

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov



**Before The
State Of Wisconsin
Real Estate Appraisers Board**

In the Matter of the Disciplinary Proceedings
Against Amber Fields, Respondent

FINAL DECISION AND ORDER
Order No. 0000207

Division of Enforcement Case No. 09 APP 065

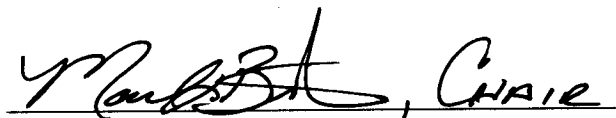
The State of Wisconsin, Real Estate Appraisers Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Real Estate Appraisers Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on May 19, 2010.

A handwritten signature in black ink, appearing to read "Mark B. [unclear]", followed by the word "CHAIR" in a stylized, handwritten font.

Member

Real Estate Appraisers Board



**Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Disciplinary Proceedings
Against **AMBER FIELDS**, Respondent

PROPOSED DECISION AND ORDER
DHA Case No. DRL-09-0124

Division of Enforcement Case No. 09 APP 065

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Amber Fields
8655 North Granville Road
Milwaukee, Wisconsin 53224

Real Estate Appraisers Board
Post Office Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

These proceedings were initiated when the Wisconsin Department of Regulation and Licensing, Division of Enforcement (the "Division") filed a formal Complaint against the Respondent, Amber Fields. The Division filed said Complaint with the Division of Hearings and Appeals on November 6, 2009. On that same date, the Division sent a copy the Complaint and a Notice of Hearing via certified and regular mail to Respondent Fields at her most recent address on file with the Department of Regulation and Licensing; 8655 Granville Road, Milwaukee, WI, 53224. The Notice of Hearing stated that the respondent was required to file a written Answer to the Complaint within 20 days, failing which "[she would] be found to be in default and a default judgment [could] be entered against [her] on the basis of the Complaint and other evidence[,] and the Wisconsin Real Estate Appraisers Board [could] take disciplinary action against [her] and impose the costs of the investigation, prosecution and decision of this matter upon [her] without further notice or hearing."

To date, no Answer has been filed.

On January 5, 2010, the undersigned Administrative Law Judge (ALJ) of the Division of Hearings and Appeals issued a Notice of Telephone Prehearing Conference that set a telephone conference with Respondent Fields and Attorney Angela Arrington¹ of the Division of Enforcement for January 20, 2010. This Notice instructed Respondent Fields to contact the undersigned ALJ to provide the telephone number for which she could be reached for the January 20, 2010, telephone conference. It was sent to the address on file for Respondent Fields, as provided above.

Respondent Fields did not contact the undersigned ALJ with a telephone number that she could be reached at for the January 20, 2010 telephone conference, thus, the telephone conference that was conducted on that date was without her participation. At the conference, Attorney Arrington made a motion for default pursuant to Wis. Admin. Code § RL 2.14. The undersigned ALJ summarily accepted Attorney Arrington's default motion and issued a Notice of Default instructing Respondent Fields that she was in default and that findings would be made and an Order entered on the basis of the Complaint and other evidence. The Notice of Default further ordered Attorney Arrington to provide the undersigned ALJ with the Division's written recommendations for discipline and the assessment of costs in this matter by January 27, 2010. Attorney Arrington provided the undersigned ALJ with its written recommendations as to discipline and costs on or about January 21, 2010. At the ALJ's request, she additionally provided a basis for those recommendations on March 1, 2010 and March 8, 2010.

Respondent Fields has failed to respond to either the Notice of Default issued against her, or the written recommendations provided by Attorney Arrington on January 21, 2010.

FINDINGS OF FACT

On the evidence presented, the undersigned ALJ makes the following findings of fact:

1. Amber Fields (Date of Birth: April 3, 1981) possesses a certificate of licensure to practice in the State of Wisconsin as a Licensed Appraiser (certificate number 4-1880). That certificate was first granted on January 5, 2005, and expired as of December 14, 2009.
2. Respondent Fields' most recent address known to the Department of Regulation and Licensing (hereinafter Department) is 8655 North Granville Road, Milwaukee, Wisconsin 53224.
3. Each person possessing a certificate of licensure to practice as a Licensed Appraiser in the State of Wisconsin must renew the certificate of licensure biennially, by December 15 of each odd-numbered year. [Wis. Stat. sec. 440.08(2)(a)12.]

¹ Initially, this notice was sent to Attorney Mark A. Herman of the Department of Regulation and Licensing, who preceded Attorney Arrington as the attorney of record in this case.

