# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

#### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the
  Department of Regulation and Licensing data base. Because this data base changes
  constantly, the Department is not responsible for subsequent entries that update, correct or
  delete data. The Department is not responsible for notifying prior requesters of updates,
  modifications, corrections or deletions. All users have the responsibility to determine whether
  information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the
  appeal. Information about the current status of a credential issued by the Department of
  Regulation and Licensing is shown on the Department's Web Site under "License Lookup."
  The status of an appeal may be found on court access websites at:
  <a href="http://ccap.courts.state.wi.us/InternetCourtAccess">http://ccap.courts.state.wi.us/InternetCourtAccess</a> and <a href="http://www.courts.state.wi.us/wscca">http://www.courts.state.wi.us/licenses</a>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at <a href="web@drl.state.wi.gov">web@drl.state.wi.gov</a>

IN THE MATTER OF :

DISCIPLINARY PROCEEDINGS AGAINST : FINAL DECISION AND ORDER

LS06101812APP

BRIAN K. GORGES, : RESPONDENT.

#### Division of Enforcement Case No. 06 APP 037

The parties to this action for the purposes of Wis. Stat. sec. 227.53 are:

Brian K. Gorges 313 West Crossing Meadows Lane Appleton, Wisconsin 54913

Real Estate Appraisers Board Post Office Box 8935 Madison, Wisconsin 53708-8935

Department of Regulation and Licensing Division of Enforcement Post Office Box 8935 Madison, Wisconsin 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 Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

#### **FINDINGS OF FACT**

- 1. Brian K. Gorges (Date of Birth: June 22, 1959) possesses a certificate of licensure to practice in the state of Wisconsin as a Licensed Appraiser (using certificate number 4-1105). This certificate was first granted on March 10, 1998, and is current until December 14, 2007.
- 2. Mr. Gorges' most recent address known to the Department of Regulation and Licensing (hereinafter Department) is 313 West Crossing Meadows Lane, Appleton, Wisconsin 54913.
- 3. Mr. Gorges was reprimanded by the Wisconsin Real Estate Appraiser Board in 2004 for failure to complete the required number of continuing education hours during the 2002-2003 license period and for making a material misstatement attesting completion of the required continuing education on a 2003 renewal application. Mr. Gorges was reprimanded and ordered to pay a forfeiture and costs.
- 4. Each person possessing a certificate of licensure to practice as a Licensed Appraiser in the state of Wisconsin must renew those certificate of licensure biennially, by January 1 of each even-numbered year. [Wis. Stat. sec. 440.08(2)(a)12.]
- 5. To be eligible to renew the certificate of licensure for the next biennial registration period, the licensee must have completed at least 28 hours of Department approved continuing education in the previous biennial registration period. [Wis. Stat. sec. 458.13. and Wis. Admin. Code § RL 85.01(1)]
- 6. Prior to January 1, 2005, the Department sent Mr. Gorges a Licensed Appraiser Renewal Application to execute and return with the required fee if Mr. Gorges wished to renew his certificate of licensure in the state of Wisconsin for the January 1

2005, through December 14, 2007, biennium.

That Licensed Appraiser Renewal Application contains the following language, immediately above the line which Mr. Gorges was to date and sign:

"I have completed 28 hours of Department-approved education credits, including at least 7 hours in the Uniform Standards of Professional Appraisal Practice (USPAP), between January 1, 2004 and December 31, 2005. I have evidence of this which I will furnish to the Department upon request."

That Licensed Appraiser Renewal Application contains the following language immediately below the line which Mr. Gorges was to date and sign:

"MAKING A FALSE STATEMENT IN CONNECTION WITH ANY APPLICATION FOR CREDENTIAL IS GROUNDS FOR REVOCATION OR DENIAL."

