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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
DANIEL D. COOPER,	:	
RESPONDENT.	:	LS0510192APP

Division of Enforcement Case No 02 APP 039

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Daniel D. Cooper
W4015 Potter Rd.
Elkhorn, WI 53121

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 in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Daniel D. Cooper (“Respondent”), date of birth 02/13/53, is duly licensed as a certified residential appraiser in the State of Wisconsin having license # 9-114. This license was first granted to him on 10/14/91 and is current through 12/31/05.
2. Respondent’s last reported address on file with the Department of Regulation and Licensing is W4015 Potter Rd., Elkhorn, WI 53121.
3. On or about July 17, 2002, Austin Mortgage Company in Mequon, Wisconsin,

ordered an appraisal from Respondent for property located at 8624 45th Ave., Kenosha, WI 53412 (“the subject property”).

4. Respondent agreed to do the Kenosha appraisal for Austin Mortgage as a courtesy to them, when ordinarily he performs appraisals in Walworth County.

5. Respondent completed his field inspection of the subject property on or about July 22, 2002, and prepared and signed a written appraisal report for the subject property on or about July 23, 2002. Respondent emailed the appraisal report to Austin Mortgage Company on or about July 24, 2002.

6. M&I Bank, the proposed lender for the loan originated by Austin Mortgage, reviewed Respondent’s appraisal and felt that the value of the subject property was overstated and that the comparables used were inappropriate for the subject property. As a result, the loan transaction was not completed.

7. M&I Bank filed a complaint against Respondent with the Department of Regulation and Licensing alleging that Respondent “highly overstated” the value of the subject property and that the comparables used were “highly upscale” to the subject property.

8. The subject property was 23 years old and had 2,037 square feet of living area. The comparables Respondent utilized were 10-12 years newer than the subject property and were located in an area five miles north of the subject property. One of the comparables utilized was 2,540 square feet of living area, and another comparable was 2,947 square feet.

9. The appraisal for the subject property was reviewed by the Department and by a Real Estate Appraiser Board Case Advisor, and it was determined that the Respondent did not comply with the Uniform Standards of Professional Appraisal Practice (USPAP) in his appraisal of the subject property in the following respects:

Standards Rule 1-1(b) by committing a substantial error of commission in his use of upscale comparables from a different market which inflated the value of the subject property;

Standards Rule 1-1(c) by rendering appraisal services in a careless or negligent manner by making a series of errors, including: performing an appraisal in a market area with which he was not familiar, at the lender’s request; using upscale comparables from a different market when more similar properties could have been used; overstating the value of the subject property; by not having his certification and expiration date on the appraisal report; by not completing all pages of the appraisal report; and by including personal property in the value of the subject property—an above ground pool and hot tub—without identifying it as such or explaining why it was considered;

Standards Rule 1-2(d) by not properly identifying the effective date of the appraiser’s opinions and conclusions as the date the field inspection was completed;

Standards Rule 1-2(e) by including personal property in the value—an above ground pool and hot tub—without identifying it as such or explaining why it was considered; and

Standards Rule 2-3 by not having a signed certification and expiration date on the report and by not completing all the pages of the report.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraiser’s Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 458.26, and is authorized to enter in the attached Stipulation pursuant to Wis. Stat. § 227.44 (5).

2. The Respondent, Daniel D. Cooper, by his conduct as set forth above in the Findings of Fact, violated USPAP Standards Rules 1-1(b), 1-1(c), 1-2(d), 1-2(e) and 2-3, which thereby constitutes a violation of Wis. Admin. Code § RL 86.01(1) and Wis. Stat. § 458.26 (3)(b) and (c).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent Daniel D. Cooper is REPRIMANDED for the conduct set forth above.
2. Within ninety (90) days of the date this Order is signed, Respondent shall take and successfully complete an Appraisal Institute course in Ethics. This course shall not be submitted for or applied to continuing education credit required for renewal of licensure under Wis. Admin. Code § RL 85.01(1).
3. Respondent shall, within ninety (120) days from the date this Order is signed, pay COSTS of this proceeding in the amount of ONE-THOUSAND EIGHT-HUNDRED DOLLARS (\$ 1,800.00).
4. Respondent Daniel D. Cooper's certified residential appraiser license (# 9-114) shall be LIMITED for a period of at least one (1) year commencing ten (10) days from the date of this Order as follows:
 - a. Respondent shall be limited to the completion of no more than forty (40) appraisals per month;
 - b. Respondent shall be limited to the performance of residential appraisals within a 30 mile radius of the city of Whitewater, Wisconsin, or within a 20 mile radius of the city of Elkhorn, Wisconsin; and
 - c. Respondent shall not provide any supervisory services or assistance for an appraisal completed by anyone other than him.
5. Respondent shall provide proof to the Department that he is abiding by said limitations by having a licensed real estate or accounting professional submit a notarized statement to the Department Monitor on a monthly basis stating the number of appraisals completed by Respondent during the preceding month and providing the street addresses of the subject properties appraised during the preceding month. Said notarized statement shall be submitted to the Department Monitor no later than the 20th day of each month following the first full month after the issuance of this Order. Respondent shall pay any and all expenses or costs associated with submitting the notarized statement to the Department
6. Said limitations shall be removed, upon approval by the Board, by Respondent submitting a request to the Board for removal of the limitations after the one-year period has expired.
7. Proof of successful class completion, payment of costs (made payable to the Wisconsin Department of Regulation and Licensing), and notarized statements required by this Order, and any request for removal of the limitations, shall be mailed, faxed or delivered to the Department Monitor at this address:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 261-7904
Fax (608) 266-2264
8. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license and certification. In its discretion the Board may, in the alternative, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of the costs, proof of completion of an Ethics class, proof of compliance with the license limitations, or in the event Respondent violates the license limitations, as set forth above,

Respondent’s license and certification SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By:	Mark P. Kowbel	10/19/05
	Member of the Board	Date