

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN RE THE APPLICATION OF	:	
	:	FINAL DECISION AND ORDER
ANDREW YAKESH	:	
	:	LS0604101APP
RESPONDENT.	:	

Division of Enforcement Case No. 05 APP 078

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

Andrew Yakesh
3319 Eddy Lane
Eau Claire, WI 54703

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 Secretary of the Department of Regulation and Licensing or her Designee (Secretary or Designee). The Secretary or Designee has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Secretary or Designee adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Applicant Andrew Yakesh (“Applicant”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 3319 Eddy Lane, Eau Claire, Wisconsin 54703, does not presently hold any license or certificate granted by the Department.
2. On or about May 16, 2005, Applicant signed an application for a credential as a real estate appraiser.
3. As part of the application process, the Real Estate Appraisers Application Advisory Committee reviewed three appraisals for which the Applicant claimed hours of experience in application for the credential. The reviewer concluded that the appraisals submitted contained violations of the following provisions of the Uniform Standards of Professional Appraisal Practice (“USPAP”):
 - a. 2004 and 2005 USPAP Standards Rule 2-2(b)(i), by failing to identify the intended user of the appraisal report in the report;
 - b. 2004 and 2005 USPAP Standards Rule 2-2(b)(ii), by failing to state the intended use of the appraisal report in the report;
 - c. 2004 and 2005 USPAP Standards Rule 2-2(b)(vii), by failing to adequately identify the scope of work performed to develop the report in the report;
 - d. 2004 and 2005 USPAP Standards Rules 2-3 and 2-2(b)(vii) by failing to disclose in the certification statement and failing to summarize in the appraisal report the significant appraisal report development assistance provided by the Applicant to the licensees signing the report;
 - e. 2004 and 2005 USPAP Standards Rule 2-2(b)(ix) by failing to indicate in the appraisal report how the site value was determined when employing the Cost Approach to valuation; and
 - f. 2004 and 2005 USPAP Standards Rule 2-2(b)(ix) by failing to provide in the report any reasoning for adjustments made when employing the Sales Comparison Approach to valuation.
4. Per Wis. Admin. Code § RL 83.01(3), “...work claimed... for appraisal experience credit shall: (a) Be in compliance with the uniform standards of professional appraisal practice, as in effect at the time the appraisals were prepared.”
5. There is no evidence of intent on the part of the Applicant or the licensees to create misleading reports, and

the licensees who signed the reports have not previously been disciplined by the Real Estate Appraisers Board.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction to act in these matters pursuant to Wis. Stat. § 440.03(13).
2. The Wisconsin Department of Regulation and Licensing has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stats. § 227.44(5).
3. Work experience submitted by the Applicant for the purpose of receiving a credential was not in compliance with the 2004 and 2005 Uniform Standards of Professional Appraisal Practice Standards Rules 2-2(b) and 2-3, contrary to Wis. Admin. Code § RL 83.01(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Applicant ANDREW YAKESH shall be issued a LIMITED license as a licensed appraiser; the license shall be LIMITED to require that all appraisals signed by the Applicant shall be signed by a supervisory appraiser, who shall be a licensee whose license has never been suspended, limited or revoked by the Real Estate Appraisers Board; the limitation shall be automatically removed upon proof of completion of education required by this Order;
2. Applicant ANDREW YAKESH shall 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: Basic Appraisal Procedures conducted by the Appraisal Institute.

IT IS FURTHER ORDERED that:

3. Respondent shall pay costs of this investigation in the amount of one hundred and eighty-five (\$185.00) dollars within ninety (90) days of the signing of this Order.
4. All payments and information required by this order to be submitted to the Department Monitor shall be mailed 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

5. Case number 05 APP 078 is hereby closed.
6. 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 Applicant'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.
7. This Order is effective on the date of its signing.

DEPARTMENT OF REGULATION AND LICENSING

By: Celia M. Jackson
Secretary or Designee

4/10/06
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN RE THE APPLICATION OF	:	
	:	STIPULATION
ANDREW YAKESH,	:	
	:	LS _____
APPLICANT.	:	

Division of Enforcement Case No. 05 APP 078

- It is hereby stipulated and agreed, by and between Andrew Yakesh, Applicant; 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 request for a license denial hearing relating to Andrew Yakesh (Applicant), by the Division of Enforcement (04 APP 051). Applicant consents to the resolution of this investigation by stipulation and without the issuance of a formal notice of hearing.
 2. Applicant understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the reasons for denial of his license application, at which time he has the burden of proving his fitness for a license by a 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. Applicant has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
 4. Applicant agrees to the adoption of the attached Final Decision and Order by the Department of Regulation and Licensing (Department). 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. Applicant waives all rights to any appeal of the Department’s order, if adopted in the form as attached.
 5. If the terms of this Stipulation are not acceptable to the Department, 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 Department, the parties agree not to contend that the Department 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 may appear before the Department informally or formally, in open or closed session, without the presence of Applicant or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Department’s deliberations on the Stipulation.
 7. Applicant is informed that should the Department adopt this Stipulation, the Department’s final decision and order is a public record.
 8. The Division of Enforcement joins Applicant in recommending the Department adopt this Stipulation and issue the attached Final Decision and Order.

ANDREW YAKESH

Applicant

3319 Eddy Lane

Eau Claire, WI 54703

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date