

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

DONN L. WARNER,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0003956

Division of Legal Services and Compliance Case No. 13 APP 014

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

Donn L. Warner
1002 23rd St.
Chetek, WI 54728

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 Donn L. Warner (dob October 14, 1949) is certified in the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 124-9, first issued on October 14, 1991 and current through December 14, 2015. Donn L. Warner's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1002 23rd St., Chetek, WI 54728.
2. On September 10, 2006, Respondent signed an appraisal report for an appraisal of property located at N1443 Buck Lake Road, Rusk, WI 54557.

3. On or about March 22, 2013, the Department received a complaint alleging the property's improvements were under construction at the time of the appraisal, and Respondent overstated the percentage of the improvements completed. Division of Legal Services and Compliance Case Number 13 APP 014 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 stated in his appraisal report that the report does not conform to USPAP. [Ethics Rule.]
- b. Respondent was the loan officer of the bank, which ordered the appraisal, but did not disclose his relationship with the bank in his appraisal report. [Conduct Section of Ethics Rule.]
- c. Respondent did not disclose the scope of work in his appraisal report. [Scope of Work Rule.]
- d. Respondent made inconsistent and unsupported adjustments in the sales comparison approach. [SR 1-4(a).]
- e. Respondent did not develop exposure time, although it was part of the definition of market value stated in the appraisal report. [SR 1-2(c) (*comment*).]
- f. Respondent did not indicate which appraisal technique he used to develop the subject property's land value. [SR 1-4.]
- g. Respondent improperly characterized his appraisal as a "Summary Report of a Limited Appraisal/Basic Evaluation". [Competency Rule, SR 2-2.]
- h. Respondent did not include sufficient information in his appraisal report to support his conclusion that the house on the subject property, which was under construction at the time of the appraisal, was approximately 90% complete. [SR 2-2(b)(iii).]
- i. Respondent did not provide the data he analyzed to develop the cost approach. [SR 2-2(b)(viii).]

5. On December 31, 2014, Respondent retired as an officer at the bank which ordered the subject appraisal.

6. Respondent has been ill and hospitalized since December 2014 and wishes to resolve his case by stipulation. Respondent neither admits nor denies the allegations in the Findings of Fact and Conclusions of Law but in the interest of resolving this matter consents to the entry of this Final Decision 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, Donn L. Warner violated the USPAP Ethics Rule by failing to comply with USPAP when obligated by law or regulation to comply with USPAP and by failing to certify compliance with USPAP.

3. By the conduct described in the Findings of Fact, Donn L. Warner violated the Conduct Section of the USPAP Ethics Rule by failing to perform the assignment ethically and competently.

4. By the conduct described in the Findings of Fact, Donn L. Warner violated the USPAP Competency Rule by failing to take all steps necessary or appropriate to complete the assignment competently.

5. By the conduct described in the Findings of Fact, Donn L. Warner violated the USPAP Scope of Work Rule by failing to disclose the scope of work in the report.

6. By the conduct described in the Findings of Fact, Donn L. Warner violated USPAP SR 1-2(c) by failing to identify the type and definition of value by failing to develop an opinion of reasonable exposure time linked to the opinion of value.

7. By the conduct described in the Findings of Fact, Donn L. Warner violated USPAP SR 1-4 by failing to collect, verify and analyze all information necessary for credible assignment results.

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

9. By the conduct described in the Findings of Fact, Donn L. Warner violated USPAP SR 2-2 by failing to prepare the written real property appraisal under one of the following three opinions and prominently state which option was used: Self-Contained Appraisal Report, Summary Appraisal Report or Restricted Use Appraisal Report.

10. By the conduct described in the Findings of Fact, Donn L. Warner violated USPAP SR 2-2(b)(iii) by failing to summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment.

11. By the conduct described in the Findings of Fact, Donn L. Warner 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.

12. As a result of the above violations, Donn L. Warner has violated Wis. Admin. Code § RL (now 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 Donn L. Warner (number 124-9) is **SUSPENDED** for 30 days, beginning the date of this Order, May 6, 2015.

3. The Certified Residential Appraiser certificate of licensure and certification issued to Respondent Donn L. Warner (number 124-9) is **LIMITED** as follows:

a. Within 180 days of the date of this Order, Respondent shall successfully complete 60 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. Residential Report Writing and Case Studies (15 hours);
- iii. Residential Site Valuation and Cost Approach (15 hours), and;
- iv. Residential Market Analysis and Highest and Best Use (15 hours).

b. The courses listed above may be taken 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. Proof of successful course completion 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

5. 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 comply with the ordered education as set forth above, Respondent's certificate of licensure and certification (no. 124-9) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with completion of the education.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: Lauren A. Nelson
A Member of the Board

5/6/2015
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DONN L. WARNER,
RESPONDENT.

:
:
:
:
:

STIPULATION

0003956

Division of Legal Services and Compliance Case No. 13 APP 014

Respondent Donn L. Warner 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 Kenneth Jost.

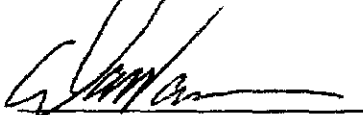
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Real Estate Appraisers (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent 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.

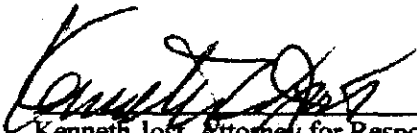
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.




Donn L. Warner, Respondent
1002 23rd Street
Chetek, WI 54728
Credential no. 124-9

4/30/2015
Date



Kenneth Jost, Attorney for Respondent
Jost Law Offices
110 Moore Street
Chetek, WI 54728
SBW/1012067

4/30/2015
Date



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

4/30/2015
Date