

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

JOHN D. MARTIN,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0005314

Division of Legal Services and Compliance Case No. 16 APP 052

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

John D. Martin
D1356 Elm Street
Marshfield, WI 54449

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 John D. Martin (DOB 02/10/1965) is certified by the State of Wisconsin as a Certified Residential Appraiser, having certificate of licensure and certification number 1757-9, first issued on September 21, 2009 and current through December 14, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is D1356 Elm Street, Marshfield, Wisconsin 54449.

2. On August 4, 2016, the Board reprimanded Respondent for violating Wis. Stat. § 458.13 and Wis. Admin. Code § SPS 85.900(1) by failing to complete at least 28 class hours of continuing education in the 2013-2015 biennial period. (Order No. 0004854).

3. On March 13, 2016, Respondent submitted an appraisal of property located at 4769 Blackberry Lane, Junction City, Wisconsin 54443; to the client.

a. In the report, J.M. is designated as the appraiser, with his state certification listed as "Other: Trainee," and Respondent as the supervisory appraiser. Respondent indicated in the report that he did inspect the exterior of the subject property from the street on March 10, 2016.

b. The client would not accept the report without J.M.'s license number.

c. On March 14, 2016, Respondent submitted a second appraisal report that removed J.M. entirely, and listed Respondent as the appraiser.

d. After further questions from the client, on March 15, 2016, Respondent revised the second report with a statement that he inspected the subject property's interior on March 10, 2016, despite not having done so.

4. On or about September 21, 2016, the Department received a complaint alleging that the subject appraisal violated the Uniform Standards of Professional Appraisal Practice (USPAP). The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 16 APP 052 for investigation.

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

a. In Respondent's revised report, he supplied a misleading statement regarding personal inspection of the subject property. [Ethics Rule.]

b. In the Cost Approach section, Respondent failed to summarize the comparable sales data or explain how reviewing the assessor's ratios for similar sites were utilized in developing Respondent's opinion of value. [Scope of Work Rule, SR 2-1(b).]

c. Respondent failed to provide market data to support his opinions and conclusions stated on the 1004MC form and in the Neighborhood section. [Record Keeping Rule.]

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, John D. Martin violated the USPAP Ethics Rule by communicating a report that was known by Respondent to be misleading or fraudulent.

3. By the conduct described in the Findings of Fact, John D. Martin violated the USPAP Record Keeping Rule by failing to include in his workfile all other data, information, and documentation necessary to support his opinions and conclusions and to show compliance with USPAP, or references to the location of such other data, information, and documentation.

4. By the conduct described in the Findings of Fact, John D. Martin violated the USPAP Scope of Work Rule by failing to properly identify the problem to be solved in order to determine the appropriate scope of work and by failing to gather and analyze information about those assignment elements that are necessary to properly identify the appraisal problem to be solved.

5. By the conduct described in the Findings of Fact, John D. Martin violated USPAP SR 2-1(b) by failing to include in his appraisal report sufficient information to enable the intended users of the appraisal to understand the report properly.

6. As a result of the above USPAP violations, John D. Martin violated Wis. Admin. Code § SPS 86.01(1) and (2).

7. As a result of the above violations and conduct, Respondent 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 John D. Martin is REPRIMANDED.
3. The Certified Residential Appraiser certificate of licensure and certification issued to John D. Martin (number 1757-9) is LIMITED as follows:
 - a. Within 60 days from the date of this Order, Respondent shall successfully complete the USPAP (15 hours) course offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam(s) offered for the course.
 - b. The course must be taken 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.

4. Within 90 days from the date of this Order, John D. Martin shall pay COSTS of this matter in the amount of \$1,237.

5. Requests for pre-approval, 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
DPSMonitoring@wisconsin.gov

6. In the event Respondent violates any term of this Order, Respondent's certificate of licensure and certification (number 1757-9), or Respondent's right to renew his certificate of licensure and certification, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN REAL ESTATE APPRAISERS BOARD

by: 
A Member of the Board

5-23-17
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOHN D. MARTIN,
RESPONDENT.

:
:
:
:
:

STIPULATION

0005314

Division of Legal Services and Compliance Case No. 16 APP 052

Respondent John D. Martin 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.

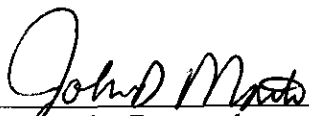
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

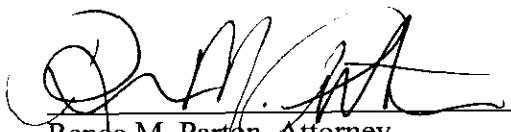
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



John D. Martin, Respondent
D1356 Elm Street
Marshfield, WI 54449
Credential no. 1757-9

05/11/2017
Date



Renee M. Parton, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

05/15/2017
Date