

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
MARVEL M. POND,	:	
	:	LS07022811APP
RESPONDENT.	:	

Division of Enforcement Case No. 05 APP 008

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

Marvel M. Pond
16674 Deer Valley Trail
Ferryville, WI 54628

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 Marvel M. Pond (“Respondent”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 16674 Deer Valley Trail, Ferryville, Wisconsin 54628, and whose date of birth is March 7, 1935, possesses a certificate of licensure and a certificate of certification to practice as a licensed appraiser (#4-1352). The certificate was first granted on March 30, 2001, and will expire on December 14, 2007.
2. At all times relevant to this complaint, Respondent has done business as, “Advantage Appraisal Services, Inc.,” with a mailing address of P.O. Box 102, Mt. Sterling, WI 54645.
3. On December 14, 2001, Respondent conducted an appraisal of real property located at W7750 Cheese Factory Road, Mauston, WI.
4. Respondent has violated the following provisions of the 2001 Uniform Standards of Professional Appraisal Practice (“USPAP”):
 - a. Standards Rule 1-1(b), which requires that an appraiser, “not commit a substantial error of omission or commission that significantly affects an appraisal,” by incorrectly identifying the size of the site as 3.3 acres, when in fact the size was 2.03 acres;
 - b. Standards Rule 1-1(c), which requires that an appraiser, “not render appraisal services in a careless or negligent manner...” by incorrectly reporting the parcel number, real estate taxes, zoning classification; failing to include the dimensions and shape of the parcel; and incorrectly reporting that the parcel had a curb and gutter, when it did not;
 - c. Standards Rule 1-2(a), which requires an appraiser to, “identify the client and other intended users,” by failing to do so;
 - d. Standards Rule 1-2(b), which requires an appraiser to, “identify the intended use of the appraiser’s

opinions and conclusions;” by failing to do so; and

- e. USPAP Standards Rule 1-2(e), which requires and appraiser to, “identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal,” by failing to correctly note characteristics of the property, as noted above in sub-paragraph b.

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).

6. There is no evidence that Respondent intended to harm the public. Respondent claims to have relied upon a real estate licensee for information, because Respondent was operating in an area where she does not have access to the Multiple Listing Service.

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 2001 Uniform Standards of Professional Appraisal Practice, as set forth in paragraph 4 of the findings of fact, Respondent has subjected herself to discipline per Wis. Stat. § 458.26(3)(b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of Respondent MARVEL M. POND (#4-1352) shall be, and hereby is LIMITED follows: (a) Respondent may not perform appraisals of properties located outside of the following Wisconsin counties: (i) Crawford, (ii) Vernon, (iii) Richland, and (iv) Grant; (b) Respondent may not rely upon information or research assistance provided by any other person; and (c) Respondent must maintain in every work file the following documents: (i) the assignment from the lender, (ii) documentation of the listing and/or sale history of the property; (iii) documentation of all comparable sales considered, whether used in the report or not; and (iv) a survey plat map of the subject property (if in existence). Respondent may petition the Board for removal of the limitation only after all terms of this Order have been complied with.

IT IS FURTHER ORDERED that:

2. Respondent shall take and successfully complete the following courses offered by the Appraisal Institute, to include the testing component: (a) Residential Site Valuation and Cost Approaches; and (b) Residential Sales Comparison and Income Approaches. One of the two courses must be completed within six months of the date of signing of this Order. The second course must be completed within one year of the date of signing of his Order. These courses may not be counted towards Respondent’s continuing education requirements.

3. Respondent shall pay costs of this investigation in the amount of five hundred and fifty (\$550.00) 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 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

4. Case number 05 APP 008 is hereby closed.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well-being 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 conditions of this Order, the Respondent's license and certification (#4-1352) SHALL BE SUSPENDED, without further notice or hearing, until such time as 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

2/28/07
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
MARVEL M. POND,	:	
	:	LS _____
RESPONDENT.	:	

Division of Enforcement Case No. 05 APP 008

It is hereby stipulated and agreed, by and between Marvel M. Pond, Respondent; Attorney Mark E. Randall, attorney for 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 008). 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 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 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, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has obtained the advice 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 her 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.

MARVEL M. POND

Respondent

16674 Deer Valley Trail

Ferryville, WI 54628

Date

MARK E. RANDALL

Mark E. Randall Law Offices

Attorney for Respondent

18529 Chezik Road

Blue River, WI 53518-9432

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date