

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	FINAL DECISION AND ORDER
JEFFREY M. MCMAHON,	:	
	:	LS0605113APP
RESPONDENT.	:	

Division of Enforcement Case No. 05 APP 093

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

Jeffrey M. McMahon
2525 West Princeton Avenue
Eau Claire, WI 54703

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 Jeffrey M. McMahon ("Respondent"), whose last known address of record with the Department of Regulation and Licensing ("Department") is 2525 West Princeton Avenue, Wisconsin 54703, and whose date of birth is September 3, 1971, possesses a certificate of licensure and a certificate of certification to practice as a licensed appraiser (#4-1380). The certificate was first granted on September 14, 2001, and will expire on December 14, 2007.
2. On or about March 17, 2005, Respondent signed an appraisal of real property located at 1793 160th Street, New Richmond, Wisconsin.
3. Respondent has violated 2005 Uniform Standards of Professional Appraisal Practice ("USPAP") Ethics Rule, Record Keeping section, by failing to prepare and "retain a work file for a period of at least five (5) years after preparation" of the appraisal report. 2005 USPAP line 326. Additionally, the appraisal contains violations of the following provisions of USPAP:
 - a. Standards Rule 2-2(b)(i), by failing to identify the intended user of the appraisal report in the report;
 - b. Standards Rule 2-2(b)(ii), by failing to state the intended use of the appraisal report in the report;
 - c. Standards Rule 2-2(b)(vii), by failing to adequately identify the scope of work performed to develop the report in the report;
 - d. 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. 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. 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 86.01(2), “All appraisals... shall conform to the uniform standards of professional appraisal practice...” Per Wis. Admin. Code § 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 I” (Appendix I contains the Uniform Standards of Professional Appraisal Practice).

5. Per Wis. Admin. Code § RL 86.01(8), “All certified and licensed appraisers shall maintain records as required in s. 458.18, Stats.” Per Wis. Stat. § 458.18, “a certified appraiser or licensed appraiser shall retain for at least 5 years the originals or true copies of each appraisal report prepared by the appraiser and all other records that, in the opinion of the appraiser, are material to each appraisal report prepared by the appraiser.”

6. There is no evidence of intent on the part of Respondent to create misleading reports, and Respondent has not previously been disciplined by the Board.

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 comply with the 2004 Uniform Standards of Professional Appraisal Practice, as set forth in paragraph 3 of the findings of fact, and failing to comply with Wis. Stat. § 458.18, as set forth in paragraph 5 of the findings of fact, Respondent has subjected himself to discipline per Wis. Stat. § 458.26(3)(b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent JEFFREY M. MCMAHON shall, in lieu of a reprimand, take and successfully complete the following remedial education, which shall not count towards his continuing education requirements, within one year of the date of signing of this Order: (a) Basic Appraisal Procedures conducted by the Appraisal Institute, and (b) Business Practices and Ethics conducted by the Appraisal Institute, to include any available testing component offered for either 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 one hundred and fifty (\$150.00) 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 05 APP 093 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 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. 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 (#4-1380) SHALL BE SUSPENDED, without further notice or hearing, until 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

5/10/06
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
JEFFREY M. MCMAHON,	:	
	:	LS _____
RESPONDENT.	:	

Division of Enforcement Case No. 05 APP 093

- It is hereby stipulated and agreed, by and between Jeffrey M. McMahon, 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 (05 APP 093). 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.

JEFFREY M. MCMAHON

Respondent

2525 West Princeton Avenue

Eau Claire, WI 54703

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date

[Case No. 05 APP 093; Costs \$150.00; Education.]