- 7. On November 14, 2005, Mr. Gorges signed and returned the Licensed Appraiser Renewal Application certifying that he had completed the continuing education requirements of the Real Estate Appraisers Board during the January 1, 2004, through December 31, 200 5. A copy of the Licensed Appraiser Renewal Application, dated November 14, 2005, is attached as Exhibit A and is incorporated herein by reference.
- 8. On January 27, 2006, as part of a random audit which the Real Estate Appraisers Board conducted of its licensees, Mr. Gorges was sent a letter requesting that he send the Board verification that he had completed the 28 hours of approved continuing education, which he claimed to have completed prior to renewing his certificates for the January 1, 2005, through December 14, 2007, biennium.
- 9. Mr. Gorges submitted documentation that he had completed 28 hours of approved continuing education hours during the January 1, 2004, through December 31, 2005, biennium. One of the courses submitted by Mr. Gorges, however, was taken and completed in 2003. That course was not included in the total for the 28 hours of approved continuing education needed and Mr. Gorges, consequently, did not have the required approved continuing education hours need in the January 1, 2004, through December 31, 2005, biennium. Mr. Gorges completed only 21 hours of approved continuing education during the January 1, 2004, through December 31, 2005, biennium.
- 10. Mr. Gorges did not complete the required 28 hours of approved continuing education during the January 1, 2004, through December 31, 2005, biennium, prior to renewing his certificate of licensure for the January 1, 2006, through December 14, 2007, biennium.
- 11. Mr. Gorges made a material misstatement on his November 14, 2005, Licensed Appraiser Renewal Application when he attested that he had completed 28 hours of approved continuing education during the January 1, 2004, through December 31, 2005, biennium.

#### **CONCLUSIONS OF LAW**

- 1. The Wisconsin Real Estate Appraisers Board has jurisdiction over this matter, pursuant to Wis. Stat. sec. 458.26, and Wis. Admin. Code Ch. RL 85.
- 2. The Wisconsin Real Estate Appraisers Board is authorized to enter into the attached stipulation, pursuant to Wis. Stat. sec. 227.44(5).
- 3. By not completing the required 28 continuing education hours during the required time frame Brian K. Gorges has violated:
  - a. Wis. Stat. sec. 458.13. Continuing Education Requirements.

- b. Wis. Stat. sec. 458.26(3)(a). Made a material misstatement in an application for the certificate or renewal of the certificate or in any other information furnished to the Board or Department.
- c. Wis. Stat. sec. 458.26(3)(b), Stats. Engaged in unprofessional conduct in violation of rules promulgated under Wis. Stat. sec. 458.24.
- d. Wis. Stat. sec. 458.26(3)(i). Violated this chapter or any rule promulgated under this chapter.
- e. Wis. Admin. Code § RL 85.01. Continuing Education Requirements.

### **ORDER**

#### NOW, THEREFORE, IT IS HEREBY ORDERED that:

- 1. Brian K. Gorges (certificate #4-1105) is hereby SUSPENDED for a period of thirty (30) days. The suspension shall start fifteen days after the effective date of this Order.
- 2. Within **one hundred twenty (120) days** of the effective date of this Order, Mr. Gorges must provide proof sufficient to the Board that he has completed 28 hours of approved continuing education, which shall only be applied to the credit hours Mr. Gorges should have obtained during the January 1, 2004, through December 31, 2005, biennium.
- 3. IT IS FURTHER ORDERED that Mr. Gorges shall pay a forfeiture in the amount of five hundred dollars (\$500.00), and the amount of one hundred twenty-five dollars (\$125.00) for full assessment of costs of this proceeding, all to be paid within one hundred twenty (120) days of the effective date of the Board's Order.
- 4. The assessed forfeiture and full assessment of costs shall be payable by cashier's check or money order made payable to the Department Monitor (Place case number on the check or money order and the words "Forfeiture" and/or "Costs").

