

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION :  
FOR LICENSURE AS A LICENSED :  
APPRAISER OF : FINAL DECISION AND ORDER  
:  
JAMES DOCKA, : LS0804251APP  
:  
APPLICANT. :

Division of Enforcement Case No. 08 APP 002

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

James Docka  
10739 County Highway B  
Amherst, WI 54406

Department of Regulation and Licensing  
Office of the Secretary  
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 this matter, subject to the approval of the Secretary of the Department of Regulation and Licensing (“Secretary”). The Secretary has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Secretary adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. James Docka (“Docka”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 10739 County Highway B, Amherst, WI 54406, submitted an application for licensure as a licensed appraiser. After review of work samples submitted by Mr. Docka, the Department’s Real Estate Appraiser Application Advisory Committee recommended that the Department deny Mr. Docka’s application because his work experience did not substantially comply with the Uniform Standards of Professional Appraisal Practice, contrary to Wis. Admin. Code § RL 83.01 (1a), (3) (a).
2. In the course of these proceedings some of the issues raised by the reviewer have been addressed by the Respondent.
3. Two valid concerns remain. The first concern is that the appraisal reports sometimes fail to articulate a necessary reconciliation, such as explaining why an opinion of market value was higher than the price contracted between the buyer and the seller. The second concern is that inconsistent methodology was used when employing the sales comparison approach to value. Specifically, as a general matter the applicant and his supervising appraiser estimated both the actual age and the effective age of subjects and comparable sales, and made adjustments based upon effective age. In the case of two comparables sales (both found in the same appraisal) this was not done. Instead, large adjustments were made based upon the actual age of the comparable sales, and information concerning the effective age of one of the comparable sales was ignored. The applicant admits that he and the supervising appraiser varied from their normal methodology in order to strengthen the support for their market value opinion. The applicant and his supervisor could have validly supported the same market value conclusion, without compromising their normal methodology, had they chosen to do so.
4. Mr. Docka acknowledges the wrongfulness of the conduct described in paragraph 3 of these Findings of Fact. Mr. Docka is no longer associated with the supervising appraiser.

## CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction to act in these matters pursuant to Wis. Stats. § 458.06.
2. The Wisconsin Department of Regulation and Licensing has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stats. § 227.44 (5).
3. By varying methodology to support a value conclusion, rather than articulating an appropriate rationale in support of the value conclusion, Applicant James Docka communicated assignment results in a misleading manner, contrary to USPAP's Ethics Provision.
4. By failing to summarize the reasoning that supports the analyses, opinions and conclusions reached in the report, James Docka violated USPAP Standards Rule 2-2 (b) (viii).

## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **James Docka's** experience shall be certified as USPAP compliant. Upon completion of all other requirements licensure, he shall be issued a certificate of licensure as a licensed appraiser that is **LIMITED** as follows: (a) Mr. Docka shall submit a copy of his roster of appraisals performed from April 1, 2008 through December 31, 2008, to the Department Monitor on Jan 2009. The Monitoring Liaison of the Real Estate Appraisers Board may select up to three appraisals from the roster for review. USPAP errors found in the reports (if any) shall be grounds for further discipline, up to, and including, revocation of the license. (b) Mr. Docka must successfully complete the following courses as remedial education, which shall not count towards his continuing education requirements: a residential report writing course, which shall be no less than 14 hours in length, and a course on ethics which shall be no less than 4 hours in length. Successful completion of any course shall include receipt of a passing grade in all coursework, including any examination, if available. All education required by this paragraph must be completed within one year of date of signing of this Order.

IT IS FURTHER ORDERED that:

2. Proof of education required by this order to be submitted to the Department Monitor 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

3. Case number 08 APP 002 is hereby closed.
4. This Order is effective on the date of its signing.

STATE OF WISCONSIN DEPARTMENT OF REGULATION AND LICENSING

By: **Celia M. Jackson, Secretary**

4/25/08

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION :  
FOR LICENSURE AS A LICENSED :  
APPRAISER OF : STIPULATION  
 :  
 JAMES DOCKA, : LS \_\_\_\_\_  
 :  
 APPLICANT. :

Division of Enforcement Case No. 08 APP 002

- It is hereby stipulated and agreed, by and between James Docka, Applicant; and Mark A. Herman, attorney for the State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:
1. This Stipulation resolves a request for hearing regarding the denial of an application for licensure as a licensed appraiser of James Docka (“Applicant”), by the Department of Regulation and Licensing (“Department”) (08 APP 002). Applicant consents to the resolution of this matter by stipulation and without hearing.
  2. Applicant understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing, at which time he has the burden of proving his qualification and fitness for licensure by a 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 Secretary of the Department (“Secretary”); 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. Applicant has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
  4. Applicant agrees to the adoption of the attached Final Decision and Order by the Secretary. 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. Applicant waives all rights to any appeal of the Secretary’s order, if adopted in the form as attached.
  5. If the terms of this Stipulation are not acceptable to the Secretary, 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 Secretary, the parties agree not to contend that the Secretary 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 may appear before the Secretary in open or closed session, without the presence of the Applicant or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Secretary may have in connection with her consideration of the Stipulation.
  7. Applicant is informed that should the Secretary adopt this Stipulation, the Secretary’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 Applicant in recommending the Secretary adopt this Stipulation and issue the attached Final Decision and Order.

**JAMES DOCKA**

Applicant  
10739 County Highway B  
Amherst, WI 54406

Date

**MARK A. HERMAN**

Attorney, Division of Enforcement  
1400 East Washington Avenue  
Madison, WI 53708-8935

Date