

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
FRANCIS W. POHLKAMP, SR., and,	:	
KEVIN M. POHLKAMP,	:	LS07022810APP
	:	
RESPONDENTS.	:	

Division of Enforcement Case No. 05 APP 041

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

Francis W. Pohlkamp, Sr.
2417 Parmenter Street
Middleton, WI 53562

Kevin M. Pohlkamp
6661 Highland Drive
Windsor, WI 53598

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 this matter agree to the terms and conditions of the attached Stipulation as the final decision of the matter, 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 Francis W. Pohlkamp Sr. ("Francis P."), whose last known address of record with the Department of Regulation and Licensing ("Department") is 2417 Parmenter Street, Middleton, WI 53562, and whose date of birth is July 26, 1924, possesses a certificate of licensure and a certificate of certification to practice as a certified general appraiser and licensed appraiser (#10-730). The certificate was first granted on July 20, 1995, and will expire on December 14, 2007.
2. Respondent Kevin M. Pohlkamp ("Kevin P."), whose last known address of record with the Department of Regulation and Licensing ("Department") is 6661 Highland Drive, Windsor, WI 53598 and whose date of birth is April 28, 1951, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser and licensed appraiser (#9-836). The certificate was first granted on April 14, 1994, and will expire on December 14, 2007.
3. On August 9, 2004, Kevin M., Francis W. and an unlicensed appraiser in training (Troy M. Pohlkamp) signed an appraisal report of real property located at 7501 and 7476 State Highway 113, Lodi, Wisconsin ("subject property"). The subject properties consisted of over 200 acres of working farmland, including two separate sets of residential and agricultural buildings. At the time of the appraisal approximately ½ of the subject properties was used as a working farm by the landowner/client, while the other ½ was leased to another person who used it as a working farm. The physical inspection of the property was conducted by Kevin M. and the unlicensed trainee. It is unclear whether and to what extent Francis W. was involved in the appraisal process.
4. Respondent has violated 2004 Uniform Standards of Professional Appraisal Practice (USPAP) by:
 - a. Failing to explicitly identify the client and intended user(s) of the report, contrary to USPAP Standards

Rule 1-2(a);

- b. Failing to describe several essential characteristics of the residences located on the subject properties, including, but not limited to, the ages, siding types, sizes, features, conditions of the residences, contrary to USPAP Standards Rule 1-2(e);
- c. Failing to include all required elements in the scope of work statement, contrary to USPAP Standards Rule 1-2(f);
- d. Failing to analyze the impact of the currently zoned uses of the subject properties, contrary to USPAP Standards Rule 1-3(a);
- e. Failing to provide any explanation for adjustments in employing the sales comparison approach, contrary to USPAP Standards Rule 1-4(a);
- f. Failing to provide any land value in the cost approach, contrary to USPAP Standards Rule 1-4(b);
- g. Failing to provide any analysis in the reconciliation of various approaches to value, contrary to USPAP Standards Rule 1-6;
- h. Identifying the reporting option as “narrative,” which is not a reporting option identified in USPAP, when the reporting option should have been identified as “limited” presented in a restricted format, contrary to USPAP Standards Rule 2-2; and
- i. Making a series of errors that undermines the credibility of the report, including, but not limited to, stating that the income approach to value was not applicable because there was no income, when, in fact, approximately ½ the property was being leased (which, in any case, does not control the application of the income approach), contrary to USPAP Standards Rule 1-1(c).

5. 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).

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. The license and certification of Respondent **Kevin M. Pohlkamp** (#9-836) shall be and hereby is **limited** to p him from appraising a working farm, or assisting any other appraiser in the performance or reporting of an appraisal of a workin **Kevin M. Pohlkamp** may petition for the removal of this limitation no sooner than one year from the date of signing of this Or and only after the successful completion of course-work offered by the American Society of Farm Managers and Rural Apprai The Board may review the course syllabus and any test results, and shall determine, in its sole discretion, that **Kevin M. Pohlk** has established minimal competency in the conduct of farm appraisals prior to the removal of the limitation.

IT IS FURTHER ORDERED that:

2. Respondents **Kevin M. Pohlkamp** (#9-836) and **Francis W. Pohlkamp, Sr.** (#10-730) shall take and successfully complete the following as remedial education by December 1, 2007, which may not be counted towards their continuing education requirements: (a) Basic Appraisal Principles conducted by the Appraisal Institute, to include the testing

component, if available.

3. Respondents shall pay costs of this investigation in the amount of five hundred (\$500.00) dollars within ninety (90) days of the signing of this Order, and shall be held jointly and severally liable for said costs.

4. 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

5. Case number 05 APP 041 is hereby closed.

6. 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 (#10-730 and #9-836, respectively). 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 Respondents fail to timely submit payment of costs set forth above, or in the event that either Respondent fails to comply with the individual's ordered education, the affected Respondent's license and certification (#10-730 and/or #9-836) SHALL BE SUSPENDED, without further notice or hearing, until the affected Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By: Mark P. Koqwbel
A Member of the Board

2/28/07
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
FRANCIS W. POHLKAMP, SR., and,	:	
KEVIN M. POHLKAMP,	:	LS _____
	:	
RESPONDENTS.	:	

Division of Enforcement Case No. 05 APP 041

It is hereby stipulated and agreed, by and between Francis W. Pohlkamp, Sr., Respondent; Kevin M. Pohlkamp, 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 (05 APP 041). 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 them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law. Respondents neither admit nor deny the facts and allegations contained in the attached Order, but admit that there is evidence from which the Board can make the proposed findings of fact and reach the proposed conclusions of 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 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 Respondents or their attorney(s), 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.

FRANCIS W. POHLKAMP, SR.
Respondent
2417 Parmenter Street
Middleton, WI 53562

Date

Kevin M. Pohlkamp
Respondent
6661 Highland Drive
Windsor, WI 53598

Date

MARK A. HERMAN
Attorney, Division of Enforcement
1400 East Washington Avenue
Madison, WI 53708-8935

Date