

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

MARK R. TELLEN,

RESPONDENT.

:
:
: **FINAL DECISION AND ORDER**
:
: **LS06030111APP**

Division of Enforcement Case No. 03 APP 006

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

Mark R. Tellen
1605 North 12th Street
Sheboygan, WI 53081

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

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

FINDINGS OF FACT

1. Respondent Mark R. Tellen (“Respondent”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 1605 North 12th Street, Wisconsin 53081, and whose date of birth is November 17, 1947, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-534). The certificate was first granted on December 10, 1992, and will expire on December 14, 2007.
2. Respondent agreed to appraise real estate located at 1129 St. Clair Avenue, Sheboygan, WI 53081. On December 14, 2002, Respondent visited the property in the course of preparing the appraisal. At that time, Respondent told the client that the client would receive the appraisal report the next week.
3. Respondent failed to provide the appraisal report the next week. A series of contacts occurred between Respondent and his client, with Respondent pledging to complete the appraisal report as late as February 7, 2003. Ultimately, on February 10, 2003, Respondent agreed to refund the fee paid by the client. However, Respondent failed to refund the fee paid by the client, and, ultimately, the client was forced to sue Respondent in small claims court.
4. On March 20, 2003, the Department of Regulation and Licensing, Division of Enforcement, sent a letter to Respondent requesting information regarding this matter on behalf of the complaint screening panel of the Real Estate Appraisers Board. The letter asked Respondent to provide the information requested within ten (10) days. Additionally, Investigator Willie E. Garrette of the Division of Enforcement sent a letter to Respondent on October 8, 2003, via certified mail. In the letter Mr. Garrette requested information pertaining to the investigation of this matter.
5. Respondent did not provide any information regarding this matter until December 29, 2003. In his letter Respondent noted that personal issues had, “affected my ability to work at a strong pace and for more than 40 hours a week.” Respondent did not claim that he was unable to work or otherwise perform the appraisal assignment that he had accepted, and Respondent did not claim that any personal issue had made it impossible for him to respond to the Board for a period of weeks or months.
6. Per Wis. Stat. § 458.26(3)(c), an appraiser is subject to discipline if he or she has, “Engaged in conduct while

practicing as an appraiser which evidences a lack of knowledge or ability to apply professional principles and skills.”

7. Per Wis. Stat. § 458.26(3)(b), an appraiser is subject to discipline if he or she has, “Engaged in unprofessional or unethical conduct in violation of rules promulgated under s. 458.24.”

8. Per Wis. Admin. Code § RL 86.01(10), “After a request for information made by the Board, failing to cooperate in a timely manner with the board’s investigation of complaints filed against the licensed or certified appraiser. There is a rebuttable presumption that a certified or licensed appraiser who takes longer than 30 calendar days to respond to a request for information by the board has not acted in a timely manner under this subsection.”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.

2. The Wisconsin Real Estate Appraisers Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

3. By failing to complete the appraisal assignment in a timely manner, while failing to refer the client to another professional for timely completion of the assignment, as described in paragraphs 2-3 of the Findings of Fact, above, Respondent engaged in conduct evidencing an inability to apply professional principles, contrary to Wis. Stat. § 458.26(3)(c), thereby subjecting himself to discipline.

4. By failing to respond to the Board’s request for information for a period of nine months, as described in paragraphs 4-5 of the Findings of Fact, above, Respondent engaged in unprofessional conduct, contrary to Wis. Admin. Code § RL 86.01(10), thereby subjecting himself to discipline per Wis. Stat. § 458.26(3)(b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent MARK R. TELLEN shall, in lieu of a reprimand, take and successfully complete the following as remedial education, which shall not count towards his continuing education requirements, within one year of the date of signing of this Order: Business Practices and Ethics conducted by the Appraisal Institute, to include any available testing component offered for this course. Proof of successful completion shall be submitted to the Department Monitor.

IT IS FURTHER ORDERED that:

2. Respondent shall pay costs of this investigation in the amount of eight hundred and fifty (\$850.00) dollars within ninety (90) days of the signing of this Order.

3. All payments and proof of completion of education required by this order to be submitted to the Department Monitor shall be mailed, faxed or delivered to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

4. Case number 03 APP 006 is hereby closed.

5. 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. The Real Estate Appraisers Board in its discretion 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 that Respondent fails to timely submit any payment of costs as set forth above, or fails to comply with the terms of this Order, the Respondent’s license and certification (#9-534) SHALL BE SUSPENDED, without further notice or hearing, until such time as the Respondent complies with the terms of this Order.

Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel
A Member of the Board

3/1/06
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
MARK R. TELLEN,	:	
	:	LS _____
RESPONDENT.	:	

Division of Enforcement Case No. 03 APP 006

It is hereby stipulated and agreed, by and between Mark R. Tellen, Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a pending investigation of Respondent’s licensure by the Division of Enforcement (03 APP 006). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Real Estate Appraisers Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board’s order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Appraisers Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Board adopt this Stipulation, the Board’s final decision and order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

MARK R. TELLEN

Respondent
1605 North 12th Street
Sheboygan, WI 53081

Date

MARK A. HERMAN

Attorney, Division of Enforcement
1400 East Washington Avenue
Madison, WI 53708-8935

Date

[Case No. 03 APP 006; \$850.00 Costs; Education.]