

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
MARTIN R. ROSE,	:	LS09022510APP
RESPONDENT.	:	

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Division of Enforcement Case File # 07 APP 117

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

Martin R. Rose  
2409 Hirschman Lane  
Hartland, WI 53029

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 (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 Martin R. Rose (Rose), whose last known address of record with the Department of Regulation and Licensing (Department) is 2409 Hirschman Lane, Hartland, WI 53029, and whose date of birth is June 12, 1962, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-1496). The certificate was first granted on August 22, 2006, and will expire on December 14, 2009. Additionally, Mr. Rose previously possessed a certificate of licensure as a licensed appraiser (#4-1491). The license was first granted on October 22, 2002, and expired on December 14, 2007.

2. On January 20, 2004, Mr. Rose conducted an appraisal and signed an appraisal report for real property located at 709 Willow Lane, Horicon, WI.

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

a. USPAP Standards Rule 1-1 (a), which requires appraisers to, “be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal,” by failing to identify and consider four comparable sales from the municipality of the subject property, and by utilizing as a comparable sale a property with 65’ of water frontage and a water view, when the subject had neither water frontage nor water view.

b. USPAP Standards Rule 1-1 (b), which requires appraisers to, “not commit a substantial error or omission or commission that significantly affects an appraisal,” by failing to make any adjustment for the 65’ of water frontage in a comparable sale, which Respondent calculates would have resulted in an adjustment of approximately \$25,000; and by assuming that a boat garage located on the same property had no value.

c. USPAP Standards Rule 1-2 (e), which requires appraisers to, “identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal, including: (i) its location and physical, legal and economic attributes;” by assuming that the age of the subject property was 15 years, when, in fact, it was 25 years old at the time of the appraisal.

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, **Martin R. Rose** 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 licenses and certifications of Martin R. Rose (license # 9-1496 and 4-1491), shall be, and hereby are, **SUSPENDED** for a period of twenty-five (25) days, to begin ten (10) days from the date of signing of this Order.

IT IS FURTHER ORDERED that:

2. Martin R. Rose shall successfully complete the following course as remedial education: Residential Sales Comparison Approach (30 hours). The course completed in compliance with this Order may not be counted towards Respondent’s continuing education requirements. Successful completion of the course shall include receipt of a passing score on any examination. Proof of completion of all courses must be submitted to the Department Monitor by December 1, 2009. Substitute courses shall only be allowed if approved in advance by the Board’s Monitoring Liaison.

3. Martin R. Rose shall pay the costs of investigating this matter, in the amount of ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200.00). Six hundred dollars shall be due by December 1, 2009. The remaining balance shall be due fifteen (15) months from the date of signing of this Order.

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

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935, Madison, WI 53708-8935  
Telephone (608) 267-3817 Fax (608) 266-2264

5. Case number 07 APP 117 is hereby closed.
6. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Sharon Fiedler  
A Member of the Board

2/25/09  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
	:	
MARTIN R. ROSE,	:	LS _____
RESPONDENT.	:	

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Division of Enforcement Case File # 07 APP 117

It is hereby stipulated and agreed, by and between Martin R. Rose, 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 (07 APP 117). Respondent consents to the resolution of this matter without the issuance of a formal compliant.
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.

\_\_\_\_\_  
Martin R. Rose, Respondent  
2409 Hirschman Lane  
Hartland, WI 53029

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mark A. Herman, Attorney  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

\_\_\_\_\_  
Date