4. To be eligible to renew her certificate of licensure for the next biennial registration period, Respondent Fields must have completed at least 28 hours of Department approved continuing education in the previous biennial registration period. [Wis. Stat. sec. 458.13, and Wis. Admin. Code § RL 85.01(1)]

5. Prior to December 14, 2007, the Department sent Respondent Fields a Licensed Appraiser Renewal Application to execute and return with the required fee if Respondent Fields wished to renew her certificate of licensure in the State of Wisconsin for the December 15, 2007, through December 14, 2009, biennium. Respondent Fields elected to renew her certificate of licensure on the on-line Renewal Application form available at the Department's website. The on-line Certified General Appraiser and Licensed Appraiser Renewal Application contained the following language: "I have completed 28 hours of Department-approved education credits, including at least 7 hours in the Uniform Standards of Professional Appraisal Practice (USPAP), between January 1, 2006 and December 14, 2007. I have evidence of this which I will furnish to the Department upon request."

6. Respondent Fields electronically filled out the on-line Licensed Appraiser Renewal Application on or about November 6, 2007, certifying that she had completed the continuing education requirements of the Real Estate Appraisers Board during the January 1, 2006, through December 14, 2007, biennium.

7. As part of a random audit which the Real Estate Appraisers Board conducted of its licensees, Respondent Fields was sent a letter requesting that she send the Real Estate Appraisers Board verification that she had completed the 28 hours of approved continuing education, which she had claimed to have completed prior to renewing her certificates of licensure for the December 15, 2007, through December 14, 2009, biennium.

8. Respondent Fields did not submit any documentation to the Real Estate Appraisers Board stating that she had completed 28 hours of approved continuing education hours during the January 1, 2006, through December 14, 2007, biennium.

9. Respondent Fields did not complete the required 28 hours of approved continuing education during the January 1, 2006, through December 14, 2007, biennium, prior to renewing her certificate of licensure for the December 15, 2007, through December 14, 2007, biennium.

10. As set out in the Procedural History above, a Complaint and Notice of Hearing were duly sent to Respondent Fields at her most recent address on file with the Department of Regulation and Licensing (1605 North 12th Street) on November 6, 2009.

11. On January 5, 2010, the undersigned ALJ sent a Notice of Telephone Prehearing Conference for January 20, 2010 to Respondent Fields at the above address.

12. Respondent Fields did not appear at this hearing, and the Division made a motion for default which was summarily accepted by the undersigned ALJ.

13. On or about January 20, 2010, the undersigned ALJ sent a Notice of Default to the Respondent at her last known address.

14. Respondent Fields has not responded to this Notice, or otherwise to the Complaint against her.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction over this matter, pursuant to Wis. Stat. § 458.26 and Wis. Admin. Code Ch. RL 2.

2. Wisconsin Administrative Code § RL 2.08(1) provides in relevant part that "[t]he complaint, notice of hearing, all orders and other papers required to be served on a respondent may be served by mailing a copy of the paper to the respondent at the last known address of the respondent," and that "[s]ervice by mail is complete upon mailing." Because the Complaint and Notice of Hearing, Notice of Telephone Prehearing Conference, and Notice of Default were mailed to Respondent Fields at her last known address, she was duly served with these papers pursuant to Wis. Admin. Code § RL 2.08.

3. As the licensee, it was Respondent Fields' responsibility to keep her address on record with the Department of Regulation and Licensing current.

4. Respondent Fields has defaulted in this proceeding pursuant Wis. Admin. Code § RL 2.14 by failing to file and serve an Answer to the Complaint as required by Wis. Admin. Code § RL 2.09.

5. Allegations in a complaint are deemed admitted when not denied in an answer. Wis. Admin. Code § RL 2.09. Respondent Fields has admitted the allegations of the Complaint by not filing an Answer.

6. Pursuant to Wis. Stat. § 458.26(3), "... the board may limit, suspend or revoke any certificate under this chapter or reprimand or impose additional continuing education requirements on the holder of a certificate under this chapter, if the department or board finds that the applicant for or holder of the certificate has done any of the following:.... 458.26(3)(b) Engaged in unprofessional or unethical conduct in violation of rules promulgated under s. 458.24²...; 458.26(3)(i) Violated this Chapter or any rule promulgated under this chapter.

7. Pursuant to Wis. Stat. § 458.13 Continuing education requirements, "At the time of renewal of a certificate issued under this chapter, each applicant shall submit proof that, within the 2 years immediately preceding the date on which the renewal application is submitted,

² These rules are codified in Wis. Admin. Code chs. RL 80-86.

he or she has satisfied the continuing education requirements specified in the rules promulgated under s. 458.085(3)³.

8. Pursuant to Wis. Admin. Code § 85.01(1), “[e]very licensed appraiser shall complete at least 28 hours of continuing education in each biennial period which shall include successful completion of the 7-hour national USPAP update course or its equivalent that is approved by the appraiser qualifications board (AQB) of the appraisal foundation....”

