

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD**

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**IN RE DISCIPLINARY PROCEEDINGS** :  
**AGAINST** :  
 : **FINAL DECISION AND ORDER**  
**LEO E. SMITH,** :  
 : **LS0707119APP**  
 :  
**RESPONDENT.** :

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Division of Enforcement Case No. 07 APP 035

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

Leo E. Smith  
6525 West Bluemound Road, Suite 12  
Milwaukee, WI 53213

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

**PROCEDURAL HISTORY**

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 Leo E. Smith (“Smith”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 6525 West Bluemound Road, Suite 12, Milwaukee, WI 53213, and whose date of birth is December 20, 1946, possesses a certificate of licensure and a license as a licensed appraiser (#4-1159). The license was first granted on December 18, 1998, and will expire on December 14, 2007.

2. On February 7, 2005, Mr. Smith signed an appraisal report with an effective date of February 3, 2005, regarding real property located at W1222 Arbor Lake East, Lyndon Station, WI 53944 (“subject property”).

3. A review of the appraisal report shows violations of the 2005 Uniform Standards of Professional Appraisal Practice (USPAP) including, but not limited to, the following:

a. USPAP Ethics Rule, Conduct section, which states, in relevant part, that “An appraiser must perform assignments ethically and competently... (and) An appraiser must not communicate a misleading or fraudulent report...” by signing an appraisal certification statement representing that Mr. Smith had personally inspected the property, and by transmitting same, when Mr. Smith knew that this was not a true statement.

b. USPAP Standards Rule 1-1 (b), by omitting and failing to adjust for differences between the subject property and properties selected as comparable sales, including, but not limited to, differences in quality of construction (manufactured v. stick-built), out-buildings, and lake view.

c. USPAP Standards Rule 1-2 (e) (i), by failing to “identify... characteristics of the property... including... its... physical... attributes...” including, but not limited to, the fact that the subject property was a double-wide mobile

home.

d. USPAP Standards Rule 1-2 (f), by utilizing an incomplete scope of work statement.

4. Per Wis. Stat. § 458.26 (3), "... the board may limit, suspend or revoke any certificate under this chapter... if the... board finds that the... holder of the certificate has done any of the following: (b) Engaged in unprofessional... conduct in violation of rules promulgated under s. 458.24.

5. Per Wis. Admin. Code § RL 86.01 (2), "All appraisals performed in conjunction with federally related transactions and non-federally related transactions shall conform to the uniform standards of professional appraisal practice set forth in Appendix I."

### 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 performing an appraisal and rendering an appraisal report that does not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 3 of the Findings of Fact, **Leo E. Smith** has committed four or more violations of Wis. Admin. Code § RL 86.01 (2), thereby subjecting himself to discipline per Wis. Stat. § 458.26 (3) (b).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of **Leo E. Smith** (# 4-1159) shall be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. **Leo E. Smith** shall successfully complete the following as remedial education:

(a) Residential Report Writing and Case Studies, offered by the Appraisal Institute; and (b) 15-hour USPAP update course. Successful completion of these courses will include successful completion of any testing component, if offered. Alternative courses shall only be accepted if approved in advance by the Board's Monitoring Liaison. Education required by this paragraph must be completed within one year of the date of signing of this Order, and may not be counted towards Mr. Smith's continuing education requirements

3. **Leo E. Smith** shall pay costs of these investigations in the amount of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00) within sixty (60) days of the date of signing of this Order.

4. **Leo E. Smith** shall pay a forfeiture in the amount of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00) on or before December 1, 2007.

5. Proof of completion of coursework and payment of costs shall be mailed, faxed, delivered or otherwise transmitted

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

6. Case number 07 APP 035 is hereby closed.

7. 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 Respondent'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 continuing education requirements, the Respondent's license and certification (#4-1159) SHALL BE SUSPENDED, without further notice or hearing, unless Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel  
A Member of the Board

7/11/07  
Date

**STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD**

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**IN RE DISCIPLINARY PROCEEDINGS  
AGAINST**

**LEO E. SMITH,  
  
RESPONDENT.**

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**STIPULATION**

**LS** \_\_\_\_\_

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Division of Enforcement Case No. 07 APP 035

It is hereby stipulated and agreed, by and between Leo E. Smith, 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 against Respondent's licensure and certification by the Division of Enforcement (07 APP 035). 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 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 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, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided with the opportunity to obtain 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 his 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.

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**LEO E. SMITH**

Respondent

6525 W. Bluemound Road, Suite 12

Milwaukee, WI 53213

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Date

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**MARK A. HERMAN**

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

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Date