

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**
JULIE M. SCHMITZ and :
GERALD J. LONG :
 : **LS0607126APP**
 :
RESPONDENTS. :

Division of Enforcement Case No. 04 APP 039

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

Julie M. Schmitz
705 Terrace Avenue
Marinette, WI 54143

Gerald J. Long
W7380 Mills Street
Shawano, WI 54166

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 Julie M. Schmitz (“Schmitz”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 705 Terrace Avenue, Marinette, Wisconsin 54143, and whose date of birth is July 10, 1964, possesses a certificate of licensure and a certificate of certification to practice as a licensed appraiser (#4-1494). The license was first granted on November 13, 2002, and expires on December 14, 2007.
2. Respondent Gerald J. Long (“Long”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is W7380 Mills Street, Shawano, Wisconsin 54166, and whose date of birth is June 5, 1956, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-1204). The license was first granted on November 6, 2000, and expires on December 14, 2007.
3. On March 19, 2004, Ms. Schmitz and Mr. Long signed an appraisal report of real property located at W5835 Raven Road, Wausaukee, WI, including a certification statement.
4. The appraisal report failed to comply with several rules of the 2004 Uniform Standards of Professional Appraisal Practice (“USPAP”) including, but not limited to, the following:
 - a. USPAP Standards Rule 1-2(a), which requires an appraiser to, “identify the client and other intended users;” by failing to identify the intended user(s) of the report;

b. USPAP Standards Rule 1-2(b), which requires an appraiser to, “identify the intended use of the appraiser’s opinions and conclusions;” by failing to identify the intended use of the report;”

c. USPAP Standards Rule 1-2(e), which requires an appraiser to, “identify characteristics of the property that are relevant to the purpose and intended use of the appraisal, including: (i) its... physical... attributes;” by identifying the property in the appraisal report as consisting of five (5) acres, when, in fact, the property consisted of twenty (20) acres;

d. USPAP Standards Rule 1-2(h), which requires an appraiser to, “identify any hypothetical conditions necessary in the assignment...” by using a hypothetical condition that the property consisted of five (5) acres, rather than twenty (20) acres, yet failing to identify same as a hypothetical condition in the appraisal report; and

e. USPAP Standards Rule 1-4(a), which requires an appraiser to, “analyze such comparable sales data as are available to indicate a value conclusion...” by providing no support for the value of the land.

5. Mr. Long also failed to identify his licensure type as “Wisconsin certified residential” or a permissible equivalent on the appraisal report.

6. Per Wis. Admin. Code § RL 86.01(1), “Certified and licensed appraisers shall comply with... the standards set forth in Appendix I. A violation of any provision of this chapter may result in disciplinary action under s. 458.26, Stats.

7. Per Wis. Admin. Code § 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.”

8. 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.”

9. Per Wis. Admin. Code § RL 86.03(1), “each licensed and certified appraiser shall place his or her certificate number adjacent to or immediately below the title... “Wisconsin certified residential appraiser...”

10. Per Wis. Stat. § 458.26, (3)(i), an appraiser is subject to discipline if he or she has, “Violated this chapter or any rule promulgated under this chapter.”

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 use the title, “Wisconsin certified residential appraiser,” on an appraisal report, **Gerald J. Long** has committed a violation of Wis. Admin. Code § RL 86.03(1), thereby subjecting himself to discipline per Wis. Stat. § 458.26(3)(i).

4. By failing to comply with USPAP Standards, as set forth above in paragraph four (4) of the findings of fact, **Gerald J. Long** and **Julie M. Schmitz** have committed five (5) or more violations of Wis. Admin. Code § RL 86.01 (1) and (2), thereby subjecting themselves to discipline per Wis. Stat. § 458.26(3)(b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **Gerald J. Long** and **Julie M. Schmitz** shall, in lieu of a reprimand, each successfully complete the following educational courses, including the exam portion of the courses, within one (1) year of the date of signing of this Order: (a) Residential Report Writing and Case Studies, offered by the Appraisal Institute; and (b) Residential Sales Comparison and Income Approach, offered by the Appraisal Institute. The education required by this Order may not be counted towards Respondents continuing education obligations. Proof of completion shall be provided to the Department Monitor.

IT IS FURTHER ORDERED that:

2. Each Respondent shall pay half of the costs of this investigation, which totals six hundred (\$600.00) dollars, by August 1, 2006. Respondents shall be held jointly and severally liable for the payment of costs.

3. All payments and proof of completion of education required by this order to be submitted to the Department M 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 04 APP 039 is hereby closed.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well and may result in a summary suspension of Respondents' licenses and certifications. 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 c terms of this Order. In the event that Respondent(s) fails to timely submit any payment of costs as set forth above, or fails to cc with the ordered education, the licenses and certifications of Respondent(s) not in compliance with this Order (#4-1494 and/or 1204) SHALL BE SUSPENDED, without further notice or hearing, until Respondent(s) has complied with the terms of this O.

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

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel
A Member of the Board

7/12/2006
Date

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

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **STIPULATION**
JULIE M. SCHMITZ and :
GERALD J. LONG :
 : **LS** _____
 :
RESPONDENTS. :

Division of Enforcement Case No. 04 APP 039

It is hereby stipulated and agreed, by and between Julie M. Schmitz, Respondent; Gerald J. Long, 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 Respondents' licensures by the Division of Enforcement (04 APP 039). Respondents consent to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondents understand that by signing this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; 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. Respondents have been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
4. Respondents agree 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. Respondents waive all rights to any appeal of the Board's order, if adopted in the form 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. Respondents are 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 Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

JULIE M. SCHMITZ

Respondent
705 Terrace Avenue
Marinette, WI 54143

Date

GERALD J. LONG

Respondent
W7380 Mills Street
Shawano, WI 54166

Date

MARK A. HERMAN

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

Date

[Case No. 04 APP 039: Education and \$600 Costs.]