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

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
JAMES B. BROWN, : LS0709124APP
RESPONDENT. :

Division of Enforcement case file 05 APP 091

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

James B. Brown
773 E. River Drive
DePere, WI 54115

Wisconsin 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 disposition of this matter, subject to the approval of the Wisconsin Real Estate Appraisers Board ("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, Conclusions of Law, and Order:

FINDINGS OF FACT

1. James B. Brown is licensed in the State of Wisconsin as a Real Estate Appraiser having license #4-1259. This license first granted to him on 12-2-1999. Mr. Brown's most recent address on file with the Department of Regulation and Licensing ("Department") is 773 E. River Drive, DePere, WI 54115. As of February 9, 2007, Mr. Brown notified the Department that his address is P.O. Box 5032, DePere, WI 54115.

2. By Board Order dated 3-1-2006 in case number 04 APP 062, Mr. Brown was reprimanded and ordered to pay costs, and license was limited by the requirement that he complete 15 hours of Department approved education regarding USPAP standards. Mr. Brown completed the education and paid the costs as required.

3. On April 23, 2002, Mr. Brown performed an appraisal for property located at 3244 Squaw Island Road in Brussels, Wisconsin. The property was owned by James Gilmet and the client was the Green Bay Credit Union Center. Mr. Brown's estimate of value was \$603,000, and based on the appraisal, the credit union made a second mortgage loan of \$200,000 to Mr. Gilmet. Mr. Gilmet was an owner of Five Star Mortgage at the time. A subsequent appraisal, performed on October 20, 2005, after Mr. Gilmet stopped paying on the second mortgage, estimated the property's value at \$328,000.

4. On January 8, 2003, Mr. Brown performed an appraisal for property located at 3132 Concordia Lane in Green Bay, Wisconsin. The property was owned by Jacquie Wanek and the client was the Green Bay Credit Union Center. Mr. Brown's estimate of value was \$249,000. Mr. Wanek was an employee of Five Star Mortgage at the time. The official of the Green Bay Credit Union Center who sent this appraisal report to the Department asserted that the property's fair market value was \$187,000.

5. On September 3, 2003, Mr. Brown performed an appraisal for property located at 2085 Meadowsweet in Green, Bay,

Wisconsin. The property was owned by Mikel Bushmaker and the client was the Green Bay Credit Union Center. Mr. Brown's estimate of value was \$400,000. Mr. Bushmaker was an employee of Five Star Mortgage at the time. The official of the Green Bay Credit Union Center who sent this appraisal report to the Department asserted that the property's fair market value was \$243,100.

6. The case advisor assigned by the Real Estate Appraisers Board reviewed all three appraisals and found they do not meet USPAP standards.

7. The **Squaw Island Road** appraisal does not meet the following USPAP Standards:

S.R. 1-1 Developing and Appraisal and S.R. 2-1 Report Not Misleading

The combination of the concerns referenced below leads to the conclusion that these standards rules have been violated.

S.R. 1-2a Client and Intended User(s)

Does not identify the intended user(s). It is not acceptable to require the reader to infer that the intended user is the lender/client.

S.R. 1-2e Property Characteristics

- The flood plain map referenced appears to show that part of the land IS in a FEMA flood zone, when Mr. Brown indicates it is not.
- Doesn't give the site size for the subject.
- The legal description provided does not describe a closed area. The legal description provided also indicates 380' of water frontage, not 300' as reported in the appraisal report.

S.R. 1-2f Scope of Work

For the Scope of Work statement, relies on pre-printed text on page 1 of the Multi-Purpose Supplemental Addendum for Federally Related Transactions (Extent of Appraisal Process), but does not check the first box which covers most of the important elements of the appraisal. By not checking this box, he indicates that he has not inspected the subject property.

S.R. 1-4a Sales Comparison Approach

The photos of comparable sales show properties which are clearly far superior to the subject in terms of curb appeal.

