

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 :
: FINAL DECISION AND ORDER
MICHAEL E. ELKINS, :
RESPONDENT. :

0004169

Division of Legal Services and Compliance Case No. 13 APP 103

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

Michael E. Elkins
505 S. Dewey St., Suite 207
Eau Claire, WI 54701

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 Michael E. Elkins (dob 3/16/1950) is certified in the State of Wisconsin as a Licensed Appraiser, having certificate of licensure number 1492-4, first issued on October 22, 2002 and current through December 14, 2015. Michael E. Elkins' most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 505 S. Dewey St., Suite 207, Eau Claire, Wisconsin 54701.

2. On October 30, 2013, Respondent performed an appraisal of property located at 3602 Wildon Street, Eau Claire, Wisconsin 54703.

3. On or about November 29, 2013, the Department received a complaint alleging that the subject appraisal violated Uniform Standards of Professional Appraisal Practice (USPAP). Division of Legal Services and Compliance (Division) Case Number 13 APP 103 was subsequently opened for investigation.

4. Respondent's appraisal was reviewed by the Division and it was determined that the appraisal and appraisal report violated the USPAP Rules and/or Standards Rules (SR) as follows:

a. Respondent did not report the subject property's site dimensions. [Scope of Work Rule, SR 1-1(b), SR 1-2(e)(i).]

b. In the Sales Comparison Approach, Respondent did not adjust for all relevant features of comparable sales utilized and did not report seller concessions for two of the comparable sales. [SR 1-1(a,c), SR 1-4(a).]

c. Respondent did not properly reconcile the Sales Comparison Approach. [SR 1-1(c), SR 1-6(a), SR 2-1(a).]

d. Respondent did not provide cost data or comparable land sales to support his conclusions in the Cost Approach. [Record Keeping Rule, Competency Rule, SR 1-4(b)(ii).]

e. Respondent did not develop an opinion of reasonable exposure time for the subject property although exposure time was a component of the definition of value being developed. [SR 1-2(c)(iv), SR 2-2(b)(v).]

5. Respondent fully cooperated with the Department's investigation of this matter and immediately took responsibility for the issues noted above.

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, Michael E. Elkins violated the USPAP Scope of Work Rule by failing to identify the problem to be solved.

3. By the conduct described in the Findings of Fact, Michael E. Elkins violated the USPAP Record Keeping Rule by failing to include all data, information, and documentation necessary to support his opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such documentation.

4. By the conduct described in the Findings of Fact, Michael E. Elkins violated the USPAP Competency Rule by failing to be competent to perform an assignment.

5. By the conduct described in the Findings of Fact, Michael E. Elkins violated USPAP SR 1-1(a,b,c) by:

- a. failing to be aware of, understand, and correctly employ those recognized methods and techniques that were 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.

6. By the conduct described in the Findings of Fact, Michael E. Elkins violated USPAP SR 1-2(c)(iv) by failing to develop an opinion of value based on non-market financing or financing with unusual conditions or incentives.

7. By the conduct described in the Findings of Fact, Michael E. Elkins 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, Michael E. Elkins 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, Michael E. Elkins violated USPAP SR 1-4(b)(ii) by failing to analyze such comparable cost data as were available to estimate the cost new of the improvements.

10. By the conduct described in the Findings of Fact, Michael E. Elkins violated USPAP SR 1-6(a) by failing to reconcile the quality and quantity of data available and analyzed within the approaches used.

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

12. By the conduct described in the Findings of Fact, Michael E. Elkins violated USPAP SR 2-2(b)(v) by failing to state the type and definition of value and cite the source of the definition.

13. As a result of the above violations, Michael E. Elkins 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

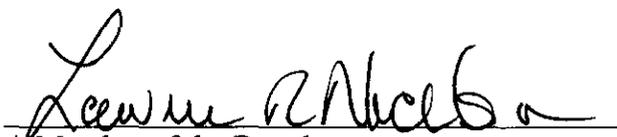
1. The attached Stipulation is accepted.
2. Respondent Michael E. Elkins is REPRIMANDED.
3. The Licensed Appraiser certificate of licensure issued to Michael E. Elkins (number 1492-4) is LIMITED as follows:
 - a. Within one year of the date of this Order, Respondent shall successfully complete 50 hours of education consisting of 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: USPAP (15 hours) and Quantitative Analysis (35 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 ordered 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, and also may not be used in future attempts to upgrade a credential in Wisconsin.
 - d. This limitation shall be removed from Respondent's certificate of licensure 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, Michael E. Elkins shall pay COSTS of this matter in the amount of \$490.
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. 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 (no. 1492-4) 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

8/3/2015
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL E. ELKINS,
RESPONDENT.

:
:
:
:
:
:

STIPULATION

0004169

Division of Legal Services and Compliance Case No. 13 APP 103

Respondent Michael E. Elkins 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.

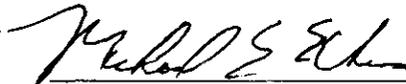
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

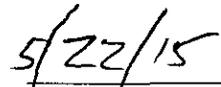
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.



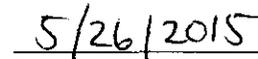
Michael E. Elkins, Respondent
505 S. Dewey St., Suite 207
Eau Claire, WI 54701
Certificate of Licensure no. 1492-4



Date



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



Date