

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KASPER ROTH,
RESPONDENT.

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FINAL DECISION AND ORDER

0003527

Division of Legal Services and Compliance Case Nos. 12 APP 075 and 13 APP 031

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

Kasper Roth
207 Shepherd St.
Johnson Creek, WI 53038

Wisconsin Real Estate Appraisers Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Real Estate Appraisers Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Kasper Roth (dob May 18, 1947) is certified in the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1332-9, first issued on January 15, 2004 and current through December 14, 2015. Kasper Roth's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 207 Shepherd St., Johnson Creek, WI 53038.

12 APP 075

2. On May 13, 2012, Respondent signed an appraisal report for an appraisal of property located at 4509 Fox Bluff Lane, Middleton, WI 53562. Respondent subsequently signed a revised appraisal report for this property on June 27, 2012.

3. On May 20, 2012, Respondent signed an appraisal report for an appraisal of property located at 8202 Marjorie Drive, Waterford, WI 53185.

4. On or about September 18, 2012, the Department received a complaint alleging Respondent's appraisals of the properties on Fox Bluff Lane and Marjorie Drive were unacceptable and fell below minimal standards. Division of Legal Services and Compliance Case Number 12 APP 075 was subsequently opened for investigation.

5. Respondent's appraisal of the property on Fox Bluff Lane was reviewed by the Division of Legal Services and Compliance, and it was determined that the appraisal and appraisal report violated the Uniform Standards of Professional Appraisal Practice (USPAP) Rules and/or Standards Rules (SR) as follows:

- a. Respondent did not support his site value opinion. [Competency Rule, Scope of Work Rule, SR 1-1(a), SR 1-4(b)(i), SR 2-1(b).]
- b. Respondent did not consider a recent sale of an adjacent site when developing his value conclusion. [Ethics Rule, Competency Rule, Scope of Work Rule, SR 1-1(a,b,c), SR 1-4, SR 1-4(a), SR 2-1(a).]
- c. Respondent made unsupported adjustments for age and construction quality differences between the subject and comparable sales. [Competency Rule, SR 1-1(a,b,c), SR 2-1(b), SR 2-2(b)(viii).]
- d. Respondent included the below grade living area in his calculation of the gross living area when the assignment conditions required him to calculate it separately. [Competency Rule, SR 1-1(a,b,c).]
- e. Respondent did not consider nearby proximate sales and instead selected comparable sales from more than 50 miles away in superior locations. [Ethics Rule, Scope of Work Rule, SR 1-4(a).]
- f. Respondent compared the subject property, which had three bedrooms and three baths, to a sale with ten bedrooms and six baths. [Competency Rule, SR 1-1(a,b,c), SR 2-1(b), SR 2-2(b)(viii).]
- g. Respondent made an unsupported adjustment for basement finish differences. [Competency Rule, SR 1-1(a,b,c), SR 2-1(b), SR 2-2(b)(viii).]

6. Respondent's appraisal of the property on Marjorie Drive was reviewed by the Division of Legal Services and Compliance, and it was determined that the appraisal and appraisal report violated USPAP Rules and/or SR as follows:

- a. Respondent did not reconcile the value conclusion with the construction cost. [Competency Rule, SR 1-6(b), SR 2-2(b)(viii).]
- b. Respondent did not note a prior transfer of the subject property that occurred less than five months earlier. [SR 1-5(b), SR 2-1(a,b).]
- c. Respondent did not adjust for the subject property's rough grade, although the comparables utilized had mature landscaping and paved driveways. [Competency Rule, SR 1-1(a,b,c).]
- d. Respondent selected comparable sales from up to six miles away and did not analyze many comparable sales within a mile of the subject property. [Ethics Rule, Scope of Work Rule, SR 1-1(a,b,c), SR 1-4(a).]
- e. Respondent did not properly analyze the subject property's construction quality. [Competency Rule, SR 1-1(a).]
- f. Respondent misrepresented the characteristics of the subject property by comparing it to sales with superior construction quality without adjustment. [Competency Rule, SR 1-1(a,b,c), SR 2-1(a,b).]

13 APP 031

7. On February 26, 2013, Respondent signed an appraisal report for an appraisal of property located at 409 Riverwood Court, Watertown, WI 53094. Respondent subsequently signed a revised appraisal report for this property on March 4, 2013.

8. On or about June 21, 2013, the Department received a complaint alleging Respondent's appraisal contained multiple errors and Respondent did not respond in a timely manner to the lender's request for revisions. Division of Legal Services and Compliance Case Number 13 APP 031 was subsequently opened for investigation.

9. Respondent's appraisal was reviewed by the Division of Legal Services and Compliance and it was determined that the appraisal and appraisal report violated USPAP Rules and/or SR as follows:

- a. Respondent provided an incomplete work file, including MLS Data sheets that were printed after the Board began its investigation rather than at the time the assignment was completed. [Record Keeping Rule.]
- b. Respondent did not accurately describe the neighborhood boundaries and made incorrect calculations of both the typical marketing time for the neighborhood and the price range for the neighborhood. [SR 1-1(b,c).]
- c. Respondent provided inaccurate site dimensions and an inaccurate zoning classification and description for the subject property. [SR 1-3(a), SR 1-2(e)(i).]