Department Monitor Division of Enforcement Post Office Box 8935 Madison, Wisconsin 53708-8935

- 5. If Brian K. Gorges fails to provide proof sufficient to the Board concerning the continuing education, fails to pay the forfeiture and full assessment of costs, or fails to obtain a written extension from the Board to complete same, then Brian K... Gorges shall be considered to be in violation of the Board's Order and may be subjected to further discipline.
- 6. 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 10-18-2006 On Behalf of the Board Date

GRAN PLEA	NTIAL NO. 105-004 IT DATE: 03/10 ASE COMPLET ent by Credit Ca ent by Credit Ca can by Credit Ca ent by Credit Ca ent by Credit Ca ent by Credit Ca	/1998 TE THE BACK rd: VISA	PARTMENT O	F REGU	APPRAISE  DER TO RE  AMEX  Signature	AND LAWNS R PIN: HRHX7X NEW DISCOVER	12/31/2005 SING  Amt Pd. \$  Exp. Date DISCLOSE MY NAME/ADDRES	231.00 If late, and \$25.00 2 3 1 .0 0
313 V	N K GORGES V CROSSING M ETON WI 54913	EADOWS LN		Di Pi M	O BOX 2974 IILWAUKEE	T OF REGULATION  WI 53201-2974	ON AND LICENSING  NT  10110500023100	00256003
FULL PAY NOT APPL	MAILING, AS INDICA MENT INCLUDING A LY FOR RENEWAL B	NY PENALTY PEES Y THE RENEWAL CE		ST BE REC SE WILL EX	EWED BY THE PIRE AND YOU	DEPARTMENT BEFO MAY HOT USE CERT	PARTMENT ON OR BEFORE THE IRE YOUR LICENSE WILL BE ISS AIN TITLES, AS NOTED ABOVE.	DUE DATE. THE UED. IF YOU DO
PLEASI	E COMPLETE T I have complete Standards of Pr of this which is	HE FOLLOWING ed 28 hours of C rofessional App will furnish to th tial was granted	S INFORMATION Department-appro raisal Practice (Use Department up	WHICH IS ved cont SPAP), is on reque	s REQUIRE tinuing educ tetween Jar st. OR of 14 hours of	D IN ORDER TO sation credits, in usery 1, 2004 and of Department-ap Appraisal Practi	RENEW YOUR LICENSE: cluding at least 7 hours in d December 31, 2005. The proved continuing educa ce (USPAP), between Jan	the Uniform we evidence
Date: _ MAKING	A FALSE STATEM	DS IENT IN CONNECTI	ON WITH ANY APPLIX	CATION FO	Signatus OR CREDENTI	ala:	R REVOCATION OR DENIAL.	

STATE'S EXHIBIT

Α

STATE OF WISCONSIN BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF :		
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
	:	LS#
BRIAN K. GORGES,	:	
RESPONDENT.	:	

#### Division of Enforcement Case No. 06 APP 037

It is hereby stipulated between Brian K. Gorges, Respondent, and John C. Temby, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

- 1. This Stipulation is entered into as a result of a pending investigation of Mr. Gorges by the Division of Enforcement (06 APP 037). Mr. Gorges consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
- 2. Mr. Gorges understands that by the signing of 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 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, and the Wisconsin Administrative Code.
- 3. Mr. Gorges is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this Stipulation.
- 4. Mr. Gorges agrees to the adoption of the attached Final Decision and Order by the Real Estate Appraisers Board (hereinafter "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. Mr. Gorges 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 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 the member of the Board assigned as advisor in this investigation may appear before the Board in open and closed session, without the presence of Mr. Gorges or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board 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. Mr. Gorges is informed that should the Board adopt this Stipulation, the Final Decision and Order is a public record and will be published in accordance with standard Department procedures.
  - 8. The Division of Enforcement joins Brain K. Gorges in recommending the Board adopt this Stipulation and issue the

Brian K. Gorges	Date	
Respondent		
313 West Crossing Meadows Lane		
Appleton, Wisconsin 54913		
License Number: 4-1105		
John C. Tomby	Date	
John C. Temby	Date	
Attorney	Date	
Attorney Division of Enforcement	Date	
Attorney	Date	

attached Final Decision and Order.