9. By not completing the required 28 continuing education hours during the required time frame, as described in paragraphs 5-9 of the Findings of Fact, above, Respondent Fields has violated Wis. Admin. Code § 85.01(1), thereby subjecting herself to discipline per Wis. Stat. § 458.26(3)(b) and (i).

DISCUSSION

Violations of Wisconsin Statute and Administrative Code

By failing to provide an Answer to the Complaint filed against her, Respondent Fields has admitted that all allegations contained within the Complaint are true. Wis. Admin. Code § RL 2.09. As such, the undisputed facts provide that: (1) Respondent Fields failed to complete the requisite number of continuing education hours to renew her license to practice in Wisconsin as a Licensed Appraiser in the December 15, 2007, through December 14, 2009 biennium; and (2) Respondent Fields misrepresented this fact to the Real Estate Appraisers Board, certifying via an on-line Licensed Appraiser Renewal Application that she had completed the requisite continuing education requirements, and had evidence to support that she had, when this was not the case. Such conduct clearly violates Wis. Admin. Code § 85.01, requiring “[e]very licensed appraiser [to] complete at least 28 hours of continuing education in each biennial period...,” thus subjecting Respondent Fields to discipline per Wis. Stat. § 458.26(3)(b) and (i). The only question that remains is what discipline is appropriate.

The Division, by Attorney Angela Arrington, recommends that Respondent Fields’ license to practice as a Licensed Appraiser be revoked, with no right to renew, request reinstatement, or re-apply for licensure for three (3) years. It further recommends that in the event that Respondent Fields seeks to renew or reinstate her license to practice as a Licensed Appraiser, or obtain any other license from the Department of Regulation and Licensing, (1) she pay \$500.00 in costs⁴ to the Department of Regulation and Licensing, and (2) the Real Estate Appraisers Board have jurisdiction to determine whether and under what terms and conditions

³ These rules are codified in Wis. Admin. Code ch. RL 85.

⁴ Attorney Arrington has indicated that said costs were based on the age of this case. However, Wis. Admin. Code § RL 2.18(4) provides that “When costs are imposed, the division and the administrative law judge shall file supporting affidavits showing costs incurred within 15 days of the date of the final decision and order. The respondent shall file any objection to the affidavits within 30 days of the date of the final decision and order. The disciplinary authority shall review any objections, along with the affidavits, and affirm or modify its order without a hearing.” The costs of this case shall be so assessed.

such request may be granted. In support of these recommendations, Attorney Arrington advises that such discipline is standard in failure to complete continuing education cases. Unfortunately, Attorney Arrington could not cite any specific case law to support her claim.⁵ While the Division's above recommendation of discipline appears a bit harsh when one considers that Respondent Fields' deficiency could be easily rectified by requiring her to satisfy her outstanding continuing education requirements, suspending her license until that time, it is necessary to consider that no argument has been provided to contradict that the discipline recommended by the state is standard and/or necessary. Respondent Fields has not participated in these proceedings in any way. Moreover, her actions were deliberately deceptive, and about her qualifications to practice in her licensed field, no less. Finally, the biennium in which she was to complete her continuing education has long since passed, as has the biennium in which her license should not have been renewed. In light of these circumstances, the Division's request of a license revocation, with no right to renew for three (3) years is not unreasonable.

The purpose of discipline is to (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206 (1976). Respondent Fields' failure to participate in these proceedings suggests that she cannot be reasonably relied upon to comply with any Board order. Additionally, the revocation of her license with no right of renewal for three (3) years will discourage other Licensed Appraisers from failing to complete their continuing education requirements, and then misrepresenting to the Board (and hence the public, via their renewed licenses) that they have. The relief requested by the Division is thus appropriate and necessary to protect the public from future instances of misconduct by the respondent and others.

⁵ To her credit, Attorney Arrington did provide three decisions showing a range of disciplines previously taken by the Real Estate Appraisers Board. See *In the Matter of Disciplinary Proceedings against Michael A. Schneider* (LS0090291APP) (Respondent's license and right to renew his license revoked); *In the matter of Disciplinary Proceedings against Kevin E. Wilder* (LS0808281APP) (Respondent's license revoked); *In the Matter of Disciplinary Proceedings against Robert E. Will* (LS0708152APP) (Respondent's license suspended for indefinite period of time, removal of suspension predicate upon successful completion of 45 hours of coursework). Because these decisions involved vastly different facts than the case at hand, they were of little help to the undersigned ALJ in determining the appropriate discipline in this case. Indeed, of the two cases in which the respondents' licenses were revoked, the first, *Michael A. Schneider*, involved a complicated scheme by the respondent to defraud mortgage brokers and lenders. To effectuate that scheme, the respondent misrepresented that he was a Licensed Appraiser in the State of Wisconsin when he was not, altering an expired license. He ultimately pled guilty to felony wire fraud, and was imprisoned for four months. The second case, *Kevin E. Wilder*, involved several omissions by the respondent in the performance of a property appraisal, causing certain aspects of that property to be undervalued. The respondent's license was subsequently suspended, nevertheless, the respondent agreed to and accepted payment for two additional appraisals, one of which he never performed, all the while holding himself out as a Licensed Appraiser. These fact patterns are simply not on par with the facts in the case at hand.