- d. Respondent did not describe the support and rationale for his opinion of the highest and best use of the subject property. [SR 2-2(b)(ix).]
- e. Respondent overestimated the subject property's gross living area by including an open living area over the living room in his calculations. [SR 1-1(b,c).]
- f. In the sales comparison approach, Respondent made errors in reporting data for the comparable sales, failed to report relevant features of the comparable sales, made inappropriate adjustments and used inappropriate comparable sales. [SR 1-1(b), SR 1-4, SR 1-4(a), SR 2-2(b)(viii).]
- g. In the cost approach, Respondent did not provide a summary of comparable land sales used in arriving at his opinion of the subject property's site value, or include any such sales in his work file, and used a source of cost data that cannot be reduplicated. [Ethics Rule, Record Keeping Rule, SR 1-1(b), SR 1-4, SR 1-4(a).]

10. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

- 1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 458.26, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
- 2. By the conduct described in the Findings of Fact, Kasper Roth violated the Competency Rule by failing to be competent to perform an assignment.
- 3. By the conduct described in the Findings of Fact, Kasper Roth violated the Ethics Rule by performing an assignment in a grossly negligent manner.
- 4. By the conduct described in the Findings of Fact, Kasper Roth violated the Scope of Work Rule by failing to determine and perform the scope of work necessary to develop credible assignment results.
- 5. By the conduct described in the Findings of Fact, Kasper Roth violated the Record Keeping Rule by failing to prepare a workfile for an appraisal prior to the issuance of any report and retain the workfile for a period of at least five years after the preparation.
- 6. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 1-1(a) through (c) by:
 - a. failing to be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

- b. committing a substantial error of omission or commission that significantly affects an appraisal; and
- c. rendering appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

7. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 1-2(e)(i) by failing to identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including its location and physical, legal and economic attributes.

8. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 1-3(a) by failing to identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate and market area trends when necessary for credible assignment results in developing a market value opinion.

9. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 1-4 by failing to collect, verify and analyze all information necessary for credible assignment results in developing a real property appraisal.

10. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 1-4(a) by failing to analyze such comparable sales data as are available to indicate a value conclusion when a sales comparison approach was necessary for credible assignment results.

11. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 1-4(b)(i) by failing to develop an opinion of site value by an appropriate appraisal method or technique when a cost approach was necessary for credible assignment results.

12. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 1-5(b) by failing to analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal when the value opinion to be developed was market value.

13. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 1-6(b) by failing to reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion in developing a real property appraisal.

14. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 2-1(a) and (b) by failing to:

- a. clearly and accurately set forth the appraisal in a manner that will not be misleading; and
- b. provide sufficient information to enable the intended users of the appraisal to understand the report properly.

15. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 2-2(b)(viii) by failing to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions.

16. By the conduct described in the Findings of Fact, Kasper Roth violated USPAP SR 2-2(b)(ix) by failing to summarize the support and rationale for his opinion of the highest and best use.

17. As a result of the above violations, Kasper Roth has violated Wis. Admin. Code § SPS 86.01(1) and (2), and is therefore subject to discipline pursuant to Wis. Stat. § 458.26(3)(b), (c) and (i).

ORDER

1. The attached Stipulation is accepted.

2. The Certified Residential Appraiser certificate of licensure and certification issued to Respondent Kasper Roth (number 1332-9) is SUSPENDED for fifteen (15) days, beginning ten (10) days after the date of this Order.

3. The Certified Residential Appraiser certificate of licensure and certification issued to Respondent Kasper Roth (number 1332-9) is LIMITED as follows:

a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete seventy-nine (79) hours of education as follows:

i. Respondent shall complete the following courses: USPAP (15 hours) and Business Practice and Ethics (4 hours).

ii. Respondent shall complete 60 additional hours of education to be chosen from the following courses: Basic Appraisal Procedures (30 hours); Residential Sales Comparison and Income Approaches (30 hours); Residential Report Writing and Case Studies (15 hours); and Residential Market Analysis and Highest and Best Use (15 hours).

b. The courses listed above shall be offered by a provider pre-approved by the Board's monitoring liaison and may be taken in person in a classroom setting or online. Respondent shall take and pass any exam offered for the courses.

c. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or the Department.

d. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.

4. Within 90 days from the date of this Order, Kasper Roth shall pay COSTS of this matter in the amount of \$2,275.

5. Proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:


Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. 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 certificate of licensure and certification. The 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 Respondent fails to timely submit payment of the costs as ordered or fails to comply with the ordered education as set forth above, Respondent's certificate of licensure and certification (no. 1332-9) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs and completion of the education.

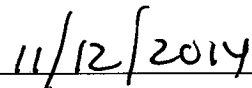
7. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE APPRAISERS BOARD

by:


A Member of the Board

Date



STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KASPER ROTH,
RESPONDENT.

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:
:

STIPULATION

0003527

Division of Legal Services and Compliance Case Nos. 12 APP 075 and 13 APP 031

Respondent Kasper Roth and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin 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 Legal Services and Compliance for further proceedings. In the event that the 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.

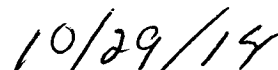
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such 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.

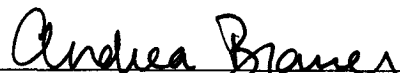
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



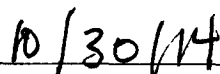
Kasper Roth, Respondent
207 Shepherd St.
Johnson Creek, WI 53038
Credential no. 1332-9



Date



Andrea E. Brauer, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190



Date