- Omits the following value adding features for the sales:
 - * Municipal sewer for all (subject has a septic system).
 - * Sale 1 has brick siding, 2 wet bars, vaulted ceiling, heated garage, dock, central vacuum and jetted tub, per the MLS.
 - * Sale 2 has had "extensive remodeling and additions," per the MLS, yet it is listed as being in "average" condition by the appraiser. This house has 2 fireplaces and wood floors, per the MLS.
 - * Sale 3 has a brick exterior, security system, central vacuum, and 977 square feet of basement finish, per the MLS.
- Makes no age adjustments when house ages range from 5 to 50+ years.
- The sales are 39% - 53% larger than the subject; makes adjustments for house size differences at \$5 per square foot. This adjustment level is unsupportedly low and leads to a gross overstatement of value.
- Bath adjustments area far too low.
- Sale 3's basement finish adjustment at \$3 per square foot is far too low. Sale 1 has nearly identical basement finish (1,000 sq. ft. for Sale 1 vs. 977 sq. ft. for Sale 3), yet it is adjusted at half the rate for Sale 3 (\$1.50 per sq. ft.).
- Adjustments for the extra garage stalls for the sales are far too low.
- Case advisor is not extremely familiar with the locations for the comparable sales, so it is difficult to comment on their relative locations vs. the subject's; but even setting this aside, the lack of adjustment for value adding features, the exceeding low downward adjustments, and no lower bracket in the sales selection appears to lead to a gross overstatement of value. Sales 1 and 2 are from substantially larger population areas with, presumably, more demand for upper value homes.

S.R. 1-4b Cost Approach

The site improvements (well, septic system, driveway, landscaping) are valued at only \$4,500; this is exceedingly low.

S.R. 2-2 Reporting Options

Does not identify the reporting option used. Includes an addenda page which has a place to indicate the reporting options, but doesn't check any box to indicate which was selected.

General Comment:

Case advisor has been made aware that the subject was listed for sale at \$475,000 from 9/22/2004 through 01/13/2005 at which point the price was reduced to \$389,000. The listing at \$389,000 expired on 04/01/2005. Although this specific information would not have been available to Mr. Brown in 2002, the fact that the house did not sell for this level within a reasonable time frame subsequent to the 2002 appraisal indicates that it was not worth \$603,000 as of April 23, 2002.

8. The **Meadowsweet** appraisal does not meet the following USPAP Standards:

S.R. 1-1 Developing an Appraisal and S.R. 2-1 Report Not Misleading

The combination of the concerns referenced below leads to the conclusion that these standards rules have been violated.

S.R. 1-2a Client and Intended User(s)

Does not identify the intended user(s). It is not acceptable to require the reader to infer that the intended user is the lender/client.

S.R. 1-2b Intended Use

Does not identify the intended use of the appraisal work.

S.R. 1-2c Purpose and Reasonable Market Exposure Time

- Does not provide a definition of the value sought.
- Does not provide an opinion of reasonable exposure time linked to the value opinion (see the comment below S. R. 1-2(c)(iv)).

S.R. 1-2f Scope of Work

No Scope of Work Statement.

S.R. 1-4a Sales Comparison Approach

- Omits the following value adding features for the sales (based on the MLS sheets):
 - * Sale 1 - alarm system, whirlpool, second fireplace, exposed basement, wood and tile floors, wet bar, second deck.
 - * Sale 2 - whirlpool, central vacuum, granite kitchen counters.
 - * Sale 3 - security system, wet bar, yard sprinkler, marbled foyer.
- Makes no basement finish adjustment for Sale 1 when it has more finish than the subject (2,000 sq. ft. vs. 1,512 sq. ft.). Adjusts Sales 2 and 3 up less than \$1.00/sq. ft. for basement finish.
- Makes no adjustment for substantially different site sizes.
- The sales are substantially larger than the subject; makes adjustments for house size differences at \$5 per square foot. This adjustment level is unsupportedly low and leads to a gross overstatement of value.
- Makes no adjustment for age for Sale 3.
- Bath adjustments and 3 vs. 2 car garage adjustments are far too low.

S.R. 1-4b. Cost Approach

Appears to include nothing for the subject's ~1,500 sq. ft. of basement finish.

S.R. 1-4c. Income Approach

"Limited data" is not a valid reason to exclude this approach to value. More appropriate reasons might be that zoning prohibits rental, similar homes are purchased for owner occupancy (not investments), etc.

S.R. 2-2 Reporting Options

Does not identify the reporting option used.

S.R. 2-3 Certification

None included.

General Comment:

Case advisor has been made aware that the subject was listed for sale at \$229,900 - \$239,900 from 09/99 through 10/01 with no sale. Without significant improvement, it is highly unlikely that it was worth \$400,000 in September, 2003.

9. The **Concordia Lane** appraisal does not meet the following USPAP Standards:

S.R. 1-1 Developing an Appraisal and S.R. 2-1 Report Not Misleading

The combination of the concerns referenced below leads to the conclusion that these standards rules have been violated.

