

# 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>LARRY W. FOLTZ,</b>	:	
	:	<b>LS09111112APP</b>
	:	
<b>RESPONDENT.</b>	:	

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Division of Enforcement Case No. 07 APP 059

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

Larry W. Foltz  
P.O. Box 166  
Prentice, WI 54556

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 Larry W. Foltz (“Foltz”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is P.O. Box 166, Prentice, WI 54556, and whose date of birth is February 22, 1940, possesses a certificate of licensure and a certificate of certification to practice as a certified general appraiser (#10-507). The certificate was first granted on January 3, 1994, and will expire on December 15, 2009.

2. On January 6, 2005, Mr. Foltz signed an appraisal report and certification statement for an appraisal of real property located at 4494 Jackpot Avenue, Sparta, WI.

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

a. USPAP Standards Rule 1-4 (c), which requires appraisers to, “analyze... the potential earnings capacity of the property to estimate the gross income potential of the property...; and base projections of future... income potential and expenses on reasonably clear and appropriate evidence” by relying solely on verbal presentations of the current owner of the business for revenue and expense information. The current owner had not actually operated the business at the time of the appraisal. The business had been dormant for a period of months prior to the appraisal. There was no evidence to support the oral representations of the owner. Some profit centers had not existed historically (e.g. the proposed Bed & Breakfast on the property). The appraiser did not verify the revenue or expense information provided by the owner for the various profit centers by other means, such as by researching revenue and expense data for other similar profit centers.

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, **Larry W. Foltz** has violated 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. **Larry W. Foltz** (license # 10-507), shall complete EDUCATION IN LIEU OF A REPRIMAND. Education completed shall consist of the following course, or equivalent courses if approved in advance by the Board’s Monitoring Liaison Business Valuation Methodology (30 hours, plus examination, if available). 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 pursuant to this paragraph shall be defined to include successful completion of any associated exam, if offered. Any course completed pursuant to this paragraph cannot be counted towards Respondent’s continuing education obligations. Respondent must submit proof of successful completion of all courses required by this paragraph to the Department Monitor within ONE (1) YEAR of the date of signing of this Order.

2. **Larry W. Foltz** shall pay costs of this investigation in the amount of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00) within ONE (1) YEAR of the date of signing of this Order.

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

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 numbers 07 APP 059 is hereby closed.

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare 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 continuing education requirements, the Respondent’s license and certification (#10-507) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

REAL ESTATE APPRAISERS BOARD

By: Marla Britton  
A Member of the Board

11/11/09  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
LARRY W. FOLTZ,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 07 APP 059

It is hereby stipulated and agreed, by and between Larry W. Foltz, 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 059). Respondent consents to the resolution of this matter 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 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.

**LARRY W. FOLTZ**, Respondent  
P.O. Box 166  
Prentice, WI 54556

Date

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

Date