

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

ADELINE BERNARD,

RESPONDENT.

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:
:
:

FINAL DECISION AND ORDER

LS0811197APP

Division of Enforcement Case No. 06 APP 134

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

Adeline Bernard
305 Wisconsin Ave.
P.O. Box 282
Kewaunee, WI 54216

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 Adeline Bernard (“Bernard”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 305 Wisconsin Avenue, P.O. Box 282, Kewaunee, WI 54216, and whose date of birth is July 3, 1944, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-1321). The certificate was first granted on December 19, 2003, and will expire on December 15, 2009.

2. From May 2, 2006 to December 20, 2006, Ms. Bernard signed a series of appraisal reports and certification statements for a single family residence located at 1766 Highview Road, Ellison Bay, Wisconsin. The first client as listed in the appraisal report was J.B. Thereafter, J.B., either directly or through various lenders, caused Ms. Bernard to provide at least ten (10) appraisal reports regarding the subject property to various lenders, for the purpose of obtaining loans secured by the property. The first report valued the residence and associated land at \$2.3 million, and all subsequent reports valued the residence and associated land at \$2.4 million. Ms. Bernard was able to provide work files for only seven (7) of the ten (10) reports.

3. A review of the reports shows USPAP violations including, but not limited to, the following:

a. USPAP Standards Rule 1-1 (b), which requires appraisers to, “not commit a substantial error of omission or commission that significantly affects an appraisal” by (i) making an unsupported adjustment of \$30,000 to the value of the subject property based upon the addition of decorative pillars and a gate when employing the sales comparison approach to value; (ii) considering the subject as having a lake view when employing the sales comparison approach to value, when, in fact, Green Bay is located several miles away, the subject has a minimal and seasonal view of the

Bay, if any, such that adjustments made (or lack thereof) were inappropriate; (iii) double-counting above-grade gross living area for the guest quarters; and (iv) making adjustments for differences in above-grade gross living area for six different comparable sales which are erroneous and inconsistent.

b. USPAP Ethics Rule, Conduct Section, which requires an appraiser to, “perform assignments ethically and competently... with impartiality, objectivity, and independence, and without accommodation of personal interests...” by performing a series of appraisal reports for various mortgage lenders at the direction of J.B., who was the applicant for various loans, and with whom Ms. Bernard has professional relationships. Specifically, Ms. Bernard admits that J.B. would contact her and direct her to place the name of a new lender/“client” on each report, although sometimes the lender/“client” would insist that they had to initiate the contact, and would order a new report. The nature of Ms. Bernard’s relationship with J.B., the manner in which the appraisals were ordered, and the consistency in the value conclusions (despite changes in comparable sales used, and supported by the findings of errors noted in sub-paragraph a, above) leads the Board to find that Ms. Bernard’s ability to perform these assignments ethically and competently, and with impartiality objectivity and independence, was compromised.

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 appraisals 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, **Adeline D. Bernard** has violated Wis. Admin. Code § RL 86.01 (2), thereby subjecting herself to discipline per Wis. Stat. § 458.26 (3) (b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of **Adeline D. Bernard** (license # 9-1321), shall be, and hereby is, **REPRIMAN AND SUSPENDED**. The suspension shall be lifted after both of the following have occurred: (a) 120 days have passed from date of signing of the Order; AND (b) Ms. Bernard has presented proof of successful completion of - (i) Basic Appraisal Principle and (ii) Basic Appraisal Procedures. Courses completed in compliance with this Order may not be counted towards Respondent continuing education requirements. Successful completion shall include receipt of a passing grade in any end-of-course examination offered by the course provider. Courses taken in fulfillment of this Order shall be approved in advance by the Board’s Monitoring Liaison.

IT IS FURTHER ORDERED that:

2. **Adeline D. Bernard** shall pay the costs of investigating this matter in the amount of TWO THOUSAND SIX HUNDRED DOLLARS (\$2,600.00). One half of that amount shall be paid within one year of the date of signing of this Order; remainder shall be paid within two years after the date of signing of this Order.

3. All submissions required by this Order shall be mailed, faxed, delivered or otherwise transmitted to:

Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

4. 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 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 the Respondent fails to timely submit any payment of the partial cost as set forth above, or fails to comply with the ordered continuing education, the Respondent's license and certification (9-1384 and 4-1321) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

5. Case numbers 07 APP 052 is hereby closed.

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

REAL ESTATE APPRAISERS BOARD

By: Marla Britton
A Member of the Board

11/19/08
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
ADELINE BERNARD,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 06 APP 134

It is hereby stipulated and agreed, by and between Adeline Bernard, Respondent; David A. Sayas, 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 against Respondent’s licensure by the Division of Enforcement (06 APP 134). Respondent consents to the resolution of this matter without the issuance of a formal compliant.
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 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 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.

ADELINE BERNARD, Respondent
305 Wisconsin Ave.
P.O. Box 282
Kewaunee, WI 54216

Date

DAVID A. SAYAS
Sayas, Schmuki & Plum S.C.
Attorneys for Respondent
11430 West Bluemound Road
Suite 200
Wauwatosa, WI 53226-4050

Date

MARK A. HERMAN
Attorney, Division of Enforcement
1400 East Washington Avenue
Madison, WI 53708-8935

Date