S.R. 1-2a Client and Intended User(s)

Does not identify the intended user(s). It is not acceptable to require the reader to infer that the intended user is the lender/client.

S.R. 1-2b Intended Use

Does not identify the intended use of the appraisal work.

S.R. 1-2c Purpose and Reasonable Market Exposure Time

Does not provide an opinion of reasonable exposure time linked to the value opinion (see the comment below S. R. 1-2(c)(iv)).

S.R. 1-2e Property Characteristics

Does not provide the subject's age on page 1; according to the MLS, it would have been 5 years old.

S.R. 1-4a Sales Comparison Approach

- Omits the following value adding features for the sales (based on the MLS sheets):
 - * Sale 1 - entry porch, granite kitchen counters
 - * Sale 2 - large entry porch, heated garage; provides a range for age when MLS shows it was 2 years old
 - * Sale 3 - wood and tile floors, new carpet, granite topped center island
- Indicates Sale 3 has a "part finished" basement when none is shown on the MLS. The subject has ~800 sq. ft. of basement finish (67% of 1,194 sq. ft.) and adjustments at only \$ 3.13/sq. ft. This is far too low.
- Makes no adjustment for larger (S2 substantially) site sizes.
- The sales are all larger than the subject; makes adjustments for house size differences at \$15 per square foot. This adjustment level is unsupportedly low and leads to a gross overstatement of value.
- Makes no adjustment for age for Sale 1, this is inconsistent with the physical depreciation listed in the cost approach.
- Provides no explanation for the negative \$2,000 - \$4,000 adjustments for room count.
- Bath adjustments are far too low.

S.R. 1-4b. Cost Approach

Cost new (main floor and basement finish) is far too low per square foot. Depreciation adjustment is too low for a 5 year old house.

S.R. 1-4c. Income Approach

Provides no explanation for omission of this approach to value.

S.R. 1-5 Subject Listing and Sale Information

Indicates that the subject had been listed for sale in the past 30 days for \$189,900 yet gives no rationale for why the house was worth \$60,000 (31.6%) more than this list price.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to section 458.26 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to section 227.44(5), Wis. Stats.

2. Respondent James B. Brown is subject to discipline for having violated section 458.26 (3) (c) of the Wisconsin Statutes and sections RL 86.01 (1) and (2) of the Wisconsin Administrative Code, by performing appraisals that failed to conform to USPAP.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED that the Real Estate Appraiser's license, #4-1259, issued to James B. Brown be SUSPENDED for a period of six months, commencing on October 27, 2007. The suspension shall terminate and Mr. Brown's license shall be reinstated without further order of the board on April 27, 2008.

IT IS FURTHER ORDERED that within nine months of the date of this Order, Mr. Brown must successfully complete the

following courses through The Appraisal Institute:

Residential Sales Comparison and Income Approaches (30 hr. course), OR

Real Estate Fraud: The Appraiser's Responsibilities and Liabilities (7 hr. seminar) plus

Quality Assurance in Residential Appraisals: Risky Appraisals = Risky Loans (7 hr. seminar) plus Residential Sales Comparison Approach (7 hr. seminar) plus

Overview of Real Estate Appraisal Principles (7 hr. seminar).

Mr. Brown shall submit proof of successful completion in the form of verification from the institution providing the education to the following address:

Department Monitor

Department of Regulation and Licensing,

PO Box 8935, Madison, WI 53708-8935.

Fax (608) 266-2264

Tel. (608) 261-7904

None of the education completed pursuant to this order may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

In the event Mr. Brown fails to successfully complete the educational requirements in the manner set forth, his Real Estate Appraiser's license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further Order of the Board or until he provides to the Department proof of completion of all said educational requirements.

IT IS FURTHER ORDERED that Mr. Brown pay costs of this matter in the amount of **\$1,199** within 60 days of the date of this Order. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor. In the event Mr. Brown fails to pay the costs within the time and in the manner as set forth, his Real Estate Appraiser's license shall be suspended without further notice to the Respondent, without further hearing, and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that the violation of any of the terms of this Order shall 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 conditions and limitations or other discipline.

IT IS FURTHER ORDERED that file 05 APP 091 be closed.

Dated this 12th day of September, 2007.

WISCONSIN REAL ESTATE APPRAISERS BOARD

By: Marla Britton
A member of the Board