The *Robert E. Will* decision is not any more congruent. Though it involved similar, but somewhat less egregious facts than *Kevin E. Wilder*, (respondent made several errors in performing a property appraisal and failed to defend his work, resulting in overvalued property, as well as multiple USPAP violations), perhaps shedding light on why Respondent Will's license was suspended, and not revoked as with Respondent Wilder, the fact patterns and resulting disciplines in all the above cases are just too attenuated to apply to Respondent Fields' conduct.

Costs

The Division requests that the respondent be ordered to pay the full costs of its investigation and of these proceedings. In support of this recommendation, it cites Respondent Fields' default.

In *In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz* (LS 0802183 CHI), the Chiropractic Examining Board found that:

The ALJ's recommendation and the ... Board's decision as to whether the full costs of the proceeding should be assessed against the credential holder..., is based on the consideration of several factors, including:

- 1) The number of counts charged, contested, and proven;*
- 2) The nature and seriousness of the misconduct;*
- 3) The level of discipline sought by the parties*
- 4) The respondents cooperation with the disciplinary process;*
- 5) Prior discipline, if any;*
- 6) The fact that the Department of Regulation and Licensing is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct;*
- 7) Any other relevant circumstances.*

The respondent, by nature of her being in default has not presented any evidence regarding any of the above factors that would mitigate the imposition of the full costs of this proceeding. To the contrary, her conduct is of a serious nature. The factual allegations were deemed admitted and proven and there is no argument to apportion any counts that were unproven (being none), or that certain factual findings were investigated and litigated that were unnecessary. Given the fact that the Department of Regulation and Licensing is a "program revenue," agency, whose operating costs are funded by the revenue received for licensees, fairness here dictates imposing the costs of disciplining the respondent upon the respondent and not fellow members of the chiropractic profession who have not engaged in such conduct."

Id.

For similar reasons, Respondent Fields should be assessed the full amount of recoverable costs. Her alleged conduct, (maintaining to both the Board, and the public that she was an accredited Licensed Appraiser when she was not), is of a potentially serious nature, there is no argument that certain factual findings were investigated and litigated unnecessarily, and given the program revenue nature of the Department of Regulation and Licensing, fairness again dictates imposing the costs of disciplining Respondent Fields on Respondent Fields, and not fellow members of the real estate appraisal profession who have not engaged in such conduct. Payment of assessed costs will be necessary before the Respondent Fields' license can be reinstated pursuant to Wis. Stat. § 441.07(2). If the Board assesses costs against the Respondent, these amount of costs will be determined pursuant Wis. Admin. Code § RL 2.18.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The REVOCATION AND RIGHT TO RENEW the license of Amber Fields (#4-1880) to practice as a licensed appraiser in the State of Wisconsin is hereby accepted.

IT IS FURTHER ORDERED that:

2. Ms. Fields shall not seek to renew, or request reinstatement or re-apply for licensure to practice as a licensed appraiser in the State of Wisconsin for a minimum of three (3) years from the date of this Order.

3. In the event that Ms. Fields seeks to renew or reinstate her license to practice as a licensed appraiser in the State of Wisconsin, she shall submit a new application for licensure and meet all then-existing requirements for licensure.

4. In the event that Ms. Fields seeks to renew or reinstate her license to practice as a licensed appraiser, or in the event that she seeks to obtain any other license administered by the Department, all recoverable costs shall be immediately due and owing.

5. In the event that Ms. Fields seeks to renew or reinstate her license to practice as a licensed appraiser in the State of Wisconsin, the Wisconsin Real Estate Appraisers Board may determine whether and under what terms and conditions such request may be granted.

6. Ms. Fields shall not practice as an appraiser or attempt to practice as one in the State of Wisconsin without being licensed in Wisconsin, whether by reciprocity, temporarily or otherwise.

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare. The Real Estate Appraisers Board may, in its discretion, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

IT IS FURTHER ORDERED that Division of Enforcement Case File Number 09 APP 065 be, and hereby is, closed.

Dated at Madison, Wisconsin on March 17, 2010.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

By: _____


Amanda Tollefsen

Administrative Law Judge

G:\DOCS\DRLEDecision\fieldsamberPropDec.aat.doc