

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
DONALD G. GALLENBERGER, :  
RESPONDENT. :

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**0003952**

Division of Legal Services and Compliance Case No. 13 APP 024

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

Donald G. Gallenberger  
1135 Sunny Hill Court  
Green Bay, WI 54313

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 Donald G. Gallenberger (dob November 14, 1951) is certified in the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 79-9, first issued on September 10, 1991 and current through December 14, 2015. Donald G. Gallenberger's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1135 Sunny Hill Court, Green Bay, WI 54313.

2. On August 29, 2012, Respondent signed an appraisal report for an appraisal of properties located at 2986 and 2988 Sunshine Place, Green Bay, WI 54313.

3. On or about April 25, 2013, the Department received a complaint alleging Respondent's appraisal was misleading, as he had appraised two separately owned condominium units as one two-family building. Division of Legal Services and Compliance Case Number 13 APP 024 was subsequently opened for investigation.

4. Respondent's appraisal 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's work file did not contain sufficient information to support Respondent's opinions and conclusions and contained MLS data sheets printed after the date of the appraisal report. [Record Keeping Rule.]

b. Respondent appraised two separately owned condominium units as one two-family building and did not use a hypothetical condition. [SR 1-1(a,b), SR 2-1(a), Competency Rule.]

c. Respondent failed to disclose that he had modified the subject property's legal description based upon a hypothetical condition. [SR 2-1(a).]

d. Respondent did not correctly report the subject property's zoning. [SR 1-1(c).]

e. Respondent did not describe the support and rationale for his opinion of the subject property's highest and best use. [SR 2-2(b)(ix).]

f. Respondent made unsubstantiated adjustments in the sales comparison approach. [SR 1-1(b), SR 1-4, SR 1-4(a), SR 2-2(b)(viii).]

g. Respondent excluded the income and cost approaches without explaining the exclusion. [SR 2-2(b)(viii).]

h. Respondent did not develop an opinion of exposure time, although it was part of the definition of market value. [SR 1-2(c), SR 2-2(b)(v).]

5. Respondent has requested additional time to complete the education ordered below, as he will be living out of state for the next few months and would prefer to complete the education in person when he returns to Wisconsin.

6. 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, Donald G. Gallenberger violated the USPAP Competency Rule by failing to be competent to perform the assignment.

3. By the conduct described in the Findings of Fact, Donald G. Gallenberger violated the USPAP Record Keeping Rule by failing to include in his work file all data, information and documentation necessary to support his opinions and conclusions and to show compliance with USPAP.

4. By the conduct described in the Findings of Fact, Donald G. Gallenberger 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 affected 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 affected the credibility of those results.

5. By the conduct described in the Findings of Fact, Donald G. Gallenberger violated USPAP SR 1-2(c) by failing to identify the type and definition of value.

6. By the conduct described in the Findings of Fact, Donald G. Gallenberger violated USPAP SR 1-4 by failing to collect, verify and analyze all information necessary for credible assignment results.

7. By the conduct described in the Findings of Fact, Donald G. Gallenberger violated USPAP SR 1-4(a) by failing to analyze such comparable sales data as were available to indicate a value conclusion.

8. By the conduct described in the Findings of Fact, Donald G. Gallenberger violated USPAP SR 2-1(a) by failing to clearly and accurately set forth the appraisal in a manner that will not be misleading.

9. By the conduct described in the Findings of Fact, Donald G. Gallenberger violated USPAP SR 2-2(b)(v) by failing to state the type and definition of value and cite the source of the definition.

10. By the conduct described in the Findings of Fact, Donald G. Gallenberger 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, and by failing to explain the exclusion of the sales comparison approach, cost approach or income approach.

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

12. As a result of the above violations, Donald G. Gallenberger 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

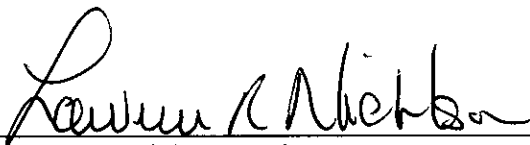
1. The attached Stipulation is accepted.
2. Respondent Donald G. Gallenberger is REPRIMANDED.
3. The Certified Residential Appraiser certificate of licensure and certification issued to Respondent Donald G. Gallenberger (number 79-9) is LIMITED as follows:
  - a. Within 210 days of the date of this Order, Respondent shall successfully complete 53 hours of education from the following courses offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses:
    - i. USPAP (15 hours),
    - ii. Principles of Real Estate (30 hours), and
    - iii. General Demonstration Report Writing (8 hours).
  - b. Respondent may take the courses listed above in person in a classroom setting or online.
  - 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 certificate of licensure and certification 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, Donald G. Gallenberger shall pay COSTS of this matter in the amount of \$470.
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. 79-9) 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

5/6/2015  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE APPRAISERS BOARD

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
DONALD G. GALLENBERGER,	:	
RESPONDENT.	:	0003952

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Division of Legal Services and Compliance Case No. 13 APP 024

Respondent Donald G. Gallenberger 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. Respondent is represented by Attorney James W. Flory.
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.

*Donald G. Gallenberger*

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Donald G. Gallenberger, Respondent  
1135 Sunny Hill Court  
Green Bay, WI 54313  
Credential no. 79-9

04/29/2015  
Date

*James W. Flory*  
\_\_\_\_\_  
James W. Flory, Attorney for Respondent  
Spangler Flory, LLP  
526 Water Street  
PO Box 1165  
Eau Claire, WI 54702

4/30/15  
Date

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

4/30/15  
Date