

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	FINAL DECISION AND ORDER
MELANIE J. HORKMAN,	:	
	:	LS0910076APP
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 09 APP 022

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

Melanie J. Horkman
1940 Renaissance Court
Green Bay, WI 54311

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 Melanie J. Horkman (“Horkman”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 1940 Renaissance Court, Green Bay, WI 54311, and whose date of birth is February 1, 1960, possesses a certificate of certification and a certificate of licensure as a certified residential appraiser (#9-613). The license was first granted on February 19, 1993, and will expire on December 15, 2009.

2. On February 28, 2007, the Board limited Ms. Horkman’s license and ordered her to take three courses as remedial education within one year of the date of the Order (LS0702283APP).

3. On May 20, 2008, the Department Monitor sent Ms. Horkman a letter via Certified Mail. The letter informed Ms. Horkman that as of May 20, 2008, the Board had not received proof that Ms. Horkman had completed the required educational courses. The letter further informed her that by operation of the Board’s Order her license would be suspended effective May 30, 2008, unless proof of completion of the required education was received. The certified letter was returned to the Department unclaimed on June 18, 2008.

4. On June 3, 2008, Ms. Horkman’s license was formally suspended.

5. On February 16, 2009, Ms. Horkman contacted the Department Monitor. Ms. Horkman asked what was needed to lift the suspension. Ms. Horkman admitted that she was aware that the Department had sent a certified letter to her, which she had chosen not to claim. Ms. Horkman also admitted that she had practiced during the period of the suspension. Ms. Horkman completed the required education in February of 2009. Subsequently, Ms. Horkman provided documentation showing that she received payment for at least ninety (90) appraisals during the period of her suspension.

6. 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: (c) Engaged in conduct while practicing as an appraiser which evidences a lack of ability to apply professional principles...; (i) Violated this chapter... .

7. Per Wis. Stat. § 458.055, "... no person may do any of the following: (1) Use the title... 'Wisconsin certified residential appraiser' or any similar title unless the person holds an applicable appraiser certificate issued under s. 458.06."

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 reports during a period when her license was suspended, **Melanie J. Horkman** has either demonstrated an inability to apply professional principles, or used the title of "Wisconsin certified residential appraiser" or a similar title when she did not hold the applicable certificate, thereby subjecting himself to discipline per Wis. Stat. § 458.26 (3) (c) or (i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **Melanie J. Horkman** (# 9-613) shall pay a FORFEITURE in the amount of TEN THOUSAND DOLLARS (\$10,000.00) in lieu of a reprimand. Respondent shall pay the forfeiture in five equal payments, with the first payment being due year from the date of signing of this Order. Subsequent payments shall be due annually thereafter.

IT IS FURTHER ORDERED that:

2. **Melanie J. Horkman** shall pay costs of this investigation in the amount of FOUR HUNDRED AND FIFTY DOLLARS (\$450.00) within NINETY (90) DAYS of the date of signing of this Order.

3. Payment of costs, and all other submissions required by the 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) 261-7904, Fax (608) 266-2264

4. Case number 09 APP 022 is hereby closed.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well and may result in a summary suspension of Respondent's license and certification. The Real Estate Appraisers Board in its disc may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms Order. In the event that Respondent fails to timely submit any payment of costs as set forth above, or fails to comply with the c education the Respondent's license and certification (#9-613) SHALL BE SUSPENDED, without further notice or hearing, un Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By: Marla Britton

10/7/09

A Member of the Board

Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
MELANIE J. HORKMAN,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 09 APP 022

It is hereby stipulated and agreed, by and between Melanie J. Horkman, 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 (09 APP 022). 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 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 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 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.

MELANIE J. HORKMAN, Respondent
1940 Renaissance Court
Green Bay, WI 54311

Date

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

Date