Professional Credential Processing
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. Judith A. Cundy (Date of Birth: December 24, 1939) 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 #9-1127). These certificates were first granted on September 15, 1998.

2. Ms. Cundy's most recent address of record with the Department of Regulation and Licensing is W9211 Sunset Point Road, Beaver Dam, WI 53916.
3. A complaint was filed against Ms. Cundy by an Appraiser who had performed in 2001 an appraisal of a Town of Beaver Dam property.
4. When first given the subject appraisal assignment, Complainant Appraiser was given a previous appraisal report by the lender, performed by Ms. Cundy, which unbeknownst to Complainant Appraisal, had been conducted of Ms. Cundy's daughter's property.
5. Ms. Cundy's first appraisal of the subject property was performed on August 3, 1999, for the Horicon State Bank. The appraisal was completed on behalf of Ms. Cundy's daughter and another party. Both clients' names were listed on the report as borrowers. Ms. Cundy did disclose the relationship with her daughter/borrower to Horicon State Bank and received approval from the Bank to complete the assignment. Ms. Cundy also disclosed the relationship in the Comment Addendum of the appraisal report.
6. Ms. Cundy's second appraisal of the subject property was performed on January 17, 2000, for Consumer Loan Advisors, Inc. Ms. Cundy discussed the relationship with her daughter verbally with the lender. The lender informed Ms. Cundy that the appraisals should be only performed for one of the owners and that Ms. Cundy's daughter would not be on the mortgage. Ms. Cundy's daughter was not listed as a borrower or owner on the report that Ms. Cundy prepared. Ms. Cundy did not disclose the personal relationship on the appraisal report.
7. Property records at the Dodge County Register of Deeds indicate that Terry Klapper purchased the Town of Beaver Dam property on July 29, 1999. On August 12, 1999, Mr. Klapper conveyed ½ interest to Dori Cundy. On March 28, 2000, Dori Cundy conveyed ½ interest back to Mr. Klapper.
8. The Case Advisor, a member of the Real Estate Appraisers Board and a Licensed Appraiser, was assigned to the complaint and reviewed the situation regarding the two subject appraisal reports. The Case Advisor determined that based upon property records, Ms. Cundy's daughter was an owner of the Town of Beaver Dam property at the time of the January 17, 2000, appraisal and should have been listed as a current owner and disclosed as the daughter of the appraiser on the appraisal report.
9. The Case Advisor also concluded that omission of the relationship with Mr. Cundy's daughter created a misleading report and more importantly, Ms. Cundy should not have accepted either the 1999 or 2000 assignments due to the relationship, regardless of any lenders acceptance of the relationship.
10. The Case Advisor indicated that Ms. Cundy had violated Uniform Standards of Professional Appraisal Practice (hereinafter USPAP) Standards Rule 2-1(a) and Standards Rule 2-3.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction over this matter pursuant to Sec. 458.26, Stats.
2. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached stipulation,

pursuant to Sec. 227.44(5), Stats.

3. By the conduct described above Judith A. Cundy has violated:

a.. Wis. Admin. Code Sec. RL 86.01(1). Certified and licensed appraisers shall comply with the standards of practice established by ch. 458, Stats., and chs. RL 80 to 86 and the standards set forth in Appendix 1. A violation of any provision in this chapter may result in disciplinary action under s. 458.26, Stats.

b. Wis. Admin. Code Sec. RL 86.01(5). Certified and licensed appraisers shall not knowingly omit, understate, misrepresent or conceal material facts in their appraisals.

c. Wis. Admin. Code Sec. RL 86.01(7). A certified or licensed appraiser shall avoid conflicts of interest. If a conflict arises, the certified or licensed appraiser shall immediately cease work on the appraisal and shall not continue work on the appraisal without the written consent of the person who authorized the appraisal.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Judith A. Cundy (certificate #9-1127) is **REPRIMANDED**.

1. Within ninety (90) days of the effective date of this Order, Ms. Cundy must provide proof sufficient to the Real Estate Appraisers Board that she has successfully completed education in USPAP Standards and Ethics, totaling fifteen (15) hours. This education shall not be credited towards Ms. Cundy's continuing education requirements.

2. Within ten (10) days of the effective date of this Order, Ms. Cundy shall pay the **amount of three hundred fifty dollars (\$350.00) partial assessment of costs** of this proceeding.

3. Any documentation or payments that need to be submitted according to the terms of this Order shall be directed to:

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

The partial assessment of costs shall be payable by cashier's check or money order made payable to the Department of Regulation and Licensing (Place case number on the check or money order and the word "Costs").

4. If Ms. Cundy shall fail to pay the partial assessment of costs or to complete the education as ordered, or

fails to obtain a written extension from the Board to complete same, then Ms. Cundy 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.

5. The effective date of the Board's Order is the date of signing by the Board's chair or designee.

REAL ESTATE APPRAISERS BOARD

By: La Marr Franklin

10-15-03

On Behalf of the Board

Date