

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

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<b>IN RE DISCIPLINARY PROCEEDINGS</b>	:	
<b>AGAINST</b>	:	
	:	<b>FINAL DECISION AND ORDER</b>
<b>MARK L. POIRIER,</b>	:	
	:	<b>LS0910092APP</b>
	:	
<b>RESPONDENT.</b>	:	

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Division of Enforcement Case No. 07 APP 147

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

Mark L. Poirier  
12474 52<sup>nd</sup> Street  
Colfax, WI 54730

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 Mark L. Poirier (“Poirier”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 12474 52<sup>nd</sup> Street, Colfax, WI 54730, and whose date of birth is January 19, 1970, possesses a certificate of certification and a certificate of licensure as a Certified Residential Appraiser (#9-1429). The license was first granted on June 28, 2005, and will expire on December 15, 2009.
2. On September 11, 2007, Mr. Poirier signed an appraisal report for real property located at N8534 Haycreek Road, Willard, WI. Subsequently, and without the involvement of the Department, Mr. Poirier noted a number of errors. Mr. Poirier signed a corrected report on September 19, 2007.
3. A review of the Willard appraisal reports show violations of the 2006 Edition of the Uniform Standards of Professional Appraisal Practice (USPAP) including, but not limited to, the following:
  - a. USPAP Scope of Work Rule, by accepting the lender’s instruction that no cost approach was to be employed, instead of determining whether the scope of work did or did not require employment of the cost approach.
  - b. USPAP Standards Rules 1-1 (a) and 2-2(b), by failing to report the amount of frontage feet associated with the subject and comparables when appraising waterfront property, and to determine whether or not any adjustments based upon that factor were appropriate in this case.
  - c. USPAP Standards Rule 1-1 (b) and 2-2(b), by failing to analyze the sale of personal property with some of the comparable sales used (e.g. piers), and failing to make adjustments accordingly.

d. USPAP Standards Rule 1-1 (c) and 2-2(b), by making a series of typographical errors in the September 11, 2007 version of the report, including, but not limited to, mistakenly entering the list price for two comparables sales where the actual sales price should have been stated.

e. USPAP Standards Rule 1-1 (c) and 2-2(b), by reporting in the September 11, 2007 version of the report that none of the comparable sales had a prior sale as of the effective date of the appraisal, when, in fact, it had previously been sold within 12 months of the effective date of the appraisal. Mr. Poirier learned of the prior sale before completing the September 19, 2007 version of the report. Upon learning this information and conducting research, Mr. Poirier elected to substitute a different comparable sale in the September 19, 2007 version of the report.

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 appraisal reports that do not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 3 of the Findings of Fact, **Mark L. Poirier** has committed four or more violations of Wis. Admin. Code § RL 86.01 (2), thereby subjecting himself to discipline per Wis. Stat. § 458.26 (3) (b).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of **Mark L. Poirier** (# 9-1429) shall be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. **Mark L. Poirier** shall present proof of successful completion of no less than THIRTY (30) hours of remedial education, which shall consist of the following course or topics, or equivalent courses or topics if approved in advance by the Board Monitoring Liaison: (a) Quality Assurance in Residential Appraisals; (b) appraisal of waterfront properties; and (c) the cost appraisal. At least 50% of the course hours submitted in compliance with this Order must have been conducted on-site in the presence of an instructor. Successful completion of any course ordered by this paragraph shall be defined to include successful completion of an associated exam, if offered. Any course completed pursuant to this paragraph cannot be counted towards Respondent's continuing education obligations. All remedial education ordered by the paragraph must be completed within one year of the date of signing this Order.

3. **Mark L. Poirier** shall pay costs of these investigations in the amount of FIVE HUNDRED DOLLARS (\$500.00) within ninety (90) days of the date of signing of this Order.

4. Proof of completion of coursework, 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) 267-3817, Fax (608) 266-2264

5. Case number 07 APP 147 is hereby closed.

6. 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 Real Estate Appraisers 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 Respondent fails to timely submit any payment of costs as set forth above, or fails to comply with the conditions of this Order, the Respondent's license and certification (#9-1429) SHALL BE SUSPENDED, without further notice or hearing, until such time as Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By: Marla Britton  
A Member of the Board

10/9/09  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
MARK L. POIRIER,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 07 APP 147

It is hereby stipulated and agreed, by and between Mark L. Poirier, 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 (07 APP 147). 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 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.

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**MARK L. POIRIER**, Respondent  
12474 52<sup>nd</sup> Street  
Colfax, WI 54730

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date