

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
RANDY J. SCHMITT, :
RESPONDENT. :

0004348

Division of Legal Services and Compliance Case No. 14 APP 047

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

Randy J. Schmitt
W230N7076 Canyon Meadows Court
Sussex, WI 53089

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 Randy J. Schmitt (dob March 10, 1964) is certified in the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1783-9, first issued on February 2, 2010 and current through December 14, 2015. Randy J. Schmitt's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W230N7076 Canyon Meadows Court, Sussex, Wisconsin 53089.

2. On June 10, 2014, Respondent performed an appraisal of property located at W205N16525 Cranberry Creek Lane, Unit #1102, Jackson, Wisconsin 53037.

3. On or about June 27, 2014, the Department received a complaint alleging that the subject appraisal violated the Uniform Standards of Professional Appraisal Practice (USPAP). Division of Legal Services and Compliance Case Number 14 APP 047 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 USPAP Rules and/or Standards Rules (SR) as follows:

- a. Respondent identified conflicting effective dates in his appraisal report and did not revise or correctly state the report date upon making revisions to the appraisal report. [SR 2-1(a), SR 2-2(a)(vi).]
- b. Respondent omitted a relevant sale from his analysis because he incorrectly believed the sale had occurred after the effective date of his appraisal. [Conduct Section of the Ethics Rule, Scope of Work Rule, SR 1-4.]
- c. Respondent failed to properly support adjustments in the sales grid. He made an unsupported and misleading positive condition adjustment to Sale 6, as its condition was similar if not superior to the subject property's condition, and failed to explain why he made no adjustments for Sale 4's lack of additional amenities such as a clubhouse, pool, fitness center, and basement. [SR 2-1(b), SR 2-2(a)(viii).]
- d. Respondent's photos of two of his comparable sales did not depict the correct properties. [Conduct Section of the Ethics Rule, SR 1-1(a,b,c), SR 1-4, SR 2-1(a).]
- e. Respondent's workfile did not include field notes, MLS listing sheets, research or other sufficient support for his analyses, opinions, and conclusions. [Record Keeping Rule.]

5. 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, Randy J. Schmitt violated the Conduct Section of the USPAP Ethics Rule by performing an assignment in a grossly negligent manner.

3. By the conduct described in the Findings of Fact, Randy J. Schmitt violated the USPAP Scope of Work Rule by failing to include in his Scope of Work the research and analyses that are necessary to develop credible assignment results.

4. By the conduct described in the Findings of Fact, Randy J. Schmitt violated the USPAP Record Keeping Rule by failing to include in his workfile all data, information, and documentation necessary to support his opinions and conclusions and to show compliance with USPAP.

5. By the conduct described in the Findings of Fact, Randy J. Schmitt violated USPAP 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 affects the credibility of those results.

6. By the conduct described in the Findings of Fact, Randy J. Schmitt 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, Randy J. Schmitt violated USPAP SR 2-1(a) and (b) by:

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

8. By the conduct described in the Findings of Fact, Randy J. Schmitt violated USPAP SR 2-2(a)(vi) by failing to state the effective date of the appraisal and the date of the report.

9. By the conduct described in the Findings of Fact, Randy J. Schmitt violated USPAP 2-2(a)(viii) by failing to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions and conclusions.

10. As a result of the above violations, Randy J. Schmitt 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 Randy J. Schmitt is REPRIMANDED.

3. The Certified Residential Appraiser certificate of licensure and certification issued to Randy J. Schmitt (number 1783-9) is LIMITED as follows:

a. Within 90 days from the date of this Order, Respondent shall successfully complete 60 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:

- i. USPAP (15 hours),
- ii. Residential Report Writing and Case Studies (15 hours), and
- iii. Residential Sales Comparison and Income Approach (30 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 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, Randy J. Schmitt shall pay COSTS of this matter in the amount of \$500.

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:

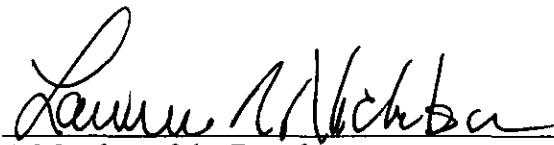
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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. 1783-9) 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

11/11/2015
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RANDY J. SCHMITT,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004318

Division of Legal Services and Compliance Case No. 14 APP 047

Respondent Randy J. Schmitt 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 Melissa J. Lauritch.

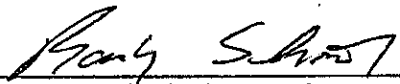
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Real Estate Appraisers Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent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

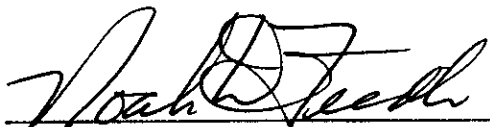
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Randy J. Schmitt, Respondent
W230N7076 Canyon Meadows Court
Sussex, WI 53089
Credential no. 1783-9


Oct 6-2015
Date



Melissa J. Lauritzen, Attorney for Respondent
Hinshaw & Culbertson LLP
100 East Wisconsin Avenue, Suite 2600
Milwaukee, WI 53202-4115

10/8/15
Date

Noah
Frieder



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

10/12/15
Date