

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
MICHAEL F. SMIGIELSKI, : LS06030110APP
RESPONDENT. :

Division of Enforcement Case No. 04 APP 048

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

Michael F. Smigielski
3701 West Holmes Avenue
Greenfield, WI 53221

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. Michael F. Smigielski (Date of Birth: May 30, 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 #9-982). These certificates were first granted on June 27, 1995, and are current through December 31, 2005.
2. Mr. Smigielski's most recent address of record with the Department of Regulation and Licensing is 3701 West Holmes Avenue, Greenfield, WI 53221.
3. On July 4, 2004, the United States Department of Housing and Urban Development (HUD) removed Mr. Smigielski from the Federal Housing Administration (FHA) Appraiser Roster for period of 6 months. The reasons for the removal were for deficiencies in 5 appraisals conducted in the Milwaukee, Wisconsin area. HUD alleged that Mr. Smigielski's appraisals violated HUD and Uniform Standards of Professional Appraisal Practice (USPAP) requirements.
4. In order to return to the FHA Appraiser Roster, Mr. Smigielski was required to complete the 6 month suspension, seek remedial education in preparation of FHA Comprehensive Valuation Package and/or residential appraisal preparation and reporting procedures, and submit an acceptable FHA Appraisal Register application.

5. Mr. Smigielski completed all the continuing education, made an acceptable FHA Appraisal Register application and completed the 6 month suspension. Mr. Smigielski was returned to the FHA Appraiser Roster on January 5, 2005.
6. In resolution of this matter, Mr. Smigielski consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction over this matter pursuant to Wis. Stats. sec. 458.26.
2. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached stipulation, pursuant to Wis. Stats. sec. 227.44(5).
3. By the conduct described above Michael F. Smigielski has violated:
 - a. Wis.Stats. sec. 458.26(3)(c). Disciplinary proceedings shall be conducted by the board according to rules promulgated under s. 440.03(1). The department may deny any certificate under this chapter, and the board may limit, suspend or revoke any certificate under this chapter or reprimand or impose additional continuing education requirements on the holder of a certificate under this chapter, if the department of board finds that the applicant for or holder of the certificate has done any of the following”

(c) Engaged in conduct while practicing as an appraiser which evidences a lack of knowledge or ability to apply professional principles or skills.
 - b. 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.
 - c. Wis. Admin. Code Sec. RL 86.01(2). All appraisals performed in conjunction with federally related transactions and non-federally related transactions shall conform to the uniform standards of professional appraisal practice set forth in Appendix I.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Michael F. Smigielski (certificate #9-982) is **REPRIMANDED**

1. Within ninety (90) days of the effective date of this Order, Mr. Smigielski shall pay the **full costs in the amount of four hundred twenty five dollars (\$425.00)** of this proceeding.
2. Any 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
Phone: 608-261-7904
Fax: 608-266-2264

The full 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 Mr. Smigielski shall fail to pay the partial assessment of costs or fails to obtain a written extension from the Board to complete same, then Mr. Smigielski shall be considered to be in violation of the Board's Order and may be subjected to

further discipline.

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: Mark P. Kowbel
On Behalf of the Board

3/1/06
Date