

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
KELLY J. MCCORMACK ,	:	LS06101818APP
RESPONDENT.	:	

Division of Enforcement Case No. 06 APP 043

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

Kelly J. McCormack
3113 S. Herman St.
Milwaukee, WI 53207

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. Kelly J. McCormack (Date of Birth: April 29, 1969) possesses a certificate of licensure to practice in the state of Wisconsin as a Licensed Appraiser (certificate number 4-1460). This certificate was first granted on June 18 2002, and is current through December 14, 2007.
2. Ms. McCormack's most recent address known to the Department of Regulation and Licensing is 3113 S. Herman St., Milwaukee, WI 53207.
3. Each person possessing certificates of licensure to practice as a Licensed Appraiser in the state of Wisconsin must renew that certificate biennially, by January 1 of each even-numbered year. [Wis. Stat. secs. 440.08(2)(a)11m and 440.08(2)(a)12]
4. 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)]
5. Prior to December 31, 2005, the Wisconsin Department of Regulation and Licensing sent Ms. McCormack a Real Estate Appraiser Renewal Application. The application was to be returned with the required fee if Ms. McCormack wished to renew her certificate of licensure in the state of Wisconsin for the January 1, 2006, through December 14, 2007, biennium. The printed Real Estate Appraiser Renewal Application that Ms. McCormack received contains the following

language:

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

6. Ms. McCormack elected to renew her certificate of licensure by completing a Real Estate Appraiser Renewal Application, certifying that she had completed the continuing education requirements of the Real Estate Appraisers Board during the January 1, 2004, through December 31, 2005, biennium.
7. As part of a random audit which the Real Estate Appraisers Board conducted of its licensees, Ms. McCormack was sent a letter, dated January 27, 2006, requesting that she send the Board verification that she had completed the 28 hours of approved continuing education, which she had claimed to have completed prior to renewing her certificate of licensure for the January 1, 2006, through December 14, 2007, biennium.
8. On February 27, 2006, Ms. McCormack forwarded a fax to the Department which stated that after checking her records she realized that she was short one 7 hour course in Construction Details and Trends. Ms. McCormack completed the additional 7 hours of approved continuing education hours in January 2006.
9. Ms. McCormack did not complete the required 28 hours of approved continuing education during the January 1, 2004, through December 31, 2005, biennium, prior to renewing her certificates for the January 1, 2006, through December 14, 2007, biennium.
10. Ms. McCormack made a material misstatement on her renewal application when she attested that she 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 credits during the required time frame Kelly J. McCormack 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). 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 Sec. RL 85.01. Continuing Education Requirements.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **Kelly J. McCormack** (certificate #4-1460) is hereby **REPRIMANDED**.
2. That Ms. McCormack shall pay a **forfeiture** in the amount of **FIVE HUNDRED dollars (\$500.00)** within 120 days from the date of this Order.
3. That Ms. McCormack shall pay **costs** in the amount of **ONE HUNDRED AND FIFTY dollars (\$150.00)** within 120 days from the date of this Order.

Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

4. 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. The 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 Respondent fails to timely submit any payment of the forfeiture or costs as set forth above, Respondent's license # 4-1460 SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

5. This Order shall become effective upon the date of its signing.

6. File 06 APP 043 be, and hereby is, closed.

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel 10-18-2006
On Behalf of the Board Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : STIPULATION
:
KELLY J. MCCORMACK, : LS _____ APP
RESPONDENT. :

Division of Enforcement Case No. 06 APP 043

It is hereby stipulated between Kelly J. McCormack, 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 Ms. McCormack by the Division of Enforcement (06 APP 043). Ms. McCormack consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Ms. McCormack understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Ms. McCormack is aware of her right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this Stipulation.
4. Ms. McCormack 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. Ms. McCormack 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 Ms. McCormack or her 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.
7. Ms. McCormack 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 Kelly J. McCormack in recommending the Board adopt this Stipulation and issu

the attached Final Decision and Order.

Kelly J. McCormack
Respondent
3113 S. Herman St.
Milwaukee, WI 53207
License number: 4-1460

Date

John C. Temby
Attorney
Division of Enforcement
Department of Regulation and Licensing
Post Office Box 8935
Madison, WI 53708-8935

Date