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IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS : **ORDER OF**
AGAINST : **SUMMARY SUSPENSION**
RAY K. MILLER, JR., : **LS07022823APP**
RESPONDENT. :

DOE case file numbers 05 APP 044, 06 APP 062, 06 APP 084, 06 APP 102, & 06 APP 119

This matter came before the Real Estate Appraisers Board on February 28, 2007 as scheduled and noticed in the Notice and Petition for Summary Suspension. Attorney John Nicholas Schweitzer appeared for the Division of Enforcement of the Department of Regulation and Licensing. The Respondent appeared with his legal counsel, Attorney George B. Strother, IV of Krekeler Strother SC, 15 N Pinckney St # 200, PO Box 828, Madison, WI 53701-0828. This Order is based on the testimony of Mr. Miller and the documents submitted as evidence during the hearing.

FINDINGS OF FACT

1. The Respondent is Ray K. Miller, Jr. At all times relevant to these facts Mr. Miller held real estate appraiser's license number 4-1520 issued by the Wisconsin Department of Regulation and Licensing on February 6, 2003. Mr. Miller does business as Miller Land and Livestock Co. LLC.

Mr. Miller's last-known address on file with the Department of Regulation and Licensing is W3410 Dore Road, Suite A, Lyndon Station, WI 53944.

Informal Complaint 05 APP 044

2. An informal complaint was received by the Department on July 8, 2005 and given a Division of Enforcement case number of 05 APP 044. The complainant was Oak Street Mortgage in St. Louis, Missouri. The complaint related to an appraisal report for property at 712 Cornelia Street in Janesville, Wisconsin, signed by Ray K. Miller on June 21, 2005.

3. Mr. Miller produced four different versions of a report to be sent to the client. designated "a", "ab", "abc", and "abcd". The report identified as "RM-2169ab" contains the following errors, inconsistencies, and USPAP violations:

- a. - Marketing time is checked as more than 6 months but the report later states 30-60 days.
- b. All three comparable sales, at 1517 Blaine, 1239 Blaine, and 732 Eisenhower, were inappropriate.

4. Miller told the Department that the inappropriate comps in the "ab" report was an autofill problem, and that he had actually used entirely different comparable sales. Mr. Miller has not supplied any information about a different appraisal which would have used those three comparable sales.

5. The "abcd" report contains errors, inconsistencies, and USPAP violations:

- a. Miller made the following statement on page 8, all of which appears to be incorrect: "The appraiser did not avoid crossing over definite noticeable boundaries (i.e. highway/freeway, major arteries, rivers/creeks, railroad tracks, commercial districts, etc.). The appraiser did not avoid comparable selection from an adjacent neighborhood that better suits the design style or utility of the subject property. For instance, the subject property has a number of acres and is of log type construction. The appraiser did not consider the over improvement of the property but did travel greater distance, in other neighborhoods, to locate sales of homes with acreages and types of construction."
- b. At the bottom of page 7 Miller referred to an extraordinary assumption regarding well and septic which appears to be completely unrelated to the subject property.

Informal Complaint 06 APP 062

6. An informal complaint was received by the Department on April 24, 2006 from an anonymous complainant, and given a Division of Enforcement case number of 06 APP 062. The complaint related to an appraisal report for property at 223 West

Limit Road in Lyndon Station, Wisconsin, signed by Ray K. Miller on March 30, 2006.

7. Miller's report for his appraisal of property at 223 West Limit Road in Lyndon Station contains the following errors, inconsistencies, and USPAP violations:

- a. On page 3 of the report Miller checked the box for partial basement, but on page 4 he reported that there is no basement.
- b. On page 13 Miller said the subject "has a GLA of 1845 sf" but in the rest of the report he listed GLA as 1640sf.
- c. On page 3 Miller checked the box stating that he analyzed the contract for sale for the subject purchase transaction, but on page 4 he stated that there is no contract for sale of the property.
- d. In the grid, Miller described comparable sales 2 and 3 as ranches, but the photos do not support those descriptions.
- e. On page 15 Miller stated "all three comparables are very similar in size, and located very near to the subject," and in the following paragraph he wrote "in order to find sales that bracket the subject property, it would be necessary to consider sales from other subdivisions that are located a good distance away or that may or may not be subject to the same economic and geographic influences as the subject. Therefore, the use of these three sales is preferred to the use of an inferior sale from another subdivision," yet all of Miller's comparable sales are 10 to 62 miles away from the subject.
- f. On page 13 Miller said "the appraiser did avoid crossing over definite noticeable boundaries (i.e. highway/freeway, major arteries, rivers/creeks, railroad tracks, commercial districts, etc.) The appraiser did avoid comparable selection from an adjacent neighborhood that better suits the design style or utility of the subject property", yet he chose comps from 10-62 miles away in order to match the design style, and it would not be possible to use sales this far away without crossing over various boundaries, especially since on page 1 Miller defined the neighborhood boundaries as the Township of Viroqua, and none of the sales are from this township.

Informal Complaint 06 APP 084

8. An informal complaint was received by the Department on June 19, 2006, and given a Division of Enforcement case number of 06 APP 084. The complainant was Secured Funding Corporation in Costa Mesa, California. The complaint related to an appraisal report for property at 900 Whispering Way, Unit A, in Cottage Grove, Wisconsin, signed by Ray K. Miller on June 5, 2006.

9. Miller's report for his appraisal of property at 900 Whispering Way, Unit A, in Cottage Grove, Wisconsin contained the following errors, inconsistencies, and USPAP violations:

- a. The property was incorrectly described as being in Sparta instead of in the Village of Cottage Grove.
- b. The building is incorrectly described as 1 story instead of 2 stories.

Informal Complaint 06 APP 102

10. An informal complaint was received by the Department on July 28, 2006, and given a Division of Enforcement case number of 06 APP 102. The complainant was All American Mortgage in Madison, Wisconsin. The complaint related to an appraisal report for property at 14876 County Hwy A in Viola, Wisconsin, signed by Ray K. Miller on April 18, 2006.

11. Miller's report for his appraisal of property at 14876 County Hwy A in Viola, Wisconsin, contained the following errors, inconsistencies, and USPAP violations:

- a. Although the appraisal was done for property at 14876 County Hwy A in Viola, the report at the following places referred to property at 20359 Foley Lane in Viola:
 - line 1 of page 3,
 - line 3 of page 4,
 - in the caption to the first photo of the subject property on page 17, and
 - on line 2 of page 20.
- b. Although the estimate of value was \$158,000, the comparable sales were \$250,000, \$270,000, and \$270,000, meaning that all three comparable sales were from 58% to 70% higher than the subject property.
- c. The report says on p. 3 that there is no basement finish (and none is included in the cost approach on p.5), but it says on p. 4 that there is finish and makes upward adjustments to the subject from the sales.

- d. The report says on p. 3 that there are 0 fireplaces and on p. 4 that there is 1 fireplace.
- e. The report makes reference in the last paragraph of p. 13 that five sales and then four sales were used, when only three sales are used. The sales selected are all clearly far superior to the subject in curb appeal and house and lot size. The choice of comps provides no lower bracket for the subject in either house or site size.
- f. The cost approach to value is \$17,292 below the value by sales comparison, without an explanation for why a buyer would pay more for a property than it would cost to reproduce the property, particularly in an area where there is abundant land available.

Informal Complaint 06 APP 119

12. An informal complaint was received by the Department on October 13, 2006, and given a Division of Enforcement case number of 06 APP 119. The complainant was the homeowner, and the complaint related to an appraisal report for her property at N1095 Arbor Lake North in Lyndon Station, Wisconsin, signed by Ray K. Miller on July 25, 2006.

13. Mr. Miller was asked by the Department of Regulation and Licensing to provide copies of "all his working documents, notes, correspondence with anyone, and time records" for this appraisal. His response received 1-17-07 did not include any billing records, did not include a copy of the invoice for \$1,400, and instead included a copy of an invoice for \$350.

CONCLUSIONS OF LAW

The legal requirements for the summary suspension of the Respondent's Real Estate Appraiser's License have been fulfilled pursuant to Wis. Adm. Code, chapter RL 6:

Mr. Miller has engaged in and is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension of Mr. Miller's real estate appraiser's license.

ORDER

NOW, THEREFORE, IT IS ORDERED that Real Estate Appraiser's License number 4-1520 issued to Ray K. Miller is SUSPENDED as of the date of service under sec. 6.08, Wis. Admin. Code and sec. 801.11, Stats. for the service of summons. The license shall remain suspended until a final decision and order is issued in the disciplinary proceeding, or until further order of the Board. Respondent shall surrender his credentials immediately upon service to the following address:

Department of Regulation and Licensing
Attn: Pamila Majewski, Paralegal
P.O. Box 8935
Madison, WI 53708

IT IS FURTHER ORDERED that Mr. Miller may request a hearing to show cause why this suspension order should not be continued, and he may file such request with the Real Estate Appraisers Board at Box 8935, Madison, WI 53708-8935. A hearing on such request shall be scheduled within 20 days of the date the Department receives such request, unless Mr. Miller agrees to a later date.

Signed and dated February 28th, 2007

FOR THE REAL ESTATE APPRAISERS